
Barclays Official
**CALIFORNIA
CODE OF
REGULATIONS**

Title 13. Motor Vehicles

Complete Title

Vol. 17

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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TITLE 13. MOTOR VEHICLES

NOMENCLATURE CROSS-REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross-Reference Table for the new organizational headings used in this Title.)

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Title 13. Motor Vehicles

Division 1. Department of Motor Vehicles

Chapter 1. Department of Motor Vehicles

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TITLE 13. MOTOR VEHICLES

(Originally Printed 7-28-46)

Division 1. Department of Motor Vehicles

Chapter 1. Department of Motor Vehicles

Article 1. Department of Motor Vehicles—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344, that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

DEPARTMENT OF MOTOR VEHICLES
2415 FIRST AVENUE
SACRAMENTO, CALIFORNIA 95818

FAIR POLITICAL PRACTICES COMMISSION
428 "J" STREET, SUITE 800
SACRAMENTO, CALIFORNIA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CALIFORNIA 95814

The Conflict of Interest Code is designated as Article 1, Chapter 1, Division 1 of Title 13 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Article 1. Department of Motor Vehicles—Conflict of Interest Code
Section
1. General Purpose
Appendix

NOTE: Authority cited: Section 87300, *et seq.*, Government Code. Reference: Section 87300, *et seq.*, Government Code.

HISTORY

1. New article 1 (sections 1–10) filed 12–13–77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 9–8–77 (Register 77, No. 51).
2. Repealer of article 1 (sections 1–10) and new article 1 (section 1 and Appendix) filed 7–9–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 6–1–81 (Register 81, No. 28).
3. Editorial correction of article 1 (section 1 and Appendix) filed 8–21–81 (Register 81, No. 34).
4. Amendment of section 1 and Appendix filed 8–19–83; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 7–12–83 (Register 83, No. 34).
5. Amendment of section and Appendix filed 4–20–92; operative 5–20–92. Approved by Fair Political Practices Commission 3–31–92 (Register 92, No. 19).
6. Amendment of Appendix filed 9–15–93; operative 10–15–93. Submitted for printing only. Approved by Fair Political Practices Commission 9–13–93 (Register 93, No. 38).
7. Amendment of Appendix filed 10–11–94; operative 11–10–94. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 9–7–94 (Register 94, No. 41).
8. Amendment of Appendix filed 2–26–96; operative 3–27–96. (Register 96, No. 9).
9. Change without regulatory effect amending address for the Fair Political Practices Commission filed 4–21–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 17).
10. Amendment of Appendix filed 4–22–97; operative 5–22–97. Approved by the Fair Political Practices Commission 3–3–97 (Register 97, No. 17).
11. Amendment of Appendix filed 5–24–99; operative 6–23–99. Approved by Fair Political Practices Commission 4–12–99 (Register 99, No. 22).
12. Amendment of Appendix filed 5–25–2000; operative 6–24–2000. Approved by Fair Political Practices Commission 4–6–2000 (Register 2000, No. 21).

13. Amendment of Appendix filed 6–18–2002; operative 7–18–2002. Approved by Fair Political Practices Commission 5–2–2002 (Register 2002, No. 25).
14. Amendment of Appendix filed 12–28–2004; operative 1–27–2005. Approved by Fair Political Practices Commission 10–18–2004 (Register 2004, No. 53).
15. Amendment of Appendix filed 10–5–2006; operative 11–4–2006. Approved by Fair Political Practices Commission 8–22–2006 (Register 2006, No. 40).
16. Amendment of Appendix filed 5–1–2008; operative 5–31–2008. Approved by Fair Political Practices Commission 4–9–2008 (Register 2008, No. 18).

Article 2. Driver Licenses and Identification Cards

§ 15.00. Information Required to Establish Legal Presence in the United States (U.S.) for Purpose of Determining Eligibility for an Original Driver License or Identification Card.

(a) U.S. citizens who apply for an original driver license or identification card shall submit one of the following documents that is legible and unaltered to establish proof of the person's legal presence in the United States.

(1) A certified copy of a United States birth certificate issued in or by a city, county, or state vital statistics department.

(2) A U.S. Certificate of Birth Abroad (FS–545, DS–1350) or a Report of Birth Abroad of U.S. Citizen (FS–240).

(3) A Proof of Indian Blood Degree issued by the federal government.

(4) A Certified Birth Certificate issued from:

(A) Puerto Rico, on or after January 13, 1941.

(B) Guam, on or after April 10, 1899.

(C) U.S. Virgin Islands, on or after January 17, 1917.

(D) Northern Mariana Islands, after November 4, 1986.

(E) American Samoa.

(F) Swain's Island.

(G) District of Columbia.

(5) A U.S. passport (Expired or unexpired).

(6) One of the following unexpired U.S. Military Identification Cards and documents:

(A) DD–2 for active duty, reserve or retired Air Force, Army, Marine Corps, or Navy.

(B) DD–1173 for dependents of active duty military personnel, Air Force, Army, Marine Corps, or Navy.

(C) AF–447, A–447, MC–447, N–447 for dependents of reserve duty military personnel, Air Force, Army, Marine Corps, or Navy.

(D) DD–1934 for Medical/Religious personnel.

(E) DD–214 Report of Separation for Air Force, Army, Marine Corps, or Navy personnel.

(7) Certificate of Naturalization (N–550, N–570, N–578).

(8) Certificate of Citizenship (N–560, N–561, N–645).

(9) Northern Mariana Card issued by INS (I–551).

(10) American Indian Card issued by INS (I–551).

(11) U.S. Citizen Identification Card (I–179, I–197).

(b) Immigrants shall submit one of the following United States Immigration and Naturalization Service (INS) documents or other document with an INS notation to prove their legal presence in the United States. Immigrants are persons who have lawful permanent residency status. Documents must be legible and unaltered to establish proof of the person's legal presence in the United States.

(1) Resident Alien Card (I–551, AR–3, AR–3A, AR–103).

(2) Temporary Resident Identification Card (I–688).

(3) Alien Registration Receipt Card (I–151) valid until declared invalid by INS.

(4) Permanent Resident Re-entry Permit (I–327).

(5) U.S. Border Crossing Identification Card and Visa (Known as the "Mica") with a valid I-94.

(6) A foreign passport stamped "Processed for I-551".

(7) Record of Arrival and Departure (I-94) stamped Temporary Evidence of Lawful Admission for Permanent Resident.

(c) Immigrants may also submit one of the following unexpired U.S. Military Identification Cards and documents:

(1) DD-2 for active duty, reserve or retired Air Force, Army, Marine Corps, or Navy.

(2) DD-1173 for dependents of active duty military personnel, Air Force, Army, Marine Corps, or Navy.

(3) AF-447, A-447, MC-447, N-447 for dependents of reserve duty military personnel, Air Force, Army, Marine Corps, or Navy.

(4) DD-1934 for Medical/Religious personnel.

(5) DD-214 Report of Separation for Air Force, Army, Marine Corps, or Navy personnel.

(d) Non-immigrants shall submit one of the following United States Immigration and Naturalization Service (INS), Canadian documents or other document with an INS notation to prove their legal presence in the United States. Non-immigrants are persons who have lawful temporary status for a specific purpose. Documents must be legible and unaltered to establish proof of the person's legal presence in the United States.

(1) Canadian passport (expired or unexpired).

(2) A certified copy of a Canadian birth certificate.

(3) Non-Resident Alien Canadian Border Crossing Card (I-185, I-586).

(4) Mexican Border Crossing Card (I-186 with a valid I-94 or I-586 with a valid I-94).

(5) Record of Arrival and Departure (I-94 or I-94W) with a valid foreign passport.

(6) Record of Arrival and Departure (I-94) with one of the following types of unexpired foreign passports to Hong Kong residents:

(A) Certificate of Identity.

(B) Document of Identity.

(C) British National Overseas (BNO).

(D) Hong Kong Special Administrative Region (HKSAR).

(e) Other documents which may prove legal presence in the United States are:

(1) A certified order or judgement from a court of competent jurisdiction stating the true full name, date of birth and that the applicant was born in the U.S. or U.S. Territories or that the applicant's presence in this country is authorized by Federal law.

(2) Certification provided by the California Youth Authority (CYA) which verifies the legal presence of the applicant.

(3) Certification provided by the California Department of Corrections (CDC) which verifies the legal presence of the applicant.

(4) Employment Authorization Card (I-688A, I-688B, I-766).

(5) Record of Arrival and Departure stamped "Refugee, or Asylee, Parolee or Parole" (I-94) coded: Section 207 (Refugee), 208 (Asylum), 209 (Refugees), 212d(5) (Parolee), HP (Humanitarian Parolee) or PIP (Public Interest Parolee).

(6) An immigration Judge's Order Granting Asylum.

(7) Refugee Travel Document (I-571).

(8) Notice of Action (I-797) Approved Petition).

NOTE: Authority cited: Sections 1651 and 12801.5, Vehicle Code. Reference: Sections 12800 and 12801.5, Vehicle Code.

HISTORY

1. New section filed 11-29-93 as an emergency; operative 3-1-94 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 6-28-94 or emergency language will be repealed by operation of law on the following day.

2. Amendment of article heading filed 12-9-93; operative 1-10-94 (Register 93, No. 50).

3. Certificate of Compliance as to 11-29-93 order transmitted to OAL 6-24-94 with amendment of section and NOTE and filed 8-8-94 (Register 94, No. 32).

4. Editorial correction restoring text and deleting former HISTORY 4 (Register 95, No. 9).

5. Editorial correction of article heading (Register 95, No. 28).

6. Amendment of section heading and section filed 9-27-95; operative 10-27-95 (Register 95, No. 39).

7. Repealer of subsections (a)(4)(H)-(I), amendment of subsections (b)(7) and (d)(6), and new subsections (d)(6)(A)-(D) filed 6-5-2000; operative 7-5-2000 (Register 2000, No. 23).

8. Change without regulatory effect redesignating article 2 to article 2.0 and amending article heading filed 7-23-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 30).

9. Amendment redesignating article 2.0 as article 2 and amending article heading filed 9-9-2004 as an emergency; operative 9-9-2004 (Register 2004, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-7-2005 or emergency language will be repealed by operation of law on the following day.

10. Certificate of Compliance as to 9-9-2004 order transmitted to OAL 12-20-2004 and filed 1-26-2005 (Register 2005, No. 4).

§ 15.01. Out-of-State Driver License Verification for Driving Test Waiver.

(a) The "acknowledged national driver record data source" as specified in Section 12804.9 of the Vehicle Code shall be the National Driver Register Problem Driver Pointer System.

(b) The department shall inquire the Problem Driver Pointer System whenever an original California driver license applicant presents a license issued by another state, territory, or possession of the United States, District of Columbia, or the Commonwealth of Puerto Rico.

(c) Pursuant to Section 12804.9 of the Vehicle Code, the department may waive the behind-the-wheel drive test portion of the driver license examination process under the following conditions:

(1) An applicant presents an expired or unexpired driver license issued by another state, territory, or possession of the United States, District of Columbia, or the Commonwealth of Puerto Rico; and

(2) The department confirms through the Problem Driver Pointer System the status of the out-of-state driver license, and that there are no holds, stops, or other impediments (such as suspensions, revocations or withdrawals) to issuance of a California driver license.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804.9, Vehicle Code.

HISTORY

1. New section filed 10-7-99; operative 11-6-99 (Register 99, No. 41).

§ 15.03. Terms of Issuance and Restrictions.

(a) The department shall issue a temporary driver license valid for up to 60 days provided there is no other cause for refusal pending verification of documents submitted as proof of legal presence, or to allow applicants sufficient time to provide such documents. The department may extend the temporary license if the applicant provides evidence that he/she is in the process of obtaining proof of legal presence.

(b) The department shall not issue a driver license or identification card if the documents submitted as proof of legal presence in the United States indicate an expiration date less than 61 days from the application date. Canadian and U.S. passports are not subject to this requirement.

(c) The department shall not accept an application for an original identification card if the applicant cannot provide one of the documents in Section 15.00 to establish proof of legal presence.

(d) The department may elect to verify the authenticity of any document provided as proof of legal presence. Verification of documents may include electronic verification systems or manual methods.

(e) The department may issue a driver license or identification card termed to expire on the same date as the expiration date on the valid INS document.

NOTE: Authority cited: Sections 1651 and 12801.5, Vehicle Code. Reference: Sections 12506, 12800, 12801.5, 12805, 12816, 13000, 13002 and 14100, Vehicle Code.

HISTORY

1. New section filed 11-29-93 as an emergency; operative 3-1-94 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 6-28-94 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 11-29-93 order transmitted to OAL 6-24-94 with new subsection (e) and amendment of NOTE and filed 8-8-94 (Register 94, No. 32).

3. Certificate of Compliance for subsection (b) disapproved by OAL; emergency language repealed by operation of Government Code section 11346.1(f) (Register 94, No. 32).

4. New subsection (b) refiled 8-9-94 as an emergency; operative 8-9-94 (Register 94, No. 32). A Certificate of Compliance must be transmitted to OAL by

12–7–94 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 8–9–94 order including amendment of subsections (a), (b), (e) and NOTE transmitted to OAL 12–2–94 and filed 1–19–95 (Register 95, No. 3).
6. Editorial correction of subsection (e) and HISTORY 5 (Register 95, No. 9).
7. Amendment of subsection (e) and NOTE filed 9–27–95; operative 10–27–95 (Register 95, No. 39).

§ 15.04. Social Security Account Number Verification.

(a) The department shall verify the authenticity of any social security number provided on a driver license or identification card application. Verification of social security numbers may include the use of electronic verification systems and manual methods.

(b) The department shall not issue a driver license or identification card, or a temporary license, interim license, or instruction permit, if the social security number submitted to the department does not match the records of the Social Security Administration.

(c) The department shall not accept an application for a driver license or identification card if the application does not include the applicant's social security number. Exception:

(1) If the application was submitted with document(s) that establish proof of the applicant's legal presence in the United States, AND

(2) The Department of Homeland Security verifies that the applicant is in the country legally but is not authorized to work, and is therefore ineligible for a social security number.

NOTE: Authority cited: Section 1651, Vehicle Code; and *Thomas Lauderbach et al., v. Frank S. Zolin*, 35 Cal. App. 4th 578; 41 Cal. Rptr. 2d 434 (1995). Reference: Sections 1653.5, 12506, 12800 and 12801.5, Vehicle Code; and *Thomas Lauderbach et al., v. Frank S. Zolin*, 35 Cal. App. 4th 578; 41 Cal. Rptr. 2d 434 (1995).

HISTORY

1. New section filed 7–19–2005; operative 8–18–2005 (Register 2005, No. 29).

§ 15.05. Appeals Hearings.

The department shall provide for an appeals hearing from denials of identification cards, driver licenses, or temporary driver licenses. The hearing shall be held in accordance with Article 3 (commencing with Section 14100) of Chapter 3 of Division 6 of the Vehicle Code. The only issue at the hearing shall be whether the department has acted properly in refusing to issue an identification card, a temporary driver license, or a permanent driver license.

NOTE: Authority cited: Sections 1651 and 12801.5, Vehicle Code. Reference: Sections 12506, 12800, 12801.5, 12816 and 14100, Vehicle Code.

HISTORY

1. New section filed 11–29–93 as an emergency; operative 3–1–94 (Register 93, No. 49). A Certificate of Compliance must be transmitted to OAL by 6–28–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 11–29–93 order transmitted to OAL 6–24–94 with amendment of NOTE and filed 8–8–94 (Register 94, No. 32).
3. Amendment filed 9–27–95; operative 10–27–95 (Register 95, No. 39).

§ 15.06. True Full Name.

For purposes of this article, "true full name" is defined as the name specified on one of the documents listed in Section 15.00 in Article 2, Chapter 1, Division 1, of Title 13 of the California Code of Regulations necessary to establish legal presence, birth verification, or a name change, that is submitted at the time of application. The true full name shall be the name that appears on the driver license or identification card, and recorded on the driving record.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12800, 12800.7 and 13000, Vehicle Code.

HISTORY

1. New section filed 5–18–99; operative 6–17–99 (Register 99, No. 21).

§ 15.07. Reduced Fee Identification Cards.

(a) An applicant for a reduced fee Department of Motor Vehicles identification card shall submit a completed Verification of Reduced Fee Identification Card, form DL 937, (NEW 8/2004), signed under penalty of perjury under the laws of the State of California by a representative of a governmental or non-profit entity pursuant to requirements of Vehicle

Code Section 14902. The Verification of Reduced Fee Identification Card, form DL 937, (NEW 8/2004) is hereby incorporated by reference.

(1) The certification of eligibility in the Verification of Reduced Fee Identification Card shall be dated within 60 days of the application for the reduced fee identification card.

NOTE: Authority cited: Sections 1651 and 1678, Vehicle Code. Reference: Sections 1678 and 14902, Vehicle Code.

HISTORY

1. New section filed 9–9–2004 as an emergency; operative 9–9–2004 (Register 2004, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–7–2005 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–9–2004 order transmitted to OAL 12–20–2004 and filed 1–26–2005 (Register 2005, No. 4).

§ 20.02. Definition of Motor Vehicles Documents.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12500 and 13000, Vehicle Code.

HISTORY

1. New section filed 12–9–93; operative 1–10–94 (Register 93, No. 50).
2. Editorial correction adding subheading before section (Register 95, No. 28).
3. Repealer filed 9–6–96; operative 10–6–96 (Register 96, No. 36).
4. Repealer of subheading filed 5–18–99; operative 6–17–99 (Register 99, No. 21).

§ 20.04. Information Required for a Name Change on a Driver License or Identification Card.

(a) Upon application for an original California driver license or identification card, the department shall require the applicant to produce identification necessary to ensure the name provided on the application is the individual's true full name.

(1) If the name provided on the application conflicts with the name on the document or documents submitted to establish legal presence or birth verification at the time of application, the department shall require the applicant to provide additional documentary evidence to establish that the name on the application is his or her true full name.

(b) Upon application for a renewal or duplicate California driver license or identification card, or before a California driver license or identification card may be issued, reissued, or returned to the licensee after a refusal, cancellation, probation, restriction, suspension or revocation of the person's driving privilege, the department shall require the applicant to produce identification when necessary to ensure the name provided on the application is the individual's true full name.

(c) Upon application for a change of name on a California driver license or identification card, the department shall require the applicant to produce identification to ensure the name provided on the application is his or her true full name.

(d) The department will accept an original or certified copy of one of the following documents that is legible and unaltered as additional documentation to establish the applicant's true full name as required by subsections (a) and (b), or as identification to establish the applicant's true full name for a name change:

(1) Any document specified in Section 15.00 in Article 2, Chapter 1, Division 1, of Title 13 of the California Code of Regulations.

(2) A completed Medical Information Authorization (Name and Gender Change) form DL 328 (Rev. 5/96), which is hereby incorporated by reference, verifying the applicant is in the process of, or has completed, a gender change.

(3) A document issued by a competent jurisdiction which contains the applicant's legal name, date of birth, if available, and government seal, stamp or other official imprint including, but not limited to:

(A) An adoption document which contains the legal name of the individual as a result of the adoption

(B) A name change document which contains the individual's legal name both before and, as a result of, the name change.

(C) A marriage certificate.

(D) A dissolution of marriage document which contains the legal name of the individual as a result of the court action.

(E) A certificate, declaration or registration document verifying the formation of a domestic partnership.

(4) For purposes of this subsection, “competent jurisdiction” is defined as any governmental agency within the United States, District of Columbia, territory or possession of the United States, including federal, state, and local agencies, or a foreign state or its equivalent, duly authorized to issue documents for adoption, name change, marriage, or dissolution of marriage.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12800, 12800.7, 12809 and 13000, Vehicle Code.

HISTORY

1. New section filed 5–18–99; operative 6–17–99 (Register 99, No. 21). For prior history, see Register 97, No. 26.
2. Amendment of section and NOTE filed 5–24–2001 as an emergency; operative 5–24–2001 (Register 2001, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–21–2001 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–24–2001 order transmitted to OAL 9–7–2001 and filed 10–17–2001 (Register 2001, No. 42).

§ 20.06. Identification Elements and Document Inspection Terms.

(a) In addition to the content and form of a driver license specified in Vehicle Code sections 12800.5 and 12811, the essential elements of identification on a driver license include:

(1) A description of the sex, hair, eyes, height, and weight of the individual.

(2) The type of license.

(3) Endorsements and restrictions assigned to the driving privilege.

(b) A visually mutilated driver license or identification card means any essential element of information contained on the driver license or identification card is obstructed, absent, illegible, or exposed through the protective sealant or other technologically advanced visual security feature.

(c) In addition to (b), if the driver license or identification card contains a magnetic stripe, mechanically mutilated means that the document is unable to pass through a mechanical device designed to read the essential elements of identification contained in the magnetic stripe located on the reverse side of a driver license or identification card.

(d) In addition to (b) and (c), if the driver license or identification card contains a magnetic stripe, electronically mutilated means that the driver license or identification card is unable to transmit essential elements of identification through an electronic process or device designed to read the information contained in the magnetic stripe located on the reverse side of a driver license or identification card.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12800.5, 12811, 12815, 13003, 13005 and 13005.5, Vehicle Code.

HISTORY

1. New section filed 12–9–93; operative 1–10–94 (Register 93, No. 50).
2. Amendment of section heading, section and NOTE filed 6–27–97; operative 7–27–97 (Register 97, No. 26).

§ 20.08. Replacement of an Invalid/Mutilated Document.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12815 and 13003, Vehicle Code.

HISTORY

1. New section filed 12–9–93; operative 1–10–94 (Register 93, No. 50).
2. Repealer filed 6–27–97; operative 7–27–97 (Register 97, No. 26).

§ 25.01. Fraudulent Application for a Driver License or Identification Card.

(a) For the purposes of this section, “an application” means any form currently in use, under revision, or developed in the future by the department for the process of establishing driving privileges or personal identification.

(b) The department may revoke the driving privilege, for a period of up to one year, of an individual who submits an application for a driver license to the department which is determined to include, be substantiated with, or presented with fraudulent information or documentation. The individual may not reapply for a driver license until the period of revocation is completed. An individual subject to a revocation action pursuant to this section shall immediately surrender any California driver li-

cense issued, including temporary licenses, to the department or a peace officer upon notification of the action.

(c) The department shall immediately cancel an identification card which was issued based on submission of a fraudulent application. An individual subject to a cancellation pursuant to this section shall immediately surrender any identification card so canceled to the department or a peace officer upon notification of the action.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 20, 12809(d), 13101, 13004(a), 13359, 13551(a), 13362 and 14610, Vehicle Code.

HISTORY

1. New article 2.0 and section filed 9–18–95; operative 10–18–95 (Register 95, No. 38).
2. Change without regulatory effect deleting article heading filed 7–23–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 30).

Article 2.1. Commercial Driver Licenses

§ 25.06. Authority and Definitions.

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations to use third-party testers to conduct the commercial behind-the-wheel driving test under specified conditions. For purposes of these regulations, the following definitions apply:

(a) Certified Driver. A driver that has been issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02 or Firefighter Certificate of Driving Skill (DL 170FETP, New 11/05)) by his or her employer for the purpose of waiving the department-administered driving test portion of the commercial driver testing process. The Firefighter Certificate of Driving Skill form is hereby incorporated by reference.

(b) Driving Test. The driving test is a performance test that consists of three components: a pre-trip inspection, skills test, and road test.

(c) Employee. Employee means a person who performs services for wages or salary under a contract of employment, expressed or implied for an employer. (See Labor Code Section 1132.2.). In addition, a volunteer of an employer who has an established volunteer workforce will be considered an employee, provided the employer has covered the employee under its Workers Compensation Insurance policy, and the employee has coverage under the Employer’s liability insurance policy. (Example: Volunteer fire departments.)

(d) Employer Testing Program. The State of California’s third-party commercial driver testing program. California Vehicle Code Section 15250(c) grants the department the authority to authorize third-party testers to conduct the commercial driving test portion of the commercial driver license testing process.

(e) Employer. A California sole proprietor, partnership, company, corporation, association, government entity or any other entity that meets the enrollment criteria to participate in the Employer Testing Program.

(f) Firefighting Organization. A federal or state agency which provides firefighting services; or a regularly organized fire department of a city, county, city and county, or district; or a regularly organized fire department having official recognition of the city, county, city and county, or district in which the department is located.

(g) Governmental Employer. The United States Government or any subdivision, department, court or agency thereof; the state or any subdivision, department, court or agency thereof, including special districts, school districts, the Board of Regents of the University of California; or any city, county, city and county or any agency or subdivision thereof.

(h) Route Approval. A review by the department of an employer’s primary and alternate driving test routes to ensure that each route meets the requirements set forth by the department for use by the Employer Testing Program participants.

(i) Testing Location. A place of business in California where an employer is authorized by the department to conduct driving tests utilizing the department approved primary and alternate driving test routes.

(j) Third-Party Tester. An employer with a place of business in California that is authorized by the department to conduct commercial behind-the-wheel driving tests for employees on behalf of the depart-

ment. California Vehicle Code Section 15250(c) grants the department authority to authorize third-party testers to conduct the commercial driving test.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; and Section 1132.2, Labor Code.

HISTORY

1. New section filed 1–5–2004; operative 2–4–2004 (Register 2004, No. 2).
2. Amendment of subsection (a), new subsection (f), subsection relettering and amendment of NOTE filed 9–14–2006; operative 10–14–2006 (Register 2006, No. 37).

§ 25.07. Employer Prerequisites.

(a) The employer requesting participation in the Employer Testing Program must be engaged in an activity that includes the use of vehicles requiring its employees to possess a valid Class A or Class B commercial driver license or a restricted firefighter Class A or Class B driver license.

(b) The employer must have a terminal(s) in California where business is conducted, driving tests are conducted, and Employer Testing Program records are kept. Rental of a desk or desk space in a structure that is not owned, leased, or rented by the employer does not constitute a valid place of business for purposes of Employer Testing Program qualifications.

(c) A firefighting organization may request limited participation in the Employer Testing Program to conduct behind-the-wheel driving tests only for the purpose of enabling a firefighter to obtain Class A or B license restricted to the operation of firefighting equipment.

(1) To request limited participation in the Employer Testing Program, the firefighting organization shall complete a Application for Employer Number Addendum (DL 520F ETP, New 11/05), which is hereby incorporated by reference, in addition to the Application for Employer Number (DL 520 ETP, Rev 8/02).

(2) A firefighting organization that is granted limited participation in the program shall not be provided or authorized to issue a Certificate of Driving Skill (DL 170 ETP, Rev. 11/02).

(3) A firefighting organization that is granted limited participation in the program will be provided and authorized to issue a Firefighter Certificate of Driving Skill (DL 170F ETP, New 11/05).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1–5–2004; operative 2–4–2004 (Register 2004, No. 2).
2. Amendment of subsection (a), new subsections (c)–(c)(3) and amendment of NOTE filed 9–14–2006; operative 10–14–2006 (Register 2006, No. 37).

§ 25.08. Employer Testing Program Enrollment.

(a) The employer requesting participation in the Employer Testing Program must submit:

(1) An original Employer Testing Program Application for Employer Number (DL520ETP, Rev. 8/02), hereinafter referred to as the Application (DL520ETP, Rev. 8/02). The Application (DL520ETP, Rev. 8/02) will serve as the employer's written agreement with the department. The completed Application (DL520ETP, Rev. 8/02) shall include the following:

- (A) An indication of the type of Application, whether original or renewal.
- (B) Name of employer.
- (C) Previous employer number(s), if any.
- (D) Mailing address (city, state, and zip code).
- (E) Telephone number(s), including area code(s).
- (F) Street address (city, state, and zip code).
- (G) Number of commercial drivers employed.
- (H) Number of commercial vehicles in fleet.
- (I) Nature of business and use of vehicles.
- (J) License class(es) for which driver testing authority is being requested. Requested authority must be consistent with the nature of the employer's business.
- (K) Whether vehicles carry Hazardous Materials.

(L) Street address(es) (city(ies), state and zip code(s)) and telephone number(s), including area code where the primary and alternate driving test routes originate.

(M) The department's route approval numbers (both primary and alternate driving test routes), if using an existing department approved route(s).

(N) Facility name(s), street address(es) (city(ies), state, and zip code(s)) and telephone number(s), including area code where employer's training, testing and employment records are kept.

(O) List of Authorized Representative(s) by name, driver license number, telephone number including area code, address, whether the individual is being added or deleted and date of action.

(P) Administrator's driver license number.

(Q) Administrator's printed name and title.

(R) Administrator's signature under penalty of perjury under the laws of the State of California certifying that the contents of the Application (DL520ETP Rev. 8/02) are true and correct, and that the employer will abide by the provisions of Title 13, California Code of Regulations, Sections 25.06 through 25.22, and Vehicle Code Sections 12804.9(e) and 15250 (c) and (d), governing the Employer Testing Program.

(S) Administrator's office street address (city, state, and zip code).

(T) An indication of the employer's participation in the department's Employer Pull Notice (EPN) program and the EPN number, if applicable.

(2) Documentation of primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/05) and the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), which are hereby incorporated by reference, and route map(s) for each driving test route, for department review and approval.

(3) Non-governmental employers shall pay a non-refundable application fee of \$45 (\$15 for each year for a period of three years).

(b) The department shall assign a unique identifying number, hereafter referred to as the employer number, to each employer enrolled in the Employer Testing Program. Exception: Firefighting organizations may band together under one employer number when using the same driving test route(s).

(c) The department shall notify the employer of its assigned employer number and department route approval number(s) within 30 days of the department's receipt of a complete Application (DL520ETP Rev. 8/02) package.

(d) The department shall return the Application (DL520ETP, Rev. 8/02) to the employer within 15 days of the department's receipt of the Application if the Application is incomplete with a cover letter listing the items needing correction. No changes shall be made to the Application (DL 520ETP, Rev 8/02) by department staff.

(e) No amendment, alteration, or variation of the Application (DL520ETP, Rev. 8/02) and Application for Employer Number Addendum (DL520FETP, New 11/05) (firefighting organizations) shall be valid unless made in writing and signed by the employer's Administrator and approved by the department.

(f) A Firefighting organization may request limited participation in the Employer Testing Program to conduct behind-the-wheel driving tests only for the purpose of enabling a firefighter to obtain a Class A or B license restricted to the operation of firefighting equipment. Firefighting organizations requesting limited participation shall submit an Application for Employer Number Addendum (DL520FETP, New 11/05) which is hereby incorporated by reference. The addendum shall be submitted before or during an Employer's enrollment term in the Employer Testing Program.

(g) If the Application (DL520ETP, Rev. 8/02) process has not been completed within 12 months of the department's receipt of the Application (DL520ETP, Rev. 8/02), that Application (DL520ETP, Rev. 8/02) becomes void, and a new Application (DL520ETP, Rev. 8/02), and a non-refundable application fee must be submitted to the department.

(h) The department shall initiate a staggered renewal cycle for existing employers, by imposing a one, two, or three-year renewal period on a

one-time basis at the time these regulations are adopted. Subsequent renewal periods shall be for the three-year period. The employer must renew its employer number every three years to remain active in the program.

(i) The department shall send the employer a renewal packet no later than 90 days prior to expiration of the employer number, which shall include:

(1) An Application (DL520ETP, Rev. 8/02) for completion.

(2) For firefighting organizations granted limited participation in the Employer Testing Program: An Application for Employer Number Addendum (DL520FETP, New 11/05).

(3) A list of drivers certified in the prior period for verification.

(4) A request for payment of an application fee (\$15 for each year) from non-government employers.

(j) The employer shall submit, no later than 45 days prior to expiration of the employer number, the following to renew its employer number. Failure to meet this time frame and/or to provide the required documents may delay the renewal of the employer number.

(1) A completed and signed renewal Application (DL520ETP, Rev. 8/02).

(2) A completed and signed Application for Employer Number Addendum (DL520FETP, New 11/05), if applicable.

(3) A list of drivers certified in the prior period signed by the Administrator.

(4) Payment of an application fee (\$15 for each year) from non-government employers.

(k) An existing employer shall be required to submit documentation of its primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814 ETP, Rev. 2/05), the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s) for each driving test route, for department review and approval, with its first renewal Application (DL520ETP, Rev. 8/02).

(l) The department shall return the Application (DL520ETP, Rev. 8/02) within 15 days of the department's receipt if the renewal Application (DL520ETP, Rev. 8/02) is incomplete with a cover letter listing the items needing correction. No changes shall be made to the Application (DL520ETP, Rev. 8/02) by department staff.

(m) The department shall approve the application and notify the employer of its renewed employer number and any new department route approval numbers, within 30 days of receipt of a complete Application (DL520ETP, Rev. 8/02) package.

(n) At the discretion of the department, the employer number expiration date may be extended if all application requirements have been met.

(o) If the employer number is expired, cancelled, suspended, or revoked for more than 12 months, the employer shall submit an original Application (DL520ETP, Rev. 8/02) with the appropriate documents and application fees.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2). For prior history, see Register 96, No. 15.
2. Amendment of subsections (a)(2) and (e), new subsection (f), subsection relettering, new subsections (i)(2) and (j)(2), subsection renumbering, amendment of newly designated subsection (k) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.09. Application Changes.

(a) The following changes must be reported to the department within 10 days of occurrence in writing on company letterhead, or by submitting a completed and signed Application (DL520ETP, Rev. 8/02):

(1) Change of address.

(2) Change of Authorized Representative.

(3) Change in class of license for which driver testing authority is requested.

(b) A change of Administrator or change of employer name must be reported to the department within 10 days of occurrence by submitting an Application (DL520ETP, Rev. 8/02).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).

§ 25.10. Driving Test Routes.

(a) Upon adoption of these regulations, every employer who applies for a new and/or renewed employer number must provide documentation of primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/05), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s). Upon the department's approval, each route will be given a department route approval number.

(b) The department route approval number assigned to the route used for the driving test shall be required on the driving test score sheets and on the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or on the Firefighter Certificate of Driving Skill (DL170FETP, New 11/05).

(c) The department may approve a waiver of missing route elements upon written request by the employer on the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02) prior to use of the route.

(d) Any changes to an approved route must be reported by the employer on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/05), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), along with the route map, and approved by the department prior to use. A new route number may be issued to changed routes.

(e) Corrections to any route found to be deficient by the Federal Motor Carrier Safety Administration (FMCSA), or its representative, and/or the department, or its representative, must be reported by the employer on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions DL814ETP, Rev. 2/05), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map; and approved by the department before the new/revised route may be used.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2). For prior history, see Register 97, No. 30.
2. Amendment of section and NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.11. Quality Assurance Oversight.

(a) The employer shall establish and maintain a quality assurance program that:

(1) Ensures compliance with all provisions and terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22.

(2) Ensures adequate internal controls are established for program responsibilities, and appropriate separation of duties are in place for program participants, in accordance with Section 25.19 of these regulations.

(3) Authorizes the Federal Motor Carrier Safety Administration, or its representative, and the department to conduct random examinations, inspections and audits without prior notice.

(4) Permits the department, or its representative to conduct on-site inspections at least annually.

(5) Permits the department to retest certified drivers without cause to compare pass/fail results.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2). For prior history, see Register 96, No. 15.

§ 25.12. Driver Training Program.

(a) Every employer shall establish a driver training program for its commercial drivers.

(b) Prior to testing employees for certification purposes under the Employer Testing Program, the employer must provide the employee commercial driver training that includes the following critical elements:

- (1) Conducting a vehicle pre-trip safety inspection.
- (2) Placing the vehicle or a combination of vehicles in operation.
- (3) Using vehicle controls and emergency equipment.
- (4) Operating the vehicle in traffic on public roads, and while passing other vehicles.
- (5) Turning the vehicle.
- (6) Braking and slowing the vehicle by means other than braking.
- (7) Backing and parking the vehicle.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).

§ 25.13. Driving Test Program.

(a) The employer must establish a driving test program for certification purposes under the Employer Testing Program, which includes the utilization of the Commercial Driver License Driving Performance Evaluation criteria established by the department, in all driving tests used for certification purposes.

(b) All driving tests must be conducted by an Examiner who has been authorized by the department to conduct driving tests for the Employer Testing Program.

(c) All driving tests must be conducted on an employer's department approved route, with no deviations from the approved route.

(d) If the employer utilizes a commercial vehicle with special equipment plates during the driving test, a trip permit is required at the time of the test.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9 and 15250, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).

§ 25.14. Certificate of Driving Skill (DL170ETP and DL170FETP).

(a) Upon successful completion of the driving test, a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) shall be completed and signed by the Authorized Representative, Examiner, and driver under penalty of perjury under the laws of the State of California.

(b) When the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) is presented to the department, the department may waive the driving test for a Class A or B license or restricted firefighter license when the driver has first qualified for a Class C driver license, has met the other examination requirements for the license for which the driver is applying as specified in Vehicle Code Section 12804.9, and the department verifies that the Certificate of Driving Skill (DL170ETP Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) was issued under the provisions of the Employer Testing Program by an authorized employer.

(c) A Certificate of Driving Skill (DL170 ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) shall include the following:

- (1) Driver's name.
- (2) Driver's driver license number.
- (3) Driver's address, including city, state and zip code.
- (4) Driver's home telephone number, including area code.
- (5) Driver's work telephone number, including area code.
- (6) Driver's date of employment with employer.

(7) Driver's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.

(8) Date driver passed the driving test.

(9) Type of vehicle(s), and vehicle features, used in the driving test.

(10) Department route approval number.

(11) Vehicle license plate number(s).

(12) Trailer identification plate number(s), if applicable.

(13) Examiner's printed name.

(14) Examiner's California commercial driver license number.

(15) Examiner's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.

(16) Authorized Representative's printed name.

(17) Authorized Representative's driver license number.

(18) Authorized Representative's signature and date signed under penalty of perjury under the laws of the State of California, including city and county where executed.

(19) Authorized Representative's telephone number including area code and extension.

(20) Employer name.

(21) Employer address, including city, state, and zip code.

(22) Employer number.

(d) A Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) shall include all of the information on a Certificate of Driving Skill (DL170ETP, Rev. 11/02) pursuant to Section 25.14(c), and a statement that the driver understands that the license issued based on the certificate will be restricted to operation of firefighting equipment and Class C vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).

2. Amendment of section heading, section and NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.15. Record-Keeping Program.

(a) The employer shall keep records of Employer Testing Program related information on training and testing provided to its certified employee drivers. The employer's records shall include the following:

(1) The employee's full name, address, and driver license number.

(2) The type of instruction the driver was given during training.

(3) The date(s) instruction was given.

(4) The subjects covered.

(5) The total hours of instruction.

(6) The training instructor's full name and address.

(7) A copy of the instructor's contract with the employer, if applicable.

(8) The results of any driving test conducted in conjunction with the training.

(9) The driving test Examiner's name and driver license number.

(10) Examiner's written contract with the employer.

(11) An Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005), which is incorporated by reference, shall document the driving tests conducted, including both passed and failed driving tests. A copy of the Examiner's log shall document the past 90 days of certificate activity. The Examiner's log shall include the following:

(A) Examiner Name.

(B) Examiner Driver License Number.

(C) Examiner class of driver license and endorsements.

(D) Examiner address, city, state and zip code.

(E) Examiner telephone number.

(F) Driver name.

(G) Driver's driver license number.

(H) Name of Driver's Employer.

(I) Date of driving test.

(J) Results of the driving test (passed/failed).

(K) Documentation of any training drive tests conducted pursuant to Section 25.22.

(12) A copy of the trip permit for any commercial vehicle with special equipment plates used in the driving test, valid for the date(s) of the test.

(13) All pass and fail driving test score sheets ETP CDL Pre-Trip Inspection Evaluation Score Sheet/ETP CDL Driving Performance Evaluation Score Sheet (DL65ETP, Rev. 4/03), which is hereby incorporated by reference, used for each employee who is tested for purposes of issuing a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or a Firefighter Certificate of Driving Skill (DL170FETP, New 11/05), pursuant to Section 25.22(d).

(14) A copy of each Certificate of Driving Skill (DL170ETP, Rev. 11/02) or a Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) issued.

(15) Documentation of the department approved primary and alternate driving test routes on the Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/05), the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), and route map(s) for each driving test route.

(b) The employer must keep training records, driving test score sheets, employment records, examiner drive test logs, and all other Employer Testing Program related records for the three most recent years of the employer's participation in the Employer Testing Program and for a minimum of three years after the employer number becomes invalid (i.e., expired, cancelled, revoked, or suspended), during each driver's three most recent years of employment, and three years after the driver is released from employment.

(c) The employer shall make available all Employer Testing Program related records pertaining to driver training, testing, and employment, for monitoring by the Federal Motor Carrier Safety Administration, or its representatives, and the department during normal business hours at the record-keeping location identified on the employer's Application (DL520ETP, Rev. 8/02).

(d) At the department's request, the employer shall make records available which verify that:

(1) The Administrator and Authorized Representative are employees at the time of program activity.

(2) The drivers issued a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or a Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) are its employees at the time of driver training, testing, and certification.

(3) The Examiner is under written contract with the employer at the time of the driving test.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. New subsections (a)(11)-(a)(11)(J), subsection renumbering and amendment of subsection (b) filed 3-30-2005 as an emergency; operative 3-30-2005 (Register 2005, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-28-2005 or emergency language will be repealed by operation of law on the following day.
3. New subsections (a)(11)-(a)(11)(J), subsection renumbering and amendment of subsection (b) refiled 7-28-2005 as an emergency; operative 7-28-2005 (Register 2005, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-25-2005 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 3-30-2005 and 7-28-2005 emergency amendments by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
5. New subsections (a)(11)-(a)(11)(K), subsection renumbering, amendment of newly designated subsections (a)(13)-(15) and subsections (b) and (d)(2) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.16. Sample Testing of Certified Drivers.

(a) At the discretion of the department, the employer shall permit the department to test a sample of its drivers tested and certified by the em-

ployer, for the purposes of comparing pass/fail results between the employer's Examiner and the department's examiners.

(b) The selection of drivers to be tested shall be determined by the department.

(c) The employer shall notify each certified driver of the possibility of being required to pass a department-administered test at the department's discretion.

(d) The department shall provide written notice to the employer and the driver when the driver is selected for the department-administered test.

(e) The employer shall be held responsible for ensuring that the driver is available for a test at the department within 30 days of the department's notice for a department-administered test unless the driver is no longer employed by the employer. The employer must submit a copy of the driver's drive test score sheets to the department within 30 days of the written notice of the selection. If the driver is no longer employed by the employer, the employer shall notify the department within 10 days of receipt of the department's notice of the selection for the department-administered test.

(f) The department shall invalidate the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) if the driver does not return to the department for the department-administered test, which shall result in the driver's license being downgraded to the previous class that the driver possessed before certification.

(g) The department will conduct an investigation of any driver who fails the department-administered test and may require a re-examination of the driver to retain the class of license issued through the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05).

(h) If the driver fails the department-administered re-examination, the department shall downgrade the license to the previous class that the driver possessed before certification.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 13800, 13801, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsections (f)-(g) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.17. Cancellations/Reinstatements.

(a) An employer with an active employer number may at any time after issuance voluntarily cancel its employer number by submitting to the department an Employer Testing Program Voluntary Cancellation Request of Employer Number (DL520CETP, Rev. 8/03); or a written request to the department on employer letterhead with the following information:

- (1) Employer name.
- (2) Mailing address, city, state and zip code.
- (3) Terminal physical address, city, state, and zip code.
- (4) Telephone number, including area code.
- (5) Employer number.
- (6) Reason for cancellation.
- (7) Effective date of cancellation.
- (8) Date of request.
- (9) Administrator's printed name and signature.

(b) An employer who has been granted a voluntary cancellation of its employer number and wishes to reactivate its employer number may do so, as long as the prior term of the employer number has not expired. An employer seeking to reactivate an employer number shall submit an Employer Testing Program Request for Reactivation Employer Number (DL817ETP, Rev. 7/02), which is hereby incorporated by reference, to the department. If the employer number expires within 60 days of the date of Request for Reactivation, the employer must submit a renewal Application (DL520ETP, Rev. 8/02), an Application for Employer Number Addendum (DL520FETP, New 11/05) when the employer is a firefighting organization requesting limited participation in the Employer Testing Program, the Employer Testing Program Commercial Driving Perfor-

mance Evaluation Route and Directions (DL814ETP, Rev. 2/05), Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02), the route map, and payment of a \$45 non-refundable application fee (\$15 for each year for a three year period) for non-governmental employers.

(c) The department may cancel an employer number if the employer number was issued in error, by giving the employer at least 15 days prior written notice of such cancellation. Whenever an employer number is cancelled by the department, it shall be without prejudice.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsection (b) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.18. Sanctions/Reinstatements.

(a) The department reserves the right to take prompt and appropriate remedial action against the employer, examiners, and/or its certified drivers in the event that they:

(1) Fail to comply with State and/or federal standards for commercial driver license testing in the federal Code of Regulations, Title 49, Part 383, Subpart E, G and H;

(2) Fail to comply with the terms of the Employer Testing Program provisions in the California Code of Regulations, Title 13, Sections 25.06 through 25.22, and California Vehicle Code Sections 12804.9(e) and 15250 (c) and (d);

(3) Commit a serious offense that affects public safety; or

(4) Commit fraud or other criminal activity related to participation in the Employer Testing Program.

(b) The department will provide a 15-day written notice to the employer before suspending or revoking the employer number. However, the department shall immediately suspend or revoke the employer number if an employer is engaging in practices in such a manner that immediate suspension or revocation is required for the safety of persons on the highway. In reaching a decision on a disciplinary action, the Director of Motor Vehicles or his or her designee shall consider the guidelines entitled "Employer Testing Program Guidelines for Sanctions" (9/3/02, which are hereby incorporated by reference, and any and all other sanctions provided by relevant statutes and regulations. Deviation from these guidelines is appropriate where the Director or his or her designee, in his or her sole discretion, determines that the facts of the particular case warrant such a deviation, for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

(1) A warning letter may be sent to an employer for minor violations.

(2) A first offense of less severity may be a minimum of 30-days suspension.

(3) A second offense of the same conduct may be a revocation for not less than 12 months.

(4) A serious offense that affects public safety, fraud, and non-compliance with required federal regulations/state statutes, may result in a revocation. A revocation shall be for a period of not less than 12 months.

(c) In the event the department suspends the employer number, the employer will be prohibited from conducting training, testing, and/or driver certification until verification is made that appropriate action has been taken to correct deficiencies causing the suspension, and the department lifts the suspension.

(d) Any action to appeal or review any order of the department canceling, suspending, or revoking an employer number shall be brought in a court of competent jurisdiction under Section 1085 of the Code of Civil Procedure, or as otherwise permitted by the laws of this state. The action shall be commenced within 90 days from the effective date of the order.

(e) An employer who has been suspended may submit a Employer Testing Program Request for Reinstatement Employer Number (DL813ETP, NEW 11/01), which is hereby incorporated by reference, after the period of suspension has ended. The department shall verify that the employer has corrected the deficiencies prior to reinstatement.

(f) An employer that has had its employer number revoked may submit an original Application, (DL520ETP, Rev. 8/02), an Application for Employer Number Addendum, (DL520FETP, New 11/05) when the employer is a firefighting organization requesting limited Employer Testing Program participation, along with proof of correction of the deficiencies which precipitated the revocation, documentation of primary and alternate driving test routes pursuant to subdivision (a)(2) of Section 25.08 of these regulations, and payment of a non-refundable \$45 Application fee (\$15 per year for three years) for non-governmental employers.

(g) The department shall provide a 15-day written notice to the employer and the Examiner before the department discontinues the Examiner's eligibility to conduct driving tests when it has been determined that driving tests were not conducted pursuant to Commercial Driver License Driving Performance Evaluation requirements; the Examiner has an action taken against his or her commercial driver license that disqualifies him or her to act as an Examiner (the driver license is suspended, revoked, or cancelled, or the driver is on probation for negligent operation of a motor vehicle); or the Examiner is not available to participate in the monitoring of Employer Testing Program activities.

(h) The Examiner must meet the provisions of subdivision (a) of Section 25.22 of these regulations prior to being reinstated after discontinuation of eligibility to act as an examiner under subsection (g). An Employer Testing Program Request for Reinstatement — Examiner (DL810ETP, Rev. 1/2005), which is hereby incorporated by reference, and a \$55 training fee shall be submitted to the department to attend the training. A new Certificate of Training will be issued upon successful class completion.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; Part 383, of Title 49 of the Code of Federal Regulations; and Sections 11340.5 and 11425.50(e), Government Code.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsections (g) and (h) filed 3-30-2005 as an emergency; operative 3-30-2005 (Register 2005, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-28-2005 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (g) and (h) refiled 7-28-2005 as an emergency; operative 7-28-2005 (Register 2005, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-25-2005 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 3-30-2005 and 7-28-2005 emergency amendments by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
5. Amendment of subsections (f)-(h) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.19. Employer Roles and Responsibilities.

(a) The employer shall designate an Administrator, and shall designate one or more Authorized Representative(s) and one or more Examiner(s).

(1) The Administrator and Authorized Representative may be one and the same person under the same employer number.

(2) The Administrator may not act as an Examiner under the same employer number.

(3) The Authorized Representative may be an Examiner under the same employer number, but cannot assume or sign for both responsibilities on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05).

(b) The employer must ensure that all drivers are provided commercial driver training pursuant to subdivision (b) of Section 25.12 of these regulations prior to certification.

(c) The employer must enroll each commercial driver under its Employer Pull Notice number after issuance of the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05), and during the driver's actual term of employment.

(d) The employer must enroll each Examiner under its Employer Pull Notice number during the employer and Examiner's contract period.

(e) When the employer receives a pull notice printout that reflects that an action has been taken against the Examiner's California commercial driver license that would disqualify the Examiner from conducting tests

for certification purposes under subdivisions (a)(2) and (a)(3) of Section 25.22 of these regulations, the employer must immediately discontinue the Examiner's testing authority. The employer must notify the department of this disqualification within 10 days of receipt of the pull notice printout.

(f) Upon adoption of these regulations, prior to allowing an Examiner to conduct a commercial driving test, the employer must:

(1) Ensure the Examiner is eligible under these regulations to administer driving tests for the specified class of license. An Examiner who has not conducted a driving test for 90 consecutive days is not eligible to conduct driving tests until he/she attends and passes a department sponsored Examiner refresher-training course, except as provided in section 25.22(f)(1).

(2) Enter into a written contract with all new examiners at the time of appointment, and with existing examiners at the time of the employer's first renewal.

(g) The employer's contract with the Examiner hereinafter referred to as the "Examiner's contract" must contain, at a minimum, the following provisions. The Examiner must:

(1) Have held a valid California Class A or Class B commercial driver license or a restricted firefighter Class A or Class B driver license for at least three consecutive years with the appropriate classification and endorsement for new and reinstated examiners.

(2) Currently hold a valid California Class A or Class B commercial driver license or a restricted firefighter Class A or Class B driver license with the appropriate classification and endorsements for the requested testing authority prior to being approved to attend training.

(3) Have attended and passed examiner training conducted by the department.

(4) Allow the employer to enroll him/her under the employer's Employer Pull Notice number.

(5) Verify that the driver has acquired an instruction permit from the department prior to testing.

(6) Certify that the driver successfully completed the required commercial driving test (i.e., pre-trip inspection, skills test, and road test).

(7) Certify that the correct type of commercial vehicle(s) was used for the driving test.

(8) Provide the employer with the original score sheets used during the driving test of drivers.

(9) Be available, between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate in the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for a period of one year after contract termination.

(10) Not conduct commercial driving tests if his/her California commercial driver license is not valid or is on probation for negligent operation of a motor vehicle. Maintain his/her Examiner eligibility by conducting at least one driving test for certification purposes during a consecutive 90-day period; or attend and pass Examiner refresher training to reinstate his/her Examiner eligibility prior to conducting a driving test, except as provided in section 25.22(f)(1).

(11) Maintain an Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005) of all driving tests conducted, including failed driving tests, and provide a copy of the log to the Employer.

(12) Not act as an Examiner for his/her own relative, supervisor, or for himself/herself.

(13) Not sign a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) for his/her own relative, supervisor, or himself/herself.

(14) Not knowingly sign a false or incorrect Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05).

(h) Prior to the issuance of a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05), the employer must ensure that the driver was:

(1) Employed by the employer at the time of training.

(2) Trained prior to taking the driving test.

(3) Employed by the employer at the time the driving test is given.

(4) Employed by the employer at the time the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) was approved by the Authorized Representative.

(5) Required by law to hold a commercial license to operate commercial vehicles in the course of employment with this employer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsections (f)(1) and (f)(10), new subsection (f)(11) and subsection renumbering filed 3-30-2005 as an emergency; operative 3-30-2005 (Register 2005, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-28-2005 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (f)(1) and (f)(10), new subsection (f)(11) and subsection renumbering refiled 7-28-2005 as an emergency; operative 7-28-2005 (Register 2005, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-25-2005 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 3-30-2005 and 7-28-2005 emergency amendments by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
5. Amendment of section and NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.20. Administrator Roles and Responsibilities.

(a) The Administrator must be an employee of the employer, and must have sufficient knowledge of the provisions of the California Code of Regulations, Title 13, Sections 25.06 through 25.22, to oversee the program and serve as the employer's liaison with the department.

(b) The Administrator must sign the Application (DL520ETP, Rev. 8/02), Application for Employer Number Addendum (DL520FETP, New 11/05), when the employer is a fire fighting organization applying for limited participation in the Employer Testing Program, Employer Testing Program Commercial Driving Performance Evaluation Route and Directions (DL814ETP, Rev. 2/05) and the Employer Testing Program Commercial DPE Maneuver Checklist (DL807ETP, Rev. 7/02) if requesting a route exemption.

(c) The Administrator is responsible for ensuring compliance with all provisions and terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22.

(d) The Administrator must ensure that the Authorized Representatives, Examiners, and all drivers abide by the terms of the Employer Testing Program regulations contained in the California Code of Regulations, Title 13, Sections 25.06 through 25.22, in the performance of their roles and responsibilities.

(e) The Administrator must ensure that the driving test used for certification purposes meets the department's Commercial Driver License Driving Performance Evaluation standards.

(f) The Administrator must ensure that the employer continues to meet the qualifying criteria for an employer number pursuant to Section 25.07 of these regulations.

(g) The Administrator must ensure that any deficiencies found in the employer's program are corrected prior to the employer resuming Employer Testing Program training, testing, and driver certification.

(h) The Administrator must provide proper training, testing, and employment records and other required documentation when requested for inspection and verification by the Federal Motor Carrier Safety Administration, or its representative, and the department or its representative.

(i) The Administrator must not allow a Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) to be issued when the employer no longer qualifies for participation in the program.

(j) The Administrator must ensure the Examiner has successfully passed the department's Examiner training and has the appropriate valid

California commercial driver license for the type of vehicle used for certification purposes, prior to the employer's contract with the Examiner.

(k) The Administrator must not allow an Examiner to conduct a driving test when the Examiner is no longer authorized or qualified to do so.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code, and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsections (b) and (i) and amendment of NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.21. Authorized Representative Roles and Responsibilities.

(a) The Authorized Representative must be an employee of the employer.

(b) The Authorized Representative shall be responsible for ensuring that the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) is accurate and complete before signing.

(c) The Authorized Representative must verify that the Examiner conducting the commercial driving test has:

- (1) a current contract with the employer,
- (2) maintained his/her eligibility by conducting a least one driving test during the preceeding 90 day period or successfully completed refresher training prior to conducting the driving test, except as provided in Section 25.22(f)(1) and
- (3) a valid commercial driver license with the appropriate class and endorsement, for the commercial driving test conducted at the time of the driving test.

(d) The Authorized Representative must verify that the driver being certified has received specified commercial driver training, and is an employee of the employer at the time of the training.

(e) The Authorized Representative must verify that the driver being tested for certification purposes is an employee of the employer at the time of the driving test.

(f) The Authorized Representative must verify that driver being certified under the employer's employer number is an employee of the employer at the time of certification.

(g) The Authorized Representative must ensure the required test is given to the driver using a department approved route.

(h) The Authorized Representative must not act or sign as the Examiner on the same Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05).

(i) The Authorized Representative must not act as an Authorized Representative for his/her own relative, supervisor, or for himself or herself.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations.

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsection (c) and new subsections (c)(1)-(3) filed 3-30-2005 as an emergency; operative 3-30-2005 (Register 2005, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-28-2005 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (c) and new subsections (c)(1)-(3) refilled 7-28-2005 as an emergency; operative 7-28-2005 (Register 2005, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-25-2005 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 3-30-2005 and 7-28-2005 emergency amendments by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
5. Amendment of section and NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 25.22. Examiner Roles and Responsibilities.

(a) An Examiner is not authorized to conduct a commercial driving test for his/her employer until he or she does all of the following:

(1) For new and reinstated examiners, shall submit an Employer Testing Program Examiner Application (DL811ETP, Rev. 1/2005), which is

hereby incorporated by reference, or Employer Testing Program Request for Reinstatement-Examiner (DL810ETP, Rev. 1/2005), whichever is applicable, to the department. The department shall notify the Examiner applicant of their qualification to be enrolled in the department-sponsored Examiner Training class within 30 days of a complete Application. The department shall notify the examiner applicant within 30 days if the examiner fails to meet program requirements as stated in Section 25.22(a)(2)(6) to be an examiner. A letter will be sent to the applicant explaining the reason for the denial. If the Application is incomplete, a cover letter will be sent to the applicant within 15 days listing the items needing correction.

(2) For new and reinstated examiners, has held a valid commercial driver license for at least three years, with the appropriate class and endorsements.

(3) Currently holds a valid California commercial driver license with appropriate class and endorsements for the type of license for which the Examiner is requesting testing authority. Also, the Commercial Driver License must be consistent with the type required to drive the test vehicle.

(4) Has no current actions against his/her California commercial driver license that would disqualify him/her to act as an Examiner; i.e., suspended, revoked, cancelled, or on probation for negligent operation of a motor vehicle.

(5) Pays a \$150 examiner training fee.

(6) Attends and passes a department-sponsored examiner training class to establish his/her eligibility to act as an Examiner and receives a valid Certificate of Training.

(A) If the Examiner does not pass the training course, the training fee is non-refundable.

(B) If the Examiner does not pass the training course and applies to attend the training course again, an additional \$150 training fee shall be paid.

(C) If the Examiner does not attend the training class within one year of the department receiving the Employer Testing Program Examiner Application (DL811ETP, Rev. 1/2005), the Examiner must submit a new Employer Testing Program Examiner Application (DL811ETP, Rev. 1/2005) and pay a \$150 training fee to enroll in the department-sponsored examiner training course. Prior training fees paid are not refundable or transferable.

(7) The Examiner must be under written contract with the employer(s) at the time he/she conducts the driving test, as required in section 25.19(f)(2) of these regulations.

(b) The Examiner shall submit a written request to the department when the Examiner seeks authority to test drivers on vehicles that require a class of license or endorsement for which the Examiner is not authorized. The department shall verify that the Examiner has held a California Commercial Driver License for three years of the appropriate class and endorsements for type of license for which the Examiner is requesting testing authority, prior to approval of the request.

(c) The Examiner shall verify that the driver has obtained an instruction permit from the department appropriate for the test vehicle prior to testing.

(d) The Examiner shall maintain on file an Employer Testing Program Examiner Driver Testing Log (DL 819 ETP, New 1/2005) of all driving tests conducted for certification purposes, which includes a record of driving tests conducted under each Employer Number with whom the Examiner has a contract to conduct driving tests. The log must include successfully completed and failed driving tests.

(e) The Examiner shall conduct all driving tests for certification purposes using the Commercial Driver License Driving Performance Evaluation criteria established by the department.

(f) An Examiner, upon authorization by the department to conduct commercial driving tests as defined in Title 13, Section 25.06(b), who fails to conduct a driving tests for a period of 90 consecutive days, is ineligible to conduct commercial driving tests upon the 91st day of inactivity and must submit an Employer Testing Program Request for Reinstatement.

ment—Examiner (DL 810 ETP, Rev. 1/2005), attend and pass a department sponsored Examiner refresher—training class, and be reinstated by the department before conducting additional commercial driving tests.

(1) An Examiner who conducts driving tests only for a firefighter organization(s) that is a limited participant in the Employer Testing Program shall remain eligible to conduct driving tests even though he/she fails to conduct a driving test for a period of 90 consecutive days, provided that the Examiner completes a training drive test.

(2) The training drive test shall consist of the Examiner conducting a pre-trip inspection, skills test, and road test on the department approved route, accompanied and observed by an Authorized Representative, while the Examiner explains the scoring process.

(3) The Authorized Representative shall make a notation in the Employer Testing Program Examiner Driver Testing Log (DL819ETP, New 1/2005) indicating that a training drive test was successfully completed and shall sign and date the notation.

(g) The Examiner shall verify that the driver is given and successfully passes a complete commercial driving test including the pre-trip inspection, skills, and road tests.

(h) The Examiner shall verify that the correct type of commercial vehicle is used for the driving test.

(i) An Examiner shall not act as the Authorized Representative for the same driving test that he/she conducted.

(j) The Examiner shall complete and sign the Certificate of Driving Skill (DL170ETP, Rev. 11/02) or Firefighter Certificate of Driving Skill (DL170FETP, New 11/05) as the Examiner.

(k) An Examiner may work for more than one employer concurrently, as long as he/she is under written contract with each employer.

(l) The Examiner must allow each employer to enroll him/her in the Employer's Pull Notice program during the contract period.

(m) The Examiner shall maintain a valid medical card and ensure that a valid Medical Examination Report (DL51, Rev. 2/2004), described in Section 110.04(b) of Title 13 of the California Code of Regulations, is on file with the department. An Examiner possessing a noncommercial firefighter license Class A or B must submit a Health Questionnaire (DL546, Rev. 4/2000), described in Sections 28.22 and 28.23 of Title 13 of the California Code of Regulations, to the department.

(n) Upon the department's request, the Examiner shall be available between the hours of 8:00 a.m. to 5:00 p.m., with notice, to participate during the monitoring of the employer's third party testing program for the duration of the Examiner's contract and for one year after termination of the contract.

(o) The Examiner must update testing skills as needed in response to statutory and program changes. The department shall notify Examiners of statutory and program changes, and may require additional department-sponsored training to maintain eligibility.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 15250 and 15250.6, Vehicle Code; and Part 383, of Title 49 of the Code of Federal Regulations. 16

HISTORY

1. New section filed 1-5-2004; operative 2-4-2004 (Register 2004, No. 2).
2. Amendment of subsections (a)(5) and (a)(6)(B)–(C), new subsections (d) and (f) and subsection relettering filed 3-30-2005 as an emergency; operative 3-30-2005 (Register 2005, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-28-2005 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (a)(5) and (a)(6)(B)–(C), new subsections (d) and (f) and subsection relettering refiled 7-28-2005 as an emergency; operative 7-28-2005 (Register 2005, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-25-2005 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 3-30-2005 and 7-28-2005 emergency amendments by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
5. Amendment of section and NOTE filed 9-14-2006; operative 10-14-2006 (Register 2006, No. 37).

§ 28.18. Minimum Physical and Medical Requirements for Class A, B, or Commercial Class C Driver Licenses; or Ambulance Driver Certificates.

The minimum medical requirements for a Class A, B, or Commercial Class C license or Ambulance Driver Certificate, required by Section 12804.9(a)(1), 12527(a) or 15275 of the Vehicle Code shall be:

(a) those standards required of motor carrier drivers by the Federal Highway Administration of the Department of Transportation as set forth in the Federal Motor Carrier Safety Regulations at 49 CFR 391.41 and

(b) those standards recommended in the medical advisory criteria for hypertension as set forth at 49 CFR 391.43(f) (Instructions for Performing and Recording Physical Examinations) prepared by the Federal Motor Carrier Safety Administration as guidelines to aid the medical examiner in making the qualification determination as they relate to blood pressure, hypertension, and recertification periods based on hypertension.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9(a)(1), 12527(a), 15210 and 15275, Vehicle Code; and Sections 391.41 and 391.43, Title 49, Code of Federal Regulations.

HISTORY

1. Change without regulatory effect renumbering former section 100.18 to section 28.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading, text and NOTE filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
3. Amendment of section heading, section and NOTE filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).

§ 28.19. Medical Certificates Required by Section 12804.9(a)(1), 12527(c)(3) and 15275 of the Vehicle Code that May be Issued by the Department of Motor Vehicles.

Unless otherwise specified, the medical examination form and medical certificate referenced in this section are those forms approved by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. If the medical examiner elects not to issue a medical certificate or the department determines that the applicant does not meet required physical qualifications for such a medical certificate, an applicant wishing to drive ambulances or Class A, B, or Commercial Class C vehicles for purposes other than engaging in interstate commerce, may submit a completed medical examination form to the department for consideration of obtaining a state approved medical certificate. Upon approval by the department, the department may issue a state approved medical certificate which qualifies the applicant to drive ambulances or Class A, B, or Commercial Class C vehicles for purposes other than engaging in interstate commerce if:

(a) The department determines from review of the examination form and any additional medical information submitted, that the applicant meets the standards set forth under Federal Motor Carrier Safety Regulations 49 CFR 391.41, or

(b) The applicant for a Class A or B license, or a Commercial Class C license, does not meet the standards set forth under Federal Motor Carrier Safety Regulations because of a physical condition wherein safe driving ability can be determined by driving examination and in the opinion of the department the defect is compensated for to insure safe driving ability. If such a state approved medical certificate is issued by the department, the applicant shall not be permitted to operate vehicles requiring a passenger vehicle endorsement or a hazardous materials endorsement pursuant to Section 15278 of the Vehicle Code. The department may authorize the applicant to continue to operate any of said vehicles if the applicant is renewing a California Class A, B, or a Commercial Class C license permitting the operation of such vehicles, or is applying for a medical certificate to keep valid such a license that has not yet expired, or

(c) The applicant for a Class A or B license, or a Commercial Class C license, fails to meet the standards set forth under Federal Motor Carrier Regulations because of a condition or conditions other than those where-

in safe driving ability can be determined by a driving examination, provided that the department determines upon evaluation of competent medical evidence that the condition or conditions do not affect the driver's ability to drive safely and may reasonably be expected not to affect the driver's ability to drive safely within two (2) years. If such a state approved medical certificate is issued by the department, the applicant shall not be permitted to operate vehicles requiring a passenger vehicle endorsement or a hazardous materials endorsement pursuant to Section 15278 of the Vehicle Code. The department may authorize the applicant to continue to operate any of said vehicles if the applicant is renewing a California Class A, B, or a Commercial Class C license permitting the operation of such vehicles, or is applying for a medical certificate to keep valid such a license that has not yet expired, or

(d) The applicant for an Ambulance Driver Certificate fails to meet the standards set forth under Federal Motor Carrier Regulations provided that the department determines upon evaluation of competent medical evidence that the condition or conditions do not affect his ability to drive safely and may reasonably be expected not to affect his ability to drive safely within two (2) years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9(a)(1), 12527(c)(3), 13369, 13372, 15210, 15275 and 15278, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.19 to section 28.19 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading, text and NOTE filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
3. Repealer and new first paragraph and amendment of subsections (b), (c) and (d) filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).

§ 28.20. Medical Requirements for Hazardous Agricultural Materials Endorsement.

(a) The minimum medical requirements for a hazardous materials endorsement issued pursuant to Section 12804.2 of the Vehicle Code shall be those standards specified in Section 28.18 of Article 2.1, Chapter 1, Division 1, of Title 13 of the California Code of Regulations.

(b) The department shall require a person applying for a hazardous agricultural materials endorsement to complete and submit to the department a Health Questionnaire, Form DL 546 (Rev. 11/2004) provided by the department, pursuant to Section 28.23.

(c) If an applicant for a hazardous agricultural materials endorsement fails to meet the medical standards set forth in subdivision (a), the department shall not issue the endorsement unless the applicant is renewing a license with a hazardous agricultural materials endorsement, or is submitting a new Health Questionnaire, form DL 546 (Rev. 11/2004), to retain such an endorsed license that has not yet expired, and the department determines upon evaluation of competent medical evidence that the condition or conditions do not affect the driver's ability to drive safely, and may reasonably be expected not to affect the driver's ability to drive safely within two years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804.2, Vehicle Code.

HISTORY

1. New section filed 9-12-2000; operative 10-12-2000 (Register 2000, No. 37).
2. Amendment of subsections (b) and (c) filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).

§ 28.21. Medical Requirements for Restricted Class A Driver License.

(a) A person applying for a restricted Class A driver license issued pursuant to Section 12804.12 or 12804.14 of the Vehicle Code shall meet the following minimum medical requirements before a restricted license can be issued:

(1) Color Test. An applicant must be able to recognize the standard red, green, and amber colors of traffic signals and devices.

(2) Peripheral Vision. An applicant must have peripheral vision of 70 degrees or greater in the horizontal Meridian in each eye.

(3) Hearing. An applicant must be able to perceive a forced whispered voice in the better ear, without a hearing aid, at a distance of not less than five (5) feet.

(4) Visual Acuity. An applicant's visual acuity must be 20/40 or better in each eye with or without corrective lenses.

(5) Upper and Lower Extremities. An applicant must have:

(A) no loss of a foot, leg, hand, arm, or finger.

(B) no impairment of a hand or finger which interferes with grasping.

(C) no impairment of an arm, hand, foot, or leg, or any other limitation that interferes with the ability to safely operate a motor vehicle.

(6) Diabetes. An applicant must have no history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

(A) Prior to evaluation of competent medical evidence as specified in subdivision (c)(2), the department shall not issue a temporary or interim restricted Class A driver license to an applicant who has had a hypoglycemic episode or any adverse reaction related to diabetes in the last three (3) years.

(7) Heart. An applicant must have no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, stroke, or congestive cardiac failure.

(A) Prior to evaluation of competent medical evidence as specified in subdivision (c)(2), the department shall not issue a temporary or interim restricted Class A driver license to an applicant who has had labored breathing, fainting, collapse, congestive heart failure, or other symptoms in the last three (3) years which may interfere with the ability to safely operate a motor vehicle.

(8) Lungs. An applicant must have no established medical history or clinical diagnosis of a respiratory condition such as emphysema, chronic asthma, or tuberculosis that is likely to interfere with ability to safely operate a motor vehicle.

(9) Blood Pressure. An applicant must have no current clinical diagnosis of high blood pressure which is likely to interfere with the ability to safely operate a motor vehicle.

(A) Prior to evaluation of competent medical evidence as specified in subdivision (c)(2), the department shall not issue a temporary or interim restricted Class A driver license to an applicant whose blood pressure is usually 140/90 or higher.

(10) Muscle, Orthopedic, or Vascular Condition. An applicant must have no established history or clinical diagnosis of a rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with the ability to safely operate a motor vehicle.

(11) Mental Condition. An applicant must have no diagnosis of a mental, nervous, organic or functional disease, or psychiatric disorder which is likely to interfere with the ability to safely operate a motor vehicle.

(12) Epilepsy and/or Lapse of Consciousness. An applicant must have no established medical history or clinical diagnosis of epilepsy, or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

(A) Prior to evaluation of competent medical evidence as specified in subdivision (c)(2), the department shall not issue a temporary or interim restricted Class A driver license to an applicant who has had a loss of consciousness or loss of ability to control a motor vehicle in the last three (3) years.

(13) Drugs. An applicant must not use a controlled substance, amphetamine, narcotic, or any other habit-forming drug.

(A) If the applicant is taking a substance or drug that is prescribed by the doctor who is familiar with the driver's medical history and has advised the driver that the substance or drug will not adversely affect the driver's ability to safely operate a motor vehicle, the department may issue a restricted Class A driver license to the applicant.

(14) Alcohol. An applicant must have no current clinical diagnosis of alcoholism.

(b) The department shall require a person applying for a restricted Class A driver license to complete and submit to the department a Health Questionnaire, form DL 546 (Rev. 11/2004), provided by the department, pursuant to Section 28.23.

(c) If an applicant for a restricted Class A driver license does not meet the medical requirements set forth in subdivision (a), the department may issue a restricted Class A license under any of the following conditions:

(1) The department does not meet the minimum medical requirements set forth in subdivision (a) because of a physical condition wherein safe driving ability can be determined by driving examination and, in the opinion of the department, the defect is compensated for to insure safe driving ability; or

(2) The department determines, upon evaluation of competent medical evidence, that the condition or conditions do not affect the driver's ability to drive safely and may reasonably be expected not to affect the driver's ability to drive safely within two (2) years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.12 and 12804.14, Vehicle Code.

HISTORY

1. New section filed 9-12-2000; operative 10-12-2000 (Register 2000, No. 37).
2. Amendment of subsections (a)(9)(A) and (b) filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).

§ 28.22. Medical Requirements for Restricted Fire Fighter Driver License.

(a) The minimum medical requirements for a restricted fire fighter driver license issued pursuant to Section 15250.6 of the Vehicle Code shall be those standards specified in Section 28.18 of Article 2.1, Chapter 1, Division 1, of Title 13 of the California Code of Regulations.

(b) The department shall require a person applying for a restricted fire fighter driver license to complete and submit to the department a Health Questionnaire, Form DL 546 (Rev. 11/2004) provided by the department, pursuant to Section 28.23.

(c) If an applicant for a restricted firefighter driver license fails to meet the medical standards specified in subdivision (a), the department may issue the license under any of the following conditions:

(1) The applicant does not meet the medical standards set forth in subdivision (a) because of a physical condition wherein safe driving ability can be determined by driving examination and, in the opinion of the department, the defect is compensated for to insure safe driving ability; or

(2) The applicant fails to meet the standards set forth in subdivision (a) because of a condition or conditions other than those wherein safe driving ability can be determined by a driving examination, provided that the department determines upon evaluation of competent medical evidence that the condition or conditions do not affect the driver's ability to drive safely, and may reasonably be expected not to affect the driver's ability to drive safely within two (2) years.

(3) If a restricted fire fighter driver license is issued under these conditions, the applicant shall not be permitted to operate vehicles requiring a passenger vehicle endorsement or hazardous materials endorsement pursuant to Section 15278 of the Vehicle Code. The department may authorize the applicant to continue operating such vehicles if the applicant is renewing a restricted fire fighter license, or is submitting a new Health Questionnaire, form DL 546 (Rev. 11/2004), to retain such a license that has not yet expired.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 15250.6, Vehicle Code.

HISTORY

1. New section filed 9-12-2000; operative 10-12-2000 (Register 2000, No. 37).
2. Amendment of subsections (b) and (c)(3) filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).
3. Change without regulatory effect amending subsection (a) and NOTE filed 8-24-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 34).

§ 28.23. Health Questionnaire.

(a) The Health Questionnaire, form DL 546 (Rev. 11/2004), shall be submitted upon application for a hazardous agricultural materials endorsement, restricted Class A driver license, or restricted fire fighter driver license and every two years thereafter.

(b) The Health Questionnaire shall contain the following information:

(1) The applicant's true full name, address, date of birth, driver license number, and daytime telephone number.

(2) A "yes" or "no" response as to whether the applicant:

(A) has difficulty recognizing the colors of red, green, and amber used in traffic signal lights and devices.

(B) has peripheral vision of less than 70 degrees for either eye.

(C) has difficulty perceiving a forced whispered voice in the better ear, without a hearing aid, at not less than five (5) feet.

(D) has a vision impairment in either eye that is not correctable to visual acuity of 20/40 or better.

(E) has a missing foot, leg, hand, finger, or arm.

(F) has an impairment of a hand or finger.

(G) has any other impairment of an arm, hand, foot, or leg, or any other limitation.

(H) has diabetes requiring insulin for control.

(I) has had a hypoglycemic episode in the last three (3) years.

(J) has had any other adverse reaction related to diabetes in the last three (3) years.

(K) has had a heart attack, angina, coronary insufficiency, thrombosis, stroke, or other heart problem, or cardiovascular disease, and if "yes," whether the applicant has had labored breathing, fainting, collapse, congestive heart failure, or other symptoms in the last three (3) years.

(L) has been diagnosed with a respiratory condition, such as emphysema, chronic asthma, or tuberculosis and, if "yes," whether the respiratory condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(M) has been diagnosed with high blood pressure, and if "yes," whether the applicant's blood pressure is usually 140/90 or higher.

(N) has never been diagnosed with a rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease, and if "yes," whether the condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(O) has ever been diagnosed with any mental, nervous, organic, or functional disease, or psychiatric disorder and, if "yes," whether the condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(P) has ever been diagnosed with epilepsy or any other condition which may cause loss of consciousness or loss of control, and if "yes," whether the applicant has had a loss of consciousness or loss of control in the last three (3) years.

(Q) uses a controlled substance, amphetamine, narcotic, or any other habit-forming drug, and if "yes," whether the applicant's physician prescribed the drug and whether the applicant's physician advised the applicant not to drive when taking the drug.

(R) has a current clinical diagnosis of alcoholism, and if "yes," when the applicant last had an alcoholic beverage.

(3) An explanation of any "yes" answer.

(4) The physician's name, office address, and telephone number.

(5) The month and year of the applicant's last visit to the physician.

(6) A certification, signed and dated by the applicant under penalty of perjury, that the information provided is true and correct, and that the applicant consents to the release of medical information to the department by the physician named on the form.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.2, 12804.12, 12804.14 and 15250.5, Vehicle Code.

HISTORY

1. New section filed 9-12-2000; operative 10-12-2000 (Register 2000, No. 37).
2. Amendment of subsections (a) and (b)(2)(M) filed 10-18-2005; operative 11-17-2005 (Register 2005, No. 42).

Article 2.2. Licenses for Minors Under Age of Eighteen

§ 50.40. Forms.

HISTORY

1. Change without regulatory effect renumbering former section 100.40 to section 50.40 and adding article 2.2 designation filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Change without regulatory effect repealing section filed 1-10-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 50.45. Minimum Instruction Requirements Acceptable to the Department.

(a) Certification of driver education by a licensed driving school or educational institution other than a secondary school must be based on the areas prescribed for automobile driver education stated in Section 10020 of Title 5 of the California Code of Regulations. Classroom instruction shall be a minimum of thirty (30) fifty-minute periods. Instruction shall be based on a teaching guide furnished by the department.

(b) Pursuant to behind-the-wheel training certification, the training must be a minimum of six (6) hours. Training shall be based on a teaching guide furnished by the department.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Section 12814.6, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.45 to section

50.45 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Change without regulatory effect amending section and adding NOTE filed 1-10-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 2).

§ 55.01. Driver Education Pilot Program.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5-22-2001; operative 5-22-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4-9-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

[The next page is 4.3.]

§ 55.02. Requirements for Driving Schools Participating in the Driver Education Pilot Program.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5–22–2001; operative 5–22–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4–9–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

§ 55.03. Record Keeping and Reporting Requirements for Participating Driving Schools.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5–22–2001; operative 5–22–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4–9–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

§ 55.04. Inspections, Examinations and Audits by the Department.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5–22–2001; operative 5–22–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4–9–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

§ 55.05. Advertisement of Driver Education Pilot Program by a Driving School.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5–22–2001; operative 5–22–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4–9–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

§ 55.06. Participant/Applicant Requirements.

NOTE: Authority cited: Sections 1651 and 12814.8, Vehicle Code. Reference: Section 12814.8, Vehicle Code.

HISTORY

1. New section filed 5–22–2001; operative 5–22–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 21).
2. Change without regulatory effect repealing section filed 4–9–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 15).

Article 2.3. Financial Responsibility

SUSPENSION OF LICENSE FOLLOWING ACCIDENT

§ 75.20. Policy or Bond Not in Effect at Time of Accident; Notice by Insurance Company or Surety Company.

(a) Manner of Giving Notice. The notification required by Section 16057 shall be rendered in writing, by the completion of the notice received from the department.

(b) Preparing the Notice. The notification shall be signed by a person authorized by the company.

(c) Time of Notice. The notification shall be given to the department within twenty days from the date of mailing as it appears on the notice.

(d) Mailing the Notice. The notification shall be forwarded to the Department of Motor Vehicles, Financial Responsibility, Sacramento, California.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16020, 16021(b) and 16057, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.20 to section 75.20 and adding article heading filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 77.00. Suspension Exemption.

A driver suspended for failure to provide evidence of financial responsibility, pursuant to Vehicle Code section 16070, is exempt pursuant to Vehicle Code section 16073 from the suspension when his/her employment requires the operation of a motor vehicle as part of his/her duties and the vehicle is not registered in the suspended driver's name. Neither an application, payment of fee(s), or proof of financial responsibility pursuant to Vehicle Code section 16430 is required to be provided by the suspended driver to qualify for the exemption. No marking of the driver license or the department's records is necessary for this exemption.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16070 and 16073, Vehicle Code.

HISTORY

1. New section filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).

§ 77.05. Restricted License Requirements.

(a) A person whose driving privilege has been suspended pursuant to Vehicle Code section 16070 may apply and qualify for one or more financial responsibility driver license restrictions as described in Sections 77.15, 77.16 and 77.17, Division 1, Chapter 1 of Title 13 of the California Code of Regulations by submitting the following to the department:

(1) An application for the restriction(s) as described in Sections 77.10, 77.15, 77.16 and 77.17, Division 1, Chapter 1 of Title 13 of the California Code of Regulations with the appropriate sections completed and signed.

(2) Proof of financial responsibility pursuant to Vehicle Code section 16430.

(3) A fee totaling \$250, as specified in Vehicle Code sections 16072 and 16077.

(A) A single \$250 restriction fee, pursuant to Vehicle Code sections 16072 and/or 16077, qualifies an applicant for one or more financial responsibility driver license restrictions in lieu of the mandatory one-year suspension.

(B) The \$250 fee shall be payable in a single payment.

(b) The applicant shall not be eligible for the driver license restriction(s) if any other suspension or revocation of the driving privilege is in effect or if the applicant's driver license is a commercial class A, class B or class C. When a driver with a commercial driver license downgrades to a non-commercial class C or M driver license, he/she may be eligible for the driver license restriction(s).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16070, 16072, 16077, 16078 and 16430, Vehicle Code.

HISTORY

1. New section filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).
2. Amendment of section and NOTE filed 1–30–2006; operative 3–1–2006 (Register 2006, No. 5).

§ 77.10. Application for a Driver License Restriction.

To drive a motor vehicle pursuant to Vehicle Code sections 16072 and 16077 and as described in Sections 77.15, 77.16 and 77.17, Division 1, Chapter 1 of Title 13 of the California Code of Regulations, the applicant shall complete, sign and submit to the department for approval the Application for Non-Commercial Restricted Driver License for Financial Responsibility Actions, form DL 691 (REV. 6/2005), which is hereby incorporated by reference. All applicants regardless of the restriction requested shall complete the Applicant Information section and Part D prior to submitting the form to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16070, 16072, 16077 and 16078, Vehicle Code.

HISTORY

1. New section filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).
2. Amendment filed 1–30–2006; operative 3–1–2006 (Register 2006, No. 5).

§ 77.15. Employment Restriction.

To drive a motor vehicle (including vehicles registered in the applicant's name) to and from employment and during the course of employment, the applicant shall submit the Application for Non-Commercial Restricted Driver License for Financial Responsibility Actions, form DL 691 (REV. 6/2005), with Part A completed. The restriction is not valid for a commercial class A, class B or class C driver license.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16070, 16072 and 16073, Vehicle Code.

HISTORY

1. New section filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).
2. Amendment of section and NOTE filed 1–30–2006; operative 3–1–2006 (Register 2006, No. 5).

§ 77.16. School Transportation Restriction.

(a) To transport a minor dependent in the applicant's immediate family to and/or from a primary or secondary educational institution (Kindergarten through Twelfth grade), the applicant shall submit the Application for Non-Commercial Restricted Driver License for Financial Responsibility Actions, form DL 691 (REV. 6/2005), with Part B completed.

(b) For the purposes of this section a "minor dependent in the immediate family" is defined as any person enrolled in a primary or secondary educational institution who either resides within the household of the applicant or, without regard to place of residence, is the applicant's son, daughter, brother or sister.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16072, Vehicle Code.

HISTORY

1. New section filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).
2. Amendment filed 1–30–2006; operative 3–1–2006 (Register 2006, No. 5).

§ 77.17. Medical Treatment Restriction.

(a) To drive to and from medical and/or mental health treatments for the suspended driver and/or an immediate family member of the suspended driver, the applicant shall submit the Application for Non-Commercial Restricted Driver License for Financial Responsibility Actions, form DL 691 (REV. 6/2005), with Part C completed.

(b) For the purposes of this section "immediate family members" shall include, but are not limited to: a spouse, children, parents, or anyone who resides within the household of the applicant.

(c) For the purposes of this section and pursuant to Vehicle Code section 16077 and Evidence Code section 1010, a "practitioner" shall be defined as the health care professional licensed by the State of California who prescribed the treatment(s) upon which the restriction application is based. The professions qualified to sign shall include, but not be limited to: licensed physicians; surgeons; nurse practitioners; psychiatrists; psychologists; clinical social workers; and marriage, family and child counselors.

(d) A "serious health problem" shall be defined as a health problem that requires more than one treatment appointment.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 1010, Evidence Code; and Section 16077, Vehicle Code.

HISTORY

1. New section and new form DL 691 filed 6–28–2000; operative 7–28–2000 (Register 2000, No. 26).
2. Amendment of subsections (a) and (b) and removal of form DL 691 (incorporated by reference) filed 1–30–2006; operative 3–1–2006 (Register 2006, No. 5).

CERTIFICATES OF SELF-INSURANCE

§ 80.00. Definitions.

As used in this article, the following definitions shall apply:

(a) A "financial statement" shall include, but not be limited to, the documents commonly known as balance sheets, profit and loss statements, explanatory notes or other documents which allow the department to determine an applicant's net financial worth.

(b) An "independent certified public accountant" is a certified public accountant, lawfully licensed to audit financial statements and render an opinion of an applicant's financial condition. For purposes of this regulation, an independent certified public accountant shall not be an employee of, or have any material or vested interest in the entity being audited.

(c) "Net worth" shall be defined as an applicant's net financial worth determined by calculating financial assets minus liabilities as identified on the financial statements and application or renewal attachments.

(1) Liabilities include unresolved past, current and future financial responsibility obligations and assessed risk factors.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16053, Vehicle Code.

HISTORY

1. New section filed 6–26–2001; operative 7–26–2001 (Register 2001, No. 26).

§ 80.25. Requirements.

The applicant shall meet the following requirements to qualify as a self-insurer:

(a) The applicant shall have more than 25 motor vehicles registered in the name of the applicant as it appears on the Application for Certificate of Self-Insurance, form SR44 (REV. 6/01).

(b) The applicant shall provide audited financial statements of the applicant's net worth as defined in Section 80.00, Division 1, Chapter 1, of Title 13, of the California Code of Regulations. Included with the financial statements shall be an opinion of the financial condition of the applicant rendered by an independent certified public accountant.

(c) The net worth evidenced on the financial statement(s) submitted with the original application and subsequent annual renewals shall be equal to or greater than the net worth pursuant to Section 80.60, Division 1, Chapter 1, of Title 13, of the California Code of Regulations.

(d) No unsatisfied final judgments shall exist against the applicant's name resulting from property damages and/or bodily injury (including death) that occurred as a result of a motor vehicle accident.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16053, 16054.2, Vehicle Code.

HISTORY

1. New section filed 6–26–2001; operative 7–26–2001 (Register 2001, No. 26).

§ 80.50. Initial Application.

(a) An applicant requesting the self-insurance method of compliance to the financial responsibility law pursuant to Vehicle Code section 16053 shall complete, sign and certify under penalty of perjury under the laws of the State of California, an Application for a Certificate of Self-Insurance, form SR44 (REV. 6/01).

(1) The Application for a Certificate of Self-Insurance, form SR44 (REV. 6/01) is hereby incorporated by reference.

(b) The department shall consider the completed Application for a Certificate of Self-Insurance, form SR44 (REV. 6/01) in accordance with the provisions of Articles 2 and 3, Chapter 1, of Division 7 of the Vehicle Code and Section 80.00, et seq., Division 1, Chapter 1, of Title 13, of the California Code of Regulations. If the application is approved, the department shall issue a Certificate of Self-Insurance form SR27 (REV. 10/99), which contains an assigned number that serves as evidence of financial responsibility as established in Vehicle Code section 16020(b)(2) and proof of financial responsibility pursuant to Vehicle Code section 16436.

(c) The Certificate of Self-Insurance, form SR27 (REV. 10/99) shall serve as proof or evidence of financial responsibility under Article 2, Chapter 1, and Article 1, Chapter 3, Division 7 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16052, 16053, 16054.2 and 16436, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.50 to section 80.50 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer and new section filed 6–26–2001; operative 7–26–2001 (Register 2001, No. 26).

§ 80.55. Financial Statement.

(a) The application for a Certificate of Self-Insurance, form SR44 (REV. 6/01) shall be accompanied by an audited financial statement for the three-year period immediately preceding the date of application. The financial statement shall include an opinion of the net worth of the applicant rendered by an independent certified public accountant.

(1) This opinion shall apply to the net worth of the applicant for the date and time when the financial statement is signed.

(b) When an applicant has not been in existence for three years prior to the date of application, the department may accept a financial statement covering the period the applicant has been in existence.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16053, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.55 to section 80.55 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and new NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

§ 80.60. Net Worth.

The audited financial statement shall reflect a net worth of not less than \$2,200,000 on the date of application.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16053 and 16054.2, Vehicle Code; and Sections 700.01, 700.02 and 700.25, Insurance Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.60 to section 80.60 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and new NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

§ 80.65. Additional Information.

The department shall require a statement of claims and losses during the preceding three year period, a history of insolvency proceedings, accident and civil judgment history, claim reserves, and any relevant addi-

tional information necessary to determine the initial and continuing ability of the applicant to pay future claims.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16053 and 16054.2, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.65 to section 80.65 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and new NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

§ 80.70. Updated Financial Statement.

If a Certificate of Self-Insurance, form SR27 (REV. 10/99) has not been issued or has been refused within six months of the date of application, the department may require the applicant to submit an updated financial statement.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16053 and 16054.2, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.70 to section 80.70 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and new NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

[The next page is 5.]

§ 80.75. Renewal Requirements.

(a) The holder of a Certificate of Self-Insurance, form SR27 (REV. 10/99) shall submit to the department within twelve months after issuance of the certificate and at twelve month intervals thereafter, a completed Financial Responsibility Self-Insurance Renewal Attachment, form SR70 (REV. 3/98), which is hereby incorporated by reference and an audited financial statement for the previous year.

(1) The statement shall include an opinion of the net worth of the holder of the certificate rendered by an independent certified public accountant.

(A) This opinion shall apply to the net worth of the certificate holder for the date and time when the financial statement for the renewal application is signed.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16053 and 16054.2, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.75 to section 80.75 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading and section and new NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

§ 80.80. Confidentiality.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16005, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.80 to section 80.80 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer of section and new NOTE filed 8-22-96; operative 9-21-96 (Register 96, No. 34).

§ 80.85. Formal Hearing.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 14100 and 16053(b), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.85 to section 80.85 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Change without regulatory effect repealing section filed 3-28-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 80.90. Grounds for Cancellation.

Reasonable grounds for cancellation of a certificate of self-insurance shall include, but not be limited to, the following:

(a) Failure of the holder of the certificate to maintain the requirements for obtaining a certificate as required by this article.

(b) Inability, refusal or failure of the holder of the certificate to submit annual financial statements, the Financial Responsibility Self-Insurance Renewal Attachment, form SR70 (REV. 3/98) and requested supporting documentation as required by this article.

(c) Submission of fraudulent or incomplete documents.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16053 and 16054.2, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.90 to section 80.90 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and NOTE filed 6-26-2001; operative 7-26-2001 (Register 2001, No. 26).

§ 82.00. Uniform Insurance Card.

Every insurance company licensed to offer private passenger liability policies as described in Section 660(a) and (b) of the Insurance Code, except as provided in Vehicle Code section 4000.37, shall issue to each policy holder, for each vehicle covered by private passenger liability insurance, a California Evidence of Liability Insurance Document (REG 890A (Rev 5/97)).

(a) Form Layout. The information must appear on the California Evidence of Liability Insurance Document (REG 890A (Rev 5/97) as it appears in the following sample:

CALIFORNIA EVIDENCE OF LIABILITY INSURANCE				
DO NOT FOLD OR STAPLE — SUBMIT ORIGINAL TO DMV				
This insurance complies with CVC § 16056 or § 16500.5 _____				
SIGNATURE OF INSURANCE REPRESENTATIVE				
NAME	VEHICLE IDENTIFICATION NUMBER (VIN)		VEHICLE MAKE	YEAR MODEL
POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	INSURANCE COMPANY NAME	
STREET ADDRESS	CITY	STATE	ZIP CODE	NAIC NUMBER

REG 890A (REV. 5/97)

(b) Form Content. Each California Evidence of Liability Insurance Document shall contain the following information:

(1) A statement that the policy complies with Sections 16056 or 16500.5 of the California Vehicle Code

(2) The primary name of the insured covered by the policy, or the vehicle owner, or both

(3) The Vehicle Identification Number

(4) The make/manufacture of the vehicle

(5) The year model of the vehicle

(6) The policy number issued for the policy

(7) The effective date of the coverage

(8) The scheduled expiration date of the coverage

(9) The name of the insurance company

(10) The address of the insurance company

(11) The five-digit National Association of Insurance Commissioners (NAIC) Number issued for the insurance company.

(c) Paper Specifications. The paper used for the California Evidence of Liability Insurance Document (REG 890A (Rev 5/97) shall meet the following specifications: Maximum and minimum 24 lbs. (90 gm2) OCR White Bond, and Laser Compatible. The paper shall be compliant with the American National Standard (ANSI) X3.96-1983, for Information systems — Continuous Business Forms (Single Part) — Paper Sizes.

(d) Document Size. The document shall be 3.5 inches tall and 8.5 inches wide. The document may be issued as a removable stub of a larger document.

(e) Color Ink. The ink used for completion of this form shall be black.

(f) Electronic Content

(1) Form number 89000 in postnet barcode font must be located 1/2 inch from the top and the right-side edge of the form. The form must have a 1/4 inch quiet zone around the postnet form number 89000. A stop and start bar must bracket the barcode.

(2) Each form shall also include a 72-digit electronic scan line of data that meets the following specifications:

(A) Font: OCR Font — A (OCRA) — 10 characters per inch

(B) Location: 1.2 centimeters from the bottom of the form; 1.2 centimeters from the right edge; and 2 centimeters from the left edge

(3) The OCR scan line shall contain the following information, in order:

(A) A two-position mail extraction code of 'FR'.

(B) A five-position National Association of Insurance Commissioners number.

(C) An eight-position policy effective date (MMDDCCYY format)

(D) An eight-position policy expiration date (MMDDCCYY format)

(E) A four-position vehicle year model (CCYY format)

(F) A three-position vehicle make, use the first three digits of the make. If the vehicle make is less than three positions, the remaining positions will be '9' (right fill)

(G) A two-position number indicating the number of positions that will be used for the vehicle identification number (01-30)

(H) A thirty-position vehicle identification number field, right filled with '0' if the number is less than thirty positions. If the vehicle identification number is greater than thirty positions, report the first 30 positions.

(I) An eight-position filed of zeroes (00000000)

(J) A two-position check digit (Algorithm). The DMV will make the algorithm available to insurance companies.

NOTE: Authority cited: Sections 1651 and 4000.37, Vehicle Code. Reference: Sections 4000.37 and 16056, Vehicle Code; and Section 660, Insurance Code.

HISTORY

1. New section filed 5-7-2003; operative 1-1-2004 (Register 2003, No. 19).

§ 85.00. Definitions.

(a) Satisfactory evidence of financial responsibility as used in this Article shall mean private passenger automobile liability policies and coverages, private passenger automobile policies and coverages issued by an automobile assigned risk plan electronically reported as established in Vehicle Code sections 4000.38 or 16058, or any of the documents in Section 85.04, Article 2.3, Chapter 1, Division 1 of Title 13 of the California Code of Regulations.

(b) "Issuance of original registration or transfer of registration" as used in this article shall mean the issue date of the registration card identified in Vehicle Code Section 4453, which is produced for vehicles subject to registration as specified in Article 1, Chapter 1, Division 3, of the Vehicle Code.

NOTE: Authority cited: Sections 1651 and 16058, Vehicle Code. Reference: Sections 4000.37, 4000.38, 16053, 16054.2 and 16058, Vehicle Code.

HISTORY

1. New section filed 6-30-2006; operative 7-30-2006 (Register 2006, No. 26).

§ 85.02. Registration Suspension.

(a) When the department determines that the vehicle registration has been obtained by providing false evidence of financial responsibility, a written notification shall be sent to the registered owner(s) requiring satisfactory evidence of financial responsibility to be received by the de-

partment or its agent within thirty (30) days from the date of the notification or a suspension takes effect.

(b) When an insurance company informs the department that the required vehicle insurance policy or coverage is canceled, a written notification shall be sent to the registered owner(s) requiring satisfactory evidence of financial responsibility to be sent to the department or its agent within forty-five (45) days from the date of the notification or a suspension takes effect.

(c) When evidence of financial responsibility has not been provided to the department within thirty (30) days after issuance of original registration or transfer of registration, a written notification shall be sent to the registered owner(s) requiring satisfactory evidence of financial responsibility to be sent to the department or its agent within thirty (30) days from the date of the notification or a suspension takes effect.

NOTE: Authority cited: Sections 1651 and 16058, Vehicle Code. Reference: Sections 4000.37, 4000.38 and 16058, Vehicle Code.

HISTORY

1. New section filed 6-30-2006; operative 7-30-2006 (Register 2006, No. 26).

§ 85.04. Alternative Procedure to Electronic Insurance Reporting.

(a) Under the alternative procedure authorized under Vehicle Code section 16058(e)(2), the department shall accept the following documents to permit the timely renewal of vehicle registration.

(1) An insurance card as described in Vehicle Code section 4000.37 and Section 82.00, Article 2.3, Chapter 1, Division 1 of Title 13 of the California Code of Regulations.

(2) A department-issued certificate of self insurance form authorized under Vehicle Code section 16053 and Section 80.50(c), Article 2.3, Chapter 1, Division 1 of Title 13 of the California Code of Regulations.

(3) A department-issued written confirmation of cash deposited with the department pursuant to Vehicle Code section 16054.2.

(4) Documentation of a liability policy pursuant to Vehicle Code sections 4000.37 or 16054.2(b) that indicates coverage issued by a charitable risk pool, which may be provided by an insurance company admitted to do business in California or by the charitable risk pool.

(5) An insurance covering note or binder authorized under Insurance Code section 382 or 382.5 and provided by an insurance company authorized to do business in California.

(b) Registration accepted under the alternative procedure shall be subject to verification by the department or its agent.

NOTE: Authority cited: Sections 1651 and 16058, Vehicle Code. Reference: Sections 382 and 382.5, Insurance Code; and Sections 4000.37, 4000.38, 16053, 16054.2 and 16058, Vehicle Code.

HISTORY

1. New section filed 6-30-2006; operative 7-30-2006 (Register 2006, No. 26).

§ 85.06. Registration Reinstatement.

A vehicle registration shall be reinstated after satisfactory evidence of financial responsibility, payment of a fourteen (\$14) dollar reinstatement fee authorized under Vehicle Code section 4000.38(c) and all fees and documents that meet registration requirements have been submitted to the department or its agent.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 4000.37, Vehicle Code.

HISTORY

1. New section filed 6-30-2006; operative 7-30-2006 (Register 2006, No. 26).

§ 85.08. Insurance Company Reporting Requirements.

(a) Insurance companies shall comply with Vehicle Code section 16058 by electronic reporting of information to the department or its agent in the American National Standards Institute (ANSI) X12.811 or California Automobile Liability Insurance (CALI) electronic formats.

(b) Unless there is no new information to report, the frequency for electronically reporting information shall be

(1) Pursuant to Vehicle Code section 16058(c), no less than once in any thirty (30) day period for all issued private passenger automobile liability insurance policies and coverages, or private passenger automobile policies and coverages issued by an automobile assigned risk plan.

(2) Pursuant to Vehicle Code section 16058(d), no less than once in any forty-five (45) day period for termination or changes in private passenger automobile liability insurance policies and coverages, or private passenger automobile policies and coverages issued by an automobile assigned risk plan.

NOTE: Authority cited: Sections 1651 and 16058, Vehicle Code. Reference: Sections 4000.38 and 16058, Vehicle Code.

HISTORY

1. New section filed 6-30-2006; operative 7-30-2006 (Register 2006, No. 26).

§ 100. Federal Standards and Requirements.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804.1 and 12804.3, Vehicle Code; and Title 49, United States Code, Section 1811.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38). For prior history, see Registers 87, No. 2 and 81, No. 21.
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

Article 2.4. Driver Safety

§ 100.01. Reexaminations Pursuant to Vehicle Code Section 13801.

(a) Pursuant to Section 13801 of the Vehicle Code, the department shall consider it a failure to submit to or complete the reexamination if:

- (1) The individual does not appear as scheduled for the reexamination.
- (2) The individual fails to provide any information requested by the department.

(3) The individual fails to complete a drive test, if required by the department.

(4) The individual fails to complete a vision examination, if required by the department.

(5) The individual is not responsive to the questions of the departmental representative during the reexamination.

(6) The department does not receive a required medical evaluation of the individual by the date required, either because the individual refuses to authorize the doctor to release the information required, or because the doctor does not submit the evaluation. If a medical evaluation is required, the individual shall be required to submit the evaluation to the department not later than 26 days from the date the request for the evaluation was mailed or given directly to the individual, unless an extension is approved by the department for good cause.

(b) The department may reschedule a reexamination at the request of the driver for good cause, in lieu of suspension, or may reschedule the reexamination at the need of the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13801, Vehicle Code; and Section 1795.12(b), Health and Safety Code.

HISTORY

1. New article 2.4 and section filed 8-9-94; operative 9-8-94 (Register 94, No. 32). For prior history, see Register 91, No. 38.
2. Editorial correction of subsections (a)(6) and (b) (Register 99, No. 9).

§ 100.02. Requirements for Out-of-State Drivers.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 3100, 12500, 12502, 12804.1, 12804.3, 12805, 12809, 12810, 12810.5, 13205, 13352, 13352.5, 13353, 13355, 13357, 13359, 13361, 13363, 13365, 13552, 13553, 13954, 14252, 15020, 15023, 15024, 23157, 23160, 23161 and 23166, Vehicle Code; and Title 49, Code of Federal Regulations, Section 391.41.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38).
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.03. Renewal of Certificate.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804.1 and 12804.3, Vehicle Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38).
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.04. Exceptions to the Certificate Program.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804.1 and 12804.3, Vehicle Code; and Section 25163, Health and Safety Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38).
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.05. Refusal, Revocation, and Hearing.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 3100, 12804.1, 12804.3, 12805, 12807, 12809, 12810.5 and 13950 through 14112, Vehicle Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38). For prior history, see Register 87, No. 2.
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.06. Employer Certification of Training for Hazardous Waste, Hazardous Materials, or Bulk Liquid Loads.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804, 12804.1 and 12804.3, Vehicle Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38). For prior history, see Register 87, No. 2.
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.07. Training Requirements.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804, 12804.1 and 12804.3, Vehicle Code; and Title 49, Code of Federal Regulations, Sections 172.200-172.204, 173.24, 177.800(a), 177.823, 177.855-177.861, 397.1-397.3, 397.7(b), 397.9(a) and 397.11-397.19.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38). For prior history, see Register 87, No. 2.
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.08. Certificate of Driving Experience.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Section 12804, Vehicle Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38). For prior history, see Register 87, No. 2.
2. Change without regulatory effect renumbering former section 100.08 to section 25.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.09. Employers Qualifying for Certification for Class 1 and/or Class 2 Operation and Special Certificate Approval.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804, 12804.1 and 12804.3, Vehicle Code.

HISTORY

1. New section filed 9-15-87; operative 10-15-87 (Register 87, No. 38).
2. Change without regulatory effect repealing section filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).

§ 100.10. Additional Employer Requirements.

NOTE: Authority cited: Section 3100, Vehicle Code. Reference: Sections 12804, 12804.1, 12804.3 and 13950-14112, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.10 to section 100.18 (Register 87, No. 38). For prior history, see Register 82, No. 33.
2. New section 100.10 filed 9-15-87; operative 10-15-87 (Register 87, No. 38).
3. Change without regulatory effect renumbering former section 100.10 to section 25.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
4. Editorial correction of NOTE (Register 97, No. 30).

§ 100.11. Implementation.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 100.11 to section 100.19 (Register 87, No. 38). For prior history, see Register 82, No. 33.
2. New section 100.11 filed 9-15-87; operative 10-15-87 (Register 87, No. 38).

3. Change without regulatory effect amending subsection (b) filed 6-5-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 38).
4. Change without regulatory effect renumbering former section 100.11 to section 25.11 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

MEDICAL REQUIREMENTS FOR DRIVERS

§ 100.12. Revocation of Medical Certificates Approved by the Department of Motor Vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804(a) and (c), Vehicle Code.

HISTORY

1. New section filed 4-5-72; effective thirtieth day thereafter (Register 72, No. 15).
2. Repealer and new section filed 3-25-76; effective thirtieth day thereafter (Register 76, No. 13).
3. Repealer filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 100.13. Hearings.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804(a) and (c), Vehicle Code.

HISTORY

1. New section filed 3-25-76; effective thirtieth day thereafter (Register 76, No. 13).
2. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
3. Repealer filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 100.18. Minimum Physical and Medical Requirements for Class 1 or 2 Drivers' Licenses.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12804(a), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering section 100.10 to section 100.18 (Register 87, No. 38). For prior history, see Register 82, No. 33.
2. Change without regulatory effect renumbering former section 100.18 to section 28.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.19. Medical Certificates Required by Section 12804(c) of the Vehicle Code That May Be Issued by the Department of Motor Vehicles.

HISTORY

1. Change without regulatory effect renumbering section 100.11 to section 100.19 (Register 87, No. 38). For prior history, see Register 82, No. 33.
2. Change without regulatory effect renumbering former section 100.19 to section 28.19 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.20. Policy or Bond Not in Effect at Time of Accident; Notice by Insurance Company or Surety Company.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 16020, 16021(b) and 16057, Vehicle Code.

HISTORY

1. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).

2. Amendment of subsection (e) filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).
3. Amendment filed 4-18-85; effective thirtieth day thereafter (Register 85, No. 16).
4. Change without regulatory effect renumbering former section 100.20 to section 75.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.25. Certificates—Submit in Duplicate.

HISTORY

1. Repealer filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).

STUDENT LICENSES

§ 100.30. Forms.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12650 and 12651, Vehicle Code.

HISTORY

1. Repealer filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 100.31. Possession of Student Licenses.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 12652, Vehicle Code.

HISTORY

1. Repealer filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).

§ 100.40. Forms.

HISTORY

1. Change without regulatory effect renumbering former section 100.40 to section 50.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.45. Minimum Instruction Requirements Acceptable to the Department.

HISTORY

1. Amendment to subsection (a) filed 4-5-72; effective thirtieth day thereafter (Register 72, No. 15).
2. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
3. Change without regulatory effect renumbering former section 100.45 to section 50.45 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.50. Application Form.

HISTORY

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.50 to section 80.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.55. Financial Statement.

HISTORY

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.55 to section 80.55 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

[The next page is 7.]

§ 100.60. Net Worth.**HISTORY**

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.60 to section 80.60 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.65. Additional Information.**HISTORY**

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.65 to section 80.65 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.70. Updated Financial Statement.**HISTORY**

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.70 to section 80.70 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.75. Annual Financial Statements.**HISTORY**

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.75 to section 80.75 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.80. Confidentiality.**HISTORY**

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Change without regulatory effect renumbering former section 100.80 to section 80.80 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.85. Formal Hearing.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 14100 and 16053(b), Vehicle Code.

HISTORY

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Editorial correction of NOTE filed 8-12-82 (Register 82, No. 33).
4. Change without regulatory effect renumbering former section 100.85 to section 80.85 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.90. Grounds for Cancellation.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 16053(b), Vehicle Code.

HISTORY

1. New section filed 6-15-78 as an emergency; designated effective 7-1-78 (Register 78, No. 24).
2. Certificate of Compliance filed 9-15-78 (Register 78, No. 37).
3. Editorial correction of NOTE filed 8-12-82 (Register 82, No. 33).
4. Change without regulatory effect renumbering former section 100.90 to section 80.90 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 100.91. Certification of Ignition Interlock Device.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652 and 23235, Vehicle Code; and Sections 15374-15378, Government Code.

HISTORY

1. New article 2.4 (sections 100.91-100.95) and section filed 9-3-97; operative 10-7-97 (Register 97, No. 36).
2. Editorial correction of subsection (a)(3) (Register 99, No. 9).

3. Renumbering of former article 2.4 to new article 2.55 and renumbering of former section 100.91 to section 125.02 filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).

§ 100.92. Refusal, Suspension or Revocation of Device Certification.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 23235, Vehicle Code.

HISTORY

1. New section filed 9-3-97; operative 10-7-97 (Register 97, No. 36).
2. Renumbering of former section 100.92 to section 125.08 filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).

§ 100.93. Modification of Certified Device.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 23235, Vehicle Code.

HISTORY

1. New section filed 9-3-97; operative 10-7-97 (Register 97, No. 36).
2. Renumbering of former section 100.93 to section 125.04 filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).

§ 100.94. Referral to an Authorized Installer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 23235 and 23246(f), Vehicle Code.

HISTORY

1. New section filed 9-3-97; operative 10-7-97 (Register 97, No. 36).
2. Renumbering of former section 100.94 to section 125.10 filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).

§ 100.95. Facilities and Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 23235, Vehicle Code.

HISTORY

1. New section filed 9-3-97; operative 10-7-97 (Register 97, No. 36).
2. Renumbering of former section 100.95 to section 125.14 filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).

§ 101.05. Business Hours.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Sections 320, 11202(a)(2), 11208(a)(3), 11212(b), 11213(b) and 11214, Vehicle Code.

HISTORY

1. New article 2.5 (sections 101.05-101.50, not consecutive) filed 2-22-85 as an emergency; effective upon filing (Register 85, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6-24-85.
2. Order of Repeal of article 2.5 (sections 101.05-101.50, not consecutive) filed 7-22-85 by OAL pursuant to Government Code section 11349.6 (Register 85, No. 30).
3. New article 2.5 (sections 101.05-101.50, not consecutive) filed 7-24-85 as an emergency; effective upon filing (Register 85, No. 30). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-21-85.
4. Certificate of Compliance transmitted to OAL 11-21-85 and filed 12-27-85 (Register 85, No. 52).
5. Change without regulatory effect renumbering former section 101.05 to section 345.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.10. Authorized Signatures.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Section 11213, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.10 to section 345.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.15. Curriculum Content.

NOTE: Authority cited: Sections 1651, 11202(a)(3) and 11219, Vehicle Code. Reference: Section 11202, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.15 to section 345.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.20. Course Structure.

NOTE: Authority cited: Sections 1651, 11202(a)(3) and 11219, Vehicle Code. Reference: Section 11202, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.20 to section 345.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.25. Instructors.

NOTE: Authority cited: Sections 1651, 11202(a)(3) and 11219, Vehicle Code. Reference: Section 11207(c)(2), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.25 to section 345.25 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.30. Fingerprinting of Applicants.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Sections 11202(a)(1) and 11206(a), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.30 to section 345.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.35. Completion Certificates.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Section 11208(c), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.35 to section 345.35 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.40. Lost or Stolen Completion Certificates.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Section 11208(c), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.40 to section 345.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.45. Alcoholic Beverage on School Premises.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11202(a)(3), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.45 to section 345.45 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 101.50. Separate Telephone Numbers.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11202(a)(3), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.50 to section 345.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

LAPSES OF CONSCIOUSNESS**§ 110.01. Factors Considered in Lapse of Consciousness Determinations.**

The department may suspend or revoke the driving privilege of any individual that the department determines has a disorder characterized by lapses of consciousness or episodes of marked confusion, as defined in Title 17, Division 1, Chapter 4, Sections 2800 through 2808 of the California Code of Regulations, which affects the individual's ability to drive safely and/or to have reasonable control of a motor vehicle. In making this determination, the department may consider:

- (a) The effect(s) of the disorder on the physical and mental abilities necessary to drive safely and to exercise reasonable control of a motor vehicle.
- (b) The individual's testimony regarding the disorder and his/her ability to drive safely.
- (c) Testimony from other individuals who have knowledge of the individual's disorder and his/her ability to drive safely.
- (d) Whether the disorder is under control with or without medication.
- (e) The individual's reliability regarding compliance with any prescribed medical regimen.
- (f) Other medical conditions which may affect the lapse of consciousness disorder.
- (g) The individual's driving record.
- (h) Any other relevant evidence and/or factors which may affect the individual's ability to drive safely.

(i) A current medical evaluation of the individual provided by the individual's physician, as authorized by the individual, which provides information regarding:

- (1) The diagnosis of the disorder.
- (2) The date of onset of the disorder.
- (3) The date of the last episode and the frequency of episodes.
- (4) The stability of the condition.
- (5) Any manifestations or impairments associated with the condition.
- (6) The medical regimen prescribed and patient compliance with the prescribed regimen.
- (5) The physician's prognosis.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 103900, Health and Safety Code. Reference: Sections 12805, 12806, 12813, 12814, 13360, 13800(f), 13801, 13802 and 14250, Vehicle Code; and Section 103900, Health and Safety Code.

HISTORY

1. New section filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
2. Change without regulatory effect amending first paragraph and NOTE filed 5-13-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 20).

§ 110.02. Department Actions.

If the department determines that an individual has a disorder characterized by lapses of consciousness or episodes of marked confusion, as defined in Title 17, Division 1, Chapter 4, Sections 2800 through 2808 of the California Code of Regulations, but also determines upon evaluation of competent medical evidence and all relevant factors that the individual is able to drive safely and maintain reasonable control of a motor vehicle, the department may

- (a) Take no action against the individual's driving privilege.
- (b) Place the individual on medical probation to monitor the individual's condition to ensure that the individual continues to be capable of driving safely. An individual placed on medical probation shall be required to:
 - (1) Authorize his/her physician to provide the department with medical evaluations on a regular basis, the frequency of which shall be determined by the department, or
 - (2) Report to the department in writing on the status of his/her disorder and
 - (3) Comply with any additional restrictions of the individual's privilege which the department deems necessary.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 103900, Health and Safety Code. Reference: Sections 12806, 12813, 12814, 13360, 13800(f), 13801 and 14250, Vehicle Code; and Section 103900, Health and Safety Code.

HISTORY

1. New section filed 8-9-94; operative 9-8-94 (Register 94, No. 32).
2. Change without regulatory effect amending first paragraph and NOTE filed 5-13-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 20).

§ 110.04. Disciplinary Guidelines.

In reaching a decision on an action regarding the driving privilege of a person under the provisions of the Vehicle Code, the department may consider the disciplinary guidelines, specified below, which are hereby incorporated by reference. Deviation from these guidelines, including the terms of probation, if any, is appropriate when the department, in its sole discretion, determines that the facts of a particular case warrant such a deviation; for example, the presence of mitigating or aggravating factors, the age of the case, and evidentiary problems.

- (a) Guidelines for Actions Against the Driving Privilege Based on the Negligent Operator Treatment System (Rev. 2/2001).
- (b) Guidelines for Actions Against the Commercial Driving Privilege (Rev. 2/99).
- (c) Guidelines for Actions Against Driver License Certificates and Endorsements (Rev. 2/99).
- (d) Guidelines for Actions Against the Driving Privilege Based On Physical and Mental Conditions (Rev. 2/99)
- (e) Guidelines for Actions Against the Driving Privilege Based On Financial Responsibility (Rev. 1/03).

(f) Guidelines for Actions Against the Driving Privilege Based On Fraud (Rev. 2/99).

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 12508, 12517, 12517.2, 12517.3, 12517.4, 12519, 12520, 12523, 12523.5, 12523.6, 12524, 12527, 12800, 12803, 12804.2, 12804.6, 12804.9, 12804.12, 12804.14, 12805, 12806, 12806.5, 12807, 12808, 12809, 12810, 12810.2, 12810.4, 12810.5, 12812, 12813, 12814, 12814.6, 12818, 12819, 13007.5, 13100, 13101, 13102, 13103, 13207, 13353, 13353.1, 13353.2, 13353.3, 13353.4, 13353.5, 13353.6, 13353.8, 13359, 13360, 13361, 13362, 13363, 13367, 13368, 13369, 13370, 13371, 13372, 13373, 13374, 13375, 13376, 13377, 13378, 13555, 13556, 13557, 13558, 13559, 13800, 13801, 13802, 13950, 13951, 13952, 13953, 13954, 14100, 14100.1, 14101, 14103, 14104, 14104.2, 14105.5, 14104.7, 14105, 14105.5, 14106, 14112, 14250, 14250.5, 14251, 14252, 14253, 15250, 15250.3, 15250.5, 15250.6, 15275, 15278, 16000, 16000.1, 16020, 16020.3, 16021, 16050, 16070, 16075, 16076, 16077, 16371, 16484 and 40807, Vehicle Code; Section 11425.50(e), Government Code; and Section 103900, Health and Safety Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).
4. Amendment of subsection (a) filed 7-25-2001; operative 8-24-2001 (Register 2001, No. 30).
5. Change without regulatory effect amending subsection (e) to indicate amendment of the document, *Guidelines for Actions Against the Driving Privilege Based On Financial Responsibility* (incorporated by reference) filed 2-21-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 8).

§ 115.01. Applicability.

Sections 115.01 through 115.10 of this article are applicable to hearings conducted before the department pursuant to Article 3 (commencing with Section 14100) of Chapter 3 of Division 6, and Chapter 1 of Division 7 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 12508, 12517, 12517.2, 12517.3, 12517.4, 12519, 12520, 12523, 12523.5, 12523.6, 12524, 12527, 12800, 12803, 12804.2, 12804.6, 12804.9, 12804.12, 12804.14, 12805, 12806, 12806.5, 12807, 12808, 12809, 12810, 12810.2, 12810.4, 12810.5, 12812, 12813, 12814, 12814.6, 12818, 12819, 13007.5, 13100, 13101, 13102, 13103, 13207, 13353, 13353.1, 13353.2, 13353.3, 13353.4, 13353.5, 13353.6, 13353.8, 13359, 13360, 13361, 13362, 13363, 13367, 13368, 13369, 13370, 13371, 13372, 13373, 13374, 13375, 13376, 13377, 13378, 13555, 13556, 13557, 13558, 13559, 13800, 13801, 13802, 13950, 13951, 13952, 13953, 13954, 14100, 14100.1, 14101, 14103, 14104, 14104.2, 14105.5, 14104.7, 14105, 14105.5, 14106, 14112, 14250, 14250.5, 14251, 14252, 14253, 15250, 15250.3, 15250.5, 15250.6, 15275, 15278, 16000, 16000.1, 16020, 16020.3, 16021, 16050, 16070, 16075, 16076, 16077, 16371, 16484 and 40807, Vehicle Code; and Section 103900, Health and Safety Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).
4. Amendment filed 7-25-2001; operative 8-24-2001 (Register 2001, No. 30).

§ 115.02. Public Observation.

(a) The hearing officer may:

- (1) Exclude persons whose conduct impedes the orderly conduct of the hearing;
- (2) Restrict attendance because of the physical limitations of the hearing facility; or

(3) Take other action to promote due process and the orderly conduct of the hearing.

(b) The following provisions apply to hearings conducted by telephone:

(1) Except as otherwise provided by law, the hearing shall be open to public observation, provided a written request to observe a hearing is received by the department in a timely manner.

(2) In lieu of a written request, a request to observe a hearing may, with the approval of the department, be made by telephone or in person.

(3) Notwithstanding the timeliness requirement in subdivision (b), the department may grant a late request to observe a hearing, if it is determined by the department that the public interest would be served by granting that request.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 1808, 1808.5, 16070 and 16075, and Article 3 (commencing with Section 14100) of Chapter 3 of Division 6, Vehicle Code; and Sections 11425.10 and 11425.20, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. Editorial correction of section number (Register 97, No. 28).
3. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
4. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.03. Interpreters and Accommodation.

(a) In addition to the notice required by Government Code section 11435.60, the department shall notify each party of the right to an interpreter at the time they are notified of their right to a hearing.

(b) In any hearing where a party, a party's representative, or a party's expected witness requires an interpreter for any language, including sign language, that party shall be responsible for notifying the department as soon as the requirement is known.

(c) A request for an interpreter or other accommodation pursuant to this section does not stay the action by the department for which the notice is given.

(d) In lieu of a written request, a party's request for an interpreter may, with the approval of the department, be made by telephone or in person.

(e) Any interpreter who assists with the testimony or evidence at a hearing shall first declare, by oath or affirmation, that he or she will perform his or her duties truthfully. A suggested model form for the oath or affirmation of an interpreter, based on the language of Evidence Code 751, is as follows:

"Do you swear or affirm that you will make a true interpretation of the questions asked and the answers given and that you will make a true translation of any documents which require translation, into the English language, to the best of your skill and judgment?"

(f)(1) In any hearing where a party, a party's representative, or a party's expected witness has a disability requiring accommodation at the hearing, that party shall be responsible for notifying the department as soon as the requirement is known, in order to provide reasonable accommodation.

(2) In any hearing where a party, a party's representative, or a party's expected witness is hearing impaired and requires electronic amplification equipment, that party shall be responsible for notifying the department as soon as the requirement is known.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 14100(d), 16070 and 16075, Vehicle Code; and Sections 11435.15, 11435.20 and 11435.60, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on

December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.

2. Editorial correction of section number (Register 97, No. 28).
3. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
4. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.04. Hearing Requests.

Notwithstanding the requirement of a written request for hearing under subdivision (a) of Section 11506 of Part 1 of Division 3 of Title 2 of the Government Code, a respondent may, with the approval of the department, request a hearing by telephone or in person.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 16070 and 16075, and Article 3 (commencing with Section 14100) of Chapter 3 of Division 6, Vehicle Code; and Sections 11505 and 11506, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.05. Discovery Requests.

Notwithstanding the provisions of Section 11507.6 of the Government Code and, in order to conform to the time constraints for hearings under Chapters 2 and 3 of Division 6 of the Vehicle Code:

(a) A party's request for discovery may, with the approval of the department, be made by telephone or in person.

(b) A request for discovery must be made at least 10 days prior to the date set for commencement of the hearing to receive discovery prior to the hearing.

(c) A request for discovery may be grounds for a continuance; however, it shall not stay the action by the department.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 16070 and 16075, and Articles 1-4 (commencing with Section 13800) of Chapter 3 of Division 6, Vehicle Code; and Sections 11507.6 and 11507.7, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.06. Change of Venue.

(a) A hearing will be scheduled by the department at an office of the department, or another location designated by the department, except as otherwise provided by the Vehicle Code.

(b) The parties, by agreement, may select any other place within the state for the hearing.

(c) A motion for a change in the place of the hearing may be made either orally or in writing.

(d) A motion shall be made within 10 days of the service of the notice of action.

(e) A motion for a change in the place of the hearing shall not stay the action by the department.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 13558(b), 14104 and 16075(e), Vehicle Code; and Section 11508, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.07. Telephone Hearings.

(a) Any hearing conducted all or in part by telephone, television, or other electronic means must be sufficiently audible that it can be clearly recorded and made part of the official record of the hearing. The hearing officer will grant a continuance of the hearing if at any time the audibility is such that it cannot be clearly recorded.

(b) The hearing officer shall not conduct all or part of a hearing by telephone, television, or other electronic means, if a party objects.

(c) Any objection to conducting all or part of a hearing by telephone, television, or other electronic means must be made at the time the hearing is requested or scheduled.

(d) Notwithstanding the requirement of subdivision (c), the department may allow a late objection to conducting all or part of a hearing by telephone, television, or other electronic means for good cause.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 13558, 16070 and 16075, and Article 3 (commencing with Section 14100) of Chapter 3 of Division 6, Vehicle Code; and Section 11440.30, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).
4. New subsection (a), subsection relettering and amendment of NOTE filed 4-17-2003; operative 5-17-2003 (Register 2003, No. 16).

§ 115.08. Motions.

(a) Unless a motion, including a motion pursuant to Section 11450.30 of the Government Code, for a protective order or a motion to quash relating to a subpoena, is made during a hearing while on record, it shall be in writing, and shall be made with written notice to all parties, with proof of service upon all parties attached.

(b) Except as provided in subdivision (d), a motion to continue a case shall be made pursuant to Section 11524 of the Government Code.

(c) Any motion shall state in plain language the relief sought and the facts and circumstances the moving party contends support the motion, and shall be supported by legal authority.

(d) A motion shall be made and filed at least 5 business days before the date set for the commencement of the hearing.

(e) A motion filed pursuant to this section may be decided by the department without oral argument. Any party may request an opportunity for oral argument at the time of the filing of the motion or response. Oral argument shall be recorded and, with the approval of the hearing officer, may be made by telephone or in person.

(f) An order deciding any motion made pursuant to this section may be made by the hearing officer either orally on the record or in writing.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 16070 and 16075, and Article 3 (commencing with Section 14100) of Chapter 3 of Division 6, Vehicle Code; and Sections 11450.05, 11450.30, 11455.30, 11507.3, 11507.7, 11508(c), 11511 and 11524, Government Code.

HISTORY

1. New section filed 6-3-97; operative 6-3-97 (Register 97, No. 23). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998 unless earlier terminated, or replaced by, or readopted as, permanent regulations.
2. The Department has completed proceedings to replace or readopt interim regulations and has submitted permanent regulations for review by the Office of Administrative Law, but permanent regulations have not been filed with the Secretary of State. Pursuant to Government Code section 11400.20(b)(2), the interim regulations are extended until the date permanent regulations are filed with the Secretary of State or March 31, 1999, whichever is earlier (Register 98, No. 51).
3. Permanent regulations filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

§ 115.09. Hearing Officer Disqualification.

(a) A hearing officer shall voluntarily disqualify himself or herself and withdraw from any case in which there are clear grounds for disqualification, including disqualification for bias, prejudice, or interest in the proceeding by the assigned hearing officer.

(b) It is not alone or in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that the hearing officer:

(1) Is or is not a member of a racial, ethnic, religious, sexual, or similar group and the proceeding involves the rights of that group.

(2) Has experience, technical competence, or specialized knowledge of, or has in any capacity expressed a view on, a legal, factual, or policy issue presented in the proceeding.

(3) Has, as a lawyer or public official, participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 14104, 14104.2 and 14112, Vehicle Code.

HISTORY

1. New section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31). For prior history see Register 99, No. 14.

§ 115.10. Request for the Disqualification of a Hearing Officer.

(a) Any party may request the disqualification of any hearing officer by filing an affidavit, stating with particularity the grounds upon which it is claimed that the hearing officer is disqualified. The only grounds which will be considered in support of a disqualification request are those which clearly demonstrate the hearing officer's bias, prejudice, or interest in the proceeding.

(b) If notification of the hearing officer assignment has been made to the party ten days prior to the commencement of the scheduled hearing, the affidavit requesting the disqualification must be submitted to the driver safety office where the hearing is scheduled to be conducted at least four business days prior to the scheduled hearing. A written determination will be made on the hearing officer disqualification request, prior to the commencement of the notice hearing, by a person designated by the department. The written determination will be delivered to the requesting party at the noticed hearing prior to the taking of any evidence at the noticed hearing and shall be noted on the record.

(c) If notification of the hearing officer assignment has not been made to the party at least ten days prior to the commencement of the scheduled hearing, the request for disqualification must be made on the record, while the requesting party is under oath, and prior to the taking of any evidence at the noticed hearing. An oral determination on the request for a hearing officer disqualification shall be made on the record prior to the taking of any evidence by the person designated by the department.

(d) The person designated by the department to make the determination in response to a request for a hearing officer disqualification, shall not be the hearing officer who is the subject of the disqualification request.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 14104, 14104.2 and 14112, Vehicle Code.

HISTORY

1. New section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

§ 118.00. Restricted Driver License Based Upon a Critical Need to Drive — Persons Under 21.

(a) The Department may issue a restricted driver license based upon a critical need to drive if the person's driver license was suspended or the issuance of a license delayed pursuant to Vehicle Code Sections 23136, 13388 and 13353.2. The applicant shall meet all other requirements for issuance of a driver license and have no history of disqualifying violations as described in Vehicle Code Section 13353.8.

(b) A request for a critical need restriction shall be made by submitting to the department an Application for Critical Need Restriction, form DS 694 (REV 10/2006) WWW or form DS 2694 (REV 10/2006), which is hereby incorporated by reference. The applicant shall complete the Statement of Facts by Applicant and supply required additional information and supporting evidence regarding circumstances under which a critical need is being requested. It is the applicant's responsibility to provide full and complete answers and to prove facts supporting the claim of a critical need to drive. The applicant shall attach any information regarding alternative transportation that can meet that need.

(c) A person is eligible for a restricted driver license when, in the opinion of the department, sufficient proof of one or more of the following circumstances exists:

(1) School or other transportation is not adequate for regular attendance at school and at activities authorized by the school. The applicant shall complete the Statement of Facts by Applicant and provide required additional information relating to transportation to and from school. The Statement of Facts by School Principal shall be completed on the application and the certification signed under the penalty of perjury under the laws of the State of California. If the school does not have a principal, then a department head, headmaster, administrator or other person whose title indicates a position of responsibility for the supervision and/or administration of the school shall complete the form. The application shall be accompanied by proof of current enrollment in the school.

(2) Transportation facilities are inadequate and the operation of a vehicle by an applicant is necessary due to the illness of a family member. The applicant shall complete the Statement of Facts by Applicant and provide required additional information relating to any family illness. The Statement of Facts by Physician shall be completed on the application and the certification signed under the penalty of perjury under the laws of the State of California. A separate Statement of Facts by Applicant shall be completed for each family member whose disability or illness affects transportation needs.

(3) Transportation facilities are inadequate and the operation of a vehicle by an applicant is necessary due to employment of the applicant and the applicant's income is essential to the support of the family. The applicant shall complete the Statement of Facts by Applicant and provide required additional information relating to transportation to and from work. The Statement of Facts by Employer shall be completed on the application and the certification signed under the penalty of perjury under the laws of the State of California.

(4) Operation of a vehicle by the applicant is essential to a family enterprise from which a substantial amount of the family's income will be derived and without which income the family will be unable to obtain essential goods and services critical to their survival or welfare. The applicant shall complete the Statement of Facts by Applicant and provide additional information relating to any family enterprise. The Statement of Facts by Employer shall be completed and the certification signed under the penalty of perjury under the laws of the State of California.

(d) If public transportation is available within one mile of the applicant's home, but conditions exist which make walking to that transportation unsafe, the applicant shall provide evidence to show the path is unsafe.

(e) If public transportation exists, but service between the applicant's home and medical office, school, place of employment, or family business enterprise is scheduled in a way that would prohibit the applicant from reaching the destination in the time needed and return home on the same day, the applicant shall attach the schedules of all scheduled public transportation, as well as connecting points, and explain how the transportation service will not meet his or her needs.

(f) Any application of an applicant under the age of 18 who is requesting a critical need restriction shall include the signature of both parents on the application.

(1) If a parent has sole custody, that parent shall indicate so by writing "I have sole custody" in the signature space provide for the second parent.

(2) If the applicant is in the custody of a legal guardian, the guardian shall strike through the words "Father" and "Mother" in the signature spaces and sign the application in one space and, in the other space, write "I am the legal guardian of the applicant." A guardian that has physical custody but has not yet been granted legal custody shall indicate so by writing "I have actual physical custody."

(3) An applicant who was an emancipated minor at the time of licensure shall indicate this status by writing "Statement of Emancipation on file" in the space provided for a parent signature. An applicant who is emancipated but has never applied for a driver license and does not have a Statement of Emancipation on file with the department, shall indicate this status by writing, "I am an emancipated minor and can file proof of my financial responsibility" in the space provided for a parent signature.

(4) An applicant who does not fall into any of the categories described in (f)(1) through (f)(3) above may meet the authorization and certification requirements of the application process by complying with provisions of Chapter 2 of Division 9 of the Vehicle Code, beginning at Section 17700 "Civil Liability of Persons Signing License Applications."

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652, 1653, 13353.2, 13353.8, 13388, 17700 and 23136, Vehicle Code.

HISTORY

1. New section filed 10-30-2006; operative 11-29-2006 (Register 2006, No. 44).

Article 2.5. Driving Under the Influence Program

§ 120.00. Purchase and Use of Notice of Completion Certificates.

(a) A Driving Under the Influence (DUI) Program provider shall use Notice of Completion Certificates, DL 101 (REV 1/2007), purchased from the department only for submission to the department for participants who have satisfactorily completed the course of instruction offered by the provider. Except as required by subdivision (g), a DUI Program provider shall not issue, sell, loan, or transfer the certificates to the program participant, any other DUI Program provider, person, or entity.

(b) The department shall charge a fee of \$3.00 per Notice of Completion Certificate.

(c) A DUI Program provider may purchase Notice of Completion Certificates in books of fifty (50) from the department's headquarters office. Requests to purchase completion certificates shall be mailed to:

DEPARTMENT OF MOTOR VEHICLES
FORMS AND ACCOUNTABLE ITEMS SECTION - MS G202
PO BOX 932382
SACRAMENTO, CALIFORNIA, 94232-3820.

(1) The request to purchase completion certificates shall be on a Request for DUI Program Forms, DL 101R (Rev. 04/2004), which shall be completed in full and shall contain the printed name and original signature of the program director or any employee authorized by the program director to order completion certificates. The Request for DUI Program Forms, DL 101R (Rev. 04/2004), is herein incorporated by reference.

(A) A DUI Program Director may authorize only one employee per licensed location to purchase or order DUI certificates and only two employees per licensed location to sign completed certificates by submitting a DUI Program Signatory Authority, DL 101S (Rev. 04/2004), which

shall be completed in full and include the printed name and title of the employee, the effective date of the authorization, the employee's signature, and the DUI Program Director's printed name and signature. The DUI Program Signatory Authority, DL 101S (Rev. 04/2004), is herein incorporated by reference.

(B) A DUI Program Director may delete the authorization of an employee to purchase or order DUI certificates or to sign completed certificates by submitting, a DL 101S (Rev. 04/2004), which shall be completed in full and include the name of the deleted employee, the effective date of the deletion, and the printed name and signature of the DUI Program Director.

(C) The DL 101S must be submitted at least five (5) days prior to the effective date of the employee authorization or deletion.

(2) The department shall mail the completion certificates only to the address of record for the DUI Program provider.

(A) Each DUI Program provider shall have only one address of record for each licensed location at a time, which shall be consistent with the mailing or site address given to the Department of Alcohol and Drug Programs and printed in the Directory of DUI Program Service Providers.

(B) Any changes to the DUI Program provider's address of record that occur between Directory update publications must be made, in writing, on the letterhead stationery of the DUI provider, signed by the DUI Program Director, and mailed to the Department of Alcohol and Drug Programs prior to requesting completion certificates at the new address.

(d) The DUI Program provider shall maintain the pink copy of the Notice of Receipt of DUI Program Certificates, ADM 518A (New 5/2002) issued by the department with each shipment of DUI certificates as proof of receipt of completion certificates as a business record for four years from the date the ADM 518A is issued. The Notice of Receipt of DUI Program Certificates, ADM 518A (New 5/2002) is herein incorporated by reference.

(1) The DUI program provider shall sign and mail back the white copy of the ADM 518A to the Department of Motor Vehicles' Forms and Accountable Items Section as evidence of receipt of the completion certificates.

(A) Until the department receives the white copy of the ADM 518A, the department will not authorize the acceptance of the completion certificates issued under that individual ADM 518A.

(B) If the department does not receive the copy of the signed ADM 518A from the DUI Program provider within eight weeks of the shipping date, the department may cancel the completion certificates shipped under the ADM 518A, and those completion certificates will not be accepted by the department.

(2) If the department cancels completion certificates pursuant to this section, no refund of the fees for the canceled certificates will be authorized.

(e) The department shall cancel any completion certificates for which the department received payment by check that is dishonored when presented for payment. The DUI Program provider shall surrender the canceled completion certificates to the department upon notification and demand for surrender.

(f) The department shall replace in full books of fifty (50), without a charge, those completion certificates which are damaged during the manufacturing and/or shipping process, or any completion certificates shipped, but not received as a full book of fifty (50).

(1) If the DUI program provider chooses to request replacement of the completion certificates, the provider shall submit a DL 101R (Rev. 04/2004), and shall complete it in full to include: a list of the numbers for the completion certificates for which replacement is requested, the reason for the replacement request, and a statement, signed under penalty of perjury under the laws of the State of California by the DUI program director or the authorized employee, that the information contained in the replacement request is true and correct.

(2) The DUI program provider shall retain the original certificate and all copies of the damaged completion certificates or those received individually as incomplete books in numerical sequence in the original book

until they are destroyed pursuant to Section 9867 Subdivision (f) of Title 9, California Code of Regulations.

(g) When proof of completion of a DUI Program is required by the Vehicle Code, and the program participant completes all program requirements, the DUI Program provider shall complete the DMV copy of the DL 101 and submit it directly to the department. The program provider shall also submit the court copy of the DL 101 to court, and give the participant the participant copy. The department will only accept the completed original DMV copy from the program provider as acceptable proof of program completion.

(1) DUI Program providers may submit completed certificates by express mail to:

DEPARTMENT OF MOTOR VEHICLES
MANDATORY ACTIONS UNIT
2570 24TH STREET -MS J 233
SACRAMENTO, CA 95818.

(2) DUI Program providers may submit completed certificates by regular mail to:

DEPARTMENT OF MOTOR VEHICLES
MANDATORY ACTIONS UNIT
P.O. BOX 942890
SACRAMENTO, CA 94290-0001.

(3) DUI Program providers who have been authorized by the department to submit completion certificates via electronic medium may submit completion certificates electronically to the department as authorized.

(h) The Vehicle Code requirements for a person to give, provide, or submit proof of completion of a DUI Program satisfactory to the department, shall be satisfied by a program participant when he or she completes all program requirements and signs the Notice of Completion Certificate (DL 101) or the Participant's Certification of DUI Program Enrollment or Completion, DL 804 (REV 1/2003) WWW, and the completed DL 101 is received by the department.

(1) The DL 804 (REV 1/2003) WWW, shall be used only when the participant is unavoidably absent and therefore unavailable to sign the Completion Certificate (DL 101) at the time it is issued by the program provider as evidence of the participant's program completion. The Participant's Certification of DUI Program Enrollment or Completion, DL 804 (REV 1/2003) WWW, is herein incorporated by reference.

(2) The DL 804 shall be retained by the DUI Program provider for the period required by Section 9866 of Title 9, California Code of Regulations, and shall be made available to the department immediately upon request.

(3) If an electronic completion certificate is submitted from a DUI Program provider that the department has authorized to submit completion certificates electronically, the participant's original signature which attests under penalty of perjury that he or she has completed all required DUI Program components will be captured on a DL 804 and retained by the DUI Program provider for the period required by Section 9866 of Title 9, California Code of Regulations. This document shall be made available to the department immediately upon request.

(i) The department will only accept completion certificates that contain all the information requested on the completion certificates. Incomplete or illegible certificates received by the department will be retained by the department and a DUI Program provider who submits an incomplete or illegible certificate will be required to submit a fully completed and legible certificate in place of the incomplete or illegible certificate.

(j) The department will only accept from a DUI Program provider those completion certificates that the department has assigned and shipped to that DUI Program provider, or electronic completion certificates from those program providers that the department has authorized to submit completion certificates electronically.

(k) The department will not accept completion certificates that are submitted more than four years from the date they were issued by the program provider.

NOTE: Authority cited: Sections 1651 and 13353.45, Vehicle Code. Reference: Sections 1801, 1801.1, 13352, 13352.1, 13352.4, 13352.5, 13353.4 and 13353.45, Vehicle Code

HISTORY

1. New article 2.5 and section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
2. Amendment of section and NOTE filed 12-2-2004; operative 1-1-2005 (Register 2004, No. 49).
3. Amendment of subsection (a) and NOTE filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

§ 120.01. Acquisition and Use of Proof of Enrollment Certificates.

(a) A Driving Under the Influence (DUI) Program provider shall use a Proof of Enrollment Certificate, DL 107 (Rev. 7/2006), obtained from the department only for submission to the department, for participants who are enrolled in a course of instruction offered by the DUI Program provider. Except as required by subdivision (d), a Program provider shall not issue, sell, loan, or transfer the enrollment certificates to any other DUI Program provider, program participant, person, or entity. The Proof of Enrollment Certificate, DL 107 (Rev. 7/2006), is herein incorporated by reference.

(b) A DUI Program provider may obtain enrollment certificates in packages of fifty (50) from the department's headquarters office. Requests for enrollment certificates shall be mailed to:

DEPARTMENT OF MOTOR VEHICLES
FORMS AND ACCOUNTABLE ITEMS SECTION, M/S G202
P. O. BOX 932382
SACRAMENTO, CA 94232-3820.

(1) The request to obtain enrollment certificates shall be made on a Request for DUI Program Forms, DL 101R (Rev. 04/2004), which shall be completed in full and shall include the name, license number, and address of the DUI Program, the printed name and original signature of the program director or any employee authorized by the DUI Program Director, and the quantity of enrollment certificates requested.

(2) The department shall mail the enrollment certificates only to the address of record for the DUI Program provider.

(c) The DUI Program provider shall maintain the pink copy of the Notice of Receipt of DUI Program Certificates, ADM 518A (New 5/2002), as proof of receipt of enrollment certificates as a business record for four years from the date the ADM 518A is issued.

(1) The DUI Program provider shall sign and mail back the white copy of the ADM 518A to the Department of Motor Vehicles' Forms and Accountable Items Section as evidence of receipt of the enrollment certificates.

(A) Until the department receives the white copy of the ADM 518A, the department will not authorize the acceptance of the enrollment certificates issued under that individual ADM 518A.

(B) If the department does not receive the copy of the signed ADM 518A from the DUI Program provider within eight weeks of the shipping date, the department may cancel the enrollment certificates shipped under that individual ADM 518A and those enrollment certificates will not be accepted by the department.

(d) When evidence of enrollment in a DUI Program is required by the Vehicle Code, and the program participant enrolls in a program, the DUI Program provider shall complete the DMV copy of the DL 107 and submit it directly to the department. The program provider shall also submit the court copy of the DL 107 to the court and give the participant the participant copy. The department will only accept the completed original DMV copy from the program providers as acceptable proof of program enrollment.

(1) DUI Program providers may submit completed enrollment certificates by express mail to:

DEPARTMENT OF MOTOR VEHICLES
MANDATORY ACTIONS UNIT
2570 24TH STREET -MS J 233
SACRAMENTO, CA 95818.

(2) DUI Program providers may submit completed enrollment certificates by regular mail to:

DEPARTMENT OF MOTOR VEHICLES
MANDATORY ACTIONS UNIT
P.O. BOX 942890
SACRAMENTO, CA 94290-0001.

(3) DUI Program providers who have been authorized by the department to submit enrollment certificates via electronic medium may submit enrollment certificates electronically to Department of Motor Vehicles as authorized.

(e) If an electronic enrollment certificate is submitted from a DUI Program that the department has authorized to submit enrollment certificates electronically, the participant's original signature will be captured on a Participant's Certification of DUI Program Enrollment or Completion, DL 804 (REV 1/2003) WWW and retained by the DUI Program provider for the period required by Section 9866 of Title 9 of the California Code of Regulations. This document shall be made available to the department immediately upon request.

(f) The department will only accept enrollment certificates which contain all the information requested on the enrollment certificate. All incomplete certificates received by the department will be retained by the department and the DUI Program provider who submitted the incomplete certificates will be required to submit fully completed certificates in place of the incomplete certificates.

(g) The department will only accept from a DUI Program provider those enrollment certificates that the department has assigned and shipped to that DUI Program provider, or electronic enrollment certificates from those DUI Program providers that the department has authorized to submit enrollment certificates electronically.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1801, 1801.1, 13352(a)(3), 13352.5(a)(1), 13353.7 and 23152, Vehicle Code.

HISTORY

1. New section filed 12-2-2004; operative 1-1-2005 (Register 2004, No. 49).
2. Amendment of subsection (a) filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

§ 120.02. Lost or Stolen Notice of Completion Certificates or Proof of Enrollment Certificates.

The Driving Under the Influence (DUI) Program director shall report in writing to the department's Forms and Accountable Items Section any lost or stolen Notice of Completion Certificates, DL 101 (Rev 1/2007), or Proof of Enrollment Certificates, DL 107 (Rev 7/2006), not later than close of the business day following discovery of the loss or theft. The DUI Program Director shall report any lost or stolen completion or enrollment certificates to local police authorities and shall, in addition to retaining a copy in the DUI Program provider's business records, forward to the department's Forms and Accountable Items Section a copy of the police report within thirty (30) days of the discovery of the loss or theft.

NOTE: Authority cited: Sections 1651 and 13353.45, Vehicle Code. Reference: Sections 13352, 13352.1, 13352.5, 13353.7 and 13353.45, Vehicle Code.

HISTORY

1. New section filed 7-10-95; operative 8-9-95 (Register 95, No. 28).
2. Amendment of section heading, section and NOTE filed 12-2-2004; operative 1-1-2005 (Register 2004, No. 49).
3. Amendment of section and NOTE filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

§ 120.04. Certificates Required for First Conviction of Driving Under the Influence. [Repealed]

NOTE: Authority cited: Sections 1651 and 13353.45, Vehicle Code. Reference: Section 13352.4, Vehicle Code.

HISTORY

1. New section filed 10-26-95; operative 11-25-95 (Register 95, No. 43).
2. Amendment of section and NOTE filed 12-2-2004; operative 1-1-2005 (Register 2004, No. 49).
3. Repealer filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

§ 124.90. Alcohol Programs Pursuant to Section 23190(e) of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 23190, Vehicle Code.

HISTORY

1. New section filed 10-18-94; operative 11-17-94 (Register 94, No. 42).
2. Repealer filed 6-16-97; operative 7-16-97 (Register 97, No. 25).

§ 124.92. Termination of Suspension or Revocation.

(A) A person applying for termination of a suspension or revocation pursuant to Section 13353.5 of the Vehicle Code shall complete an Application for Termination of Action Section 13353.5 California Vehicle Code, DL 4006 (Rev. 11/2003). The DL 4006 shall be completed to include:

- (1) The full name and birthdate of the individual.
- (2) The California driver license number or file number assigned by the department in the absence of a California driver license number.
- (3) The current home and day telephone numbers, if available.
- (4) The current residence and mailing address.
- (5) A statement authorizing the department to cancel any California Driver License issued to the applicant if the applicant's suspension or revocation is terminated as requested.

(6) A statement, signed and dated under penalty of perjury under the laws of California, that the individual is a resident of a state other than California, has read and understood Section 12505 of the Vehicle Code, regarding residency requirements and Section 13353.5 of the Vehicle Code, regarding termination of suspension or revocation for nonresidents; and that the information provided on the application is true and correct.

(b) All applications submitted pursuant to subdivision (a) shall include documented proof of out-of-state residency. Proof of out-of-state residency shall include one or more of the following documents in the name and current residence address of the applicant:

- (1) Receipts for payment of resident tuition at a public institution of higher education or school records.
- (2) Utility bills issued by a utility company.
- (3) Documents issued by a licensing authority indicating a current application for a driver license in the state of residence.
- (4) Tax records issued by a State or Federal agency.
- (5) Home rental or leasing contracts, filing of homeowner's property tax exemption or homestead exemption certificate.
- (6) Official voter registration documents.
- (7) Official document issued by a governmental agency that can be used by the department to prove residency.

(c) Applicants who have received a prior termination of a suspension or revocation pursuant to Section 13353.5 of the Vehicle Code are not eligible to receive a subsequent termination of a suspension or revocation action pursuant to Vehicle Code Section 13353.5.

(d) Upon receipt of the completed DL 4006 and supporting documents, if the department determines that the driver meets the requirements of Section 13353.5 of the Vehicle Code, the suspension or revocation pursuant to Section 13352 or 13352.4 of the Vehicle Code may be terminated. Any other action against the driving privilege of the driver shall remain in full force until the driver meets the requirements for ending that action.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 516, 12505, 13352, 13352.4, 13353.4, 13353.5 and 15024, Vehicle Code.

HISTORY

1. New section filed 7-11-95; operative 8-10-95 (Register 95, No. 28).
2. Amendment of section and NOTE filed 2-2-2005; operative 3-4-2005 (Register 2005, No. 5).

§ 124.93. Reissuance of California Driver License.

A driver whose suspension or revocation under Section 13352, 13352.1, or 13352.4 of the Vehicle Code was terminated pursuant to Section 13353.5 is not eligible for issuance of a driver license in California until:

(a) Payment of the reissuance fee imposed pursuant to Section 14904 of the Vehicle Code.

(b) The department determines that no grounds exist for refusal of a license.

(c) Three years have elapsed from the date of the termination or the driver completes the driving-under-the-influence program required pursuant to Section 13352, 13352.1, or 13352.4 of the Vehicle Code, submits a Notice of Completion Certificate (Form DL 101 (Rev. 1/2007)) to

the department, and submits proof of financial responsibility pursuant to Section 16430 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 13100, 13352, 13352.1, 13352.4, 13353.4, 13353.5, 14904 and 16430, Vehicle Code.

HISTORY

1. New section filed 7-11-95; operative 8-10-95 (Register 95, No. 28).
2. Amendment of section and NOTE filed 2-2-2005; operative 3-4-2005 (Register 2005, No. 5).
3. Amendment of subsections (a) and (c) and NOTE filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

§ 124.95. Restriction Fee.

Pursuant to Sections 13352, subdivisions (a)(3) through (a)(7), 13352.1 and 13352.5 of the Vehicle Code, a \$15 restriction fee is required to be paid upon application for a restricted driver license. This fee is in addition to all other fees required by the Vehicle Code, and shall be paid prior to the issuance of a restricted driver license.

NOTE: Authority cited: Sections 1651, 13352 and 13352.5, Vehicle Code. Reference: Sections 13352, 13352.1 and 13352.5, Vehicle Code.

HISTORY

1. New section filed 12-13-2000; operative 1-12-2001 (Register 2000, No. 50).
2. Amendment of section and NOTE filed 4-28-2008; operative 5-28-2008 (Register 2008, No. 18).

Article 2.55. California Ignition Interlock Device Program

§ 125.00. Definitions.

As used in this article, the following definitions shall apply:

(a) "Ignition interlock device" is a device designed to allow a vehicle ignition switch to start the engine when the breath alcohol concentration test result is below the alcohol setpoint, while locking the ignition when the breath test results is at or above the alcohol setpoint.

(b) The "alcohol setpoint" is the breath alcohol concentration at which the ignition interlock device is set to lock the ignition. The alcohol set-

[The next page is 8.2(c).]

point is the nominal lockpoint at which the ignition interlock device is set at the time of calibration. The lockout setting shall be at 0.03 percent breath alcohol concentration.

(c) "Bypass" of an ignition interlock device, as used in Vehicle Code Section 23575, shall mean the same as "circumvention" as contained in the federal model specifications for breath alcohol ignition interlock devices as published by notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, pages 11774–11787.

(d) To "tamper" with an ignition interlock device, as used in Vehicle Code Section 23575, means an overt, conscious attempt to alter, physically disable, or disconnect the ignition interlock device from its power source, and thereby allow a person with a breath alcohol concentration above the setpoint to start the engine. Examples of tampering with an ignition interlock device include, but are not limited to, the following:

(1) Altering the wiring of the vehicle which will allow the starting of the vehicle without blowing a passing test.

(2) Modifying the functionality of the breath unit.

(3) Altering, deleting, or modifying the electronic log.

(e) "Manufacturer" means any individual, partnership, or corporation engaged in the manufacturing or assembling of ignition interlock devices.

(f) An "authorized installer" is a designee of the manufacturer who is responsible for ensuring that the manufacturer's ignition interlock devices are properly installed, calibrated, serviced, and monitored; and is responsible for the completion of all required forms, and maintenance of all files.

(g) "Participant file" is a tangible file used to retain and maintain all records and documents directly associated with, but not limited to, the installation, calibration, servicing, monitoring and removal of the ignition interlock device(s) related to a program participant.

(h) "Electronic log" is a record of the vehicle use and interlock test results recorded by an ignition interlock device and shall mean the same as "data recording" as contained in the federal model specifications for breath alcohol ignition interlock devices published by notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, pages 11774–11787.

(i) "Hardcopy" shall mean a legible, printed copy.

NOTE: Authority cited: Sections 1651 and 23575, Vehicle Code. Reference: Section 23575, Vehicle Code.

HISTORY

1. Renumbering of former article 2.4 to new article 2.55 (sections 125.00–125.22) and new section filed 6–22–2001; operative 7–22–2001 (Register 2001, No. 25).
2. New subsections (a), (b), (e)–(i) and subsection relettering filed 10–29–2003; operative 11–28–2003 (Register 2003, No. 44).

§ 125.02. Certification of Ignition Interlock Devices.

An ignition interlock device shall not be installed, or used as part of a program for driving under the influence offenders unless the model or type of device has been certified by the department in accordance with the requirements of this article.

(a) An individual, partnership, or corporation may apply to the department for certification of an ignition interlock device by submitting a completed application to the department. A separate application is required for each model or type of device. A completed application shall contain the following:

(1) Form DL 9, Application for Certification of Ignition Interlock Device (REV. 4/2000). The application form shall contain the following information:

(A) The name of the individual, partnership, or corporation which manufactures the device.

(B) The name and model number of the device.

(C) The business address and telephone number of the manufacturer.

(D) The business name under which the device will be marketed.

(E) Information specific to the type of business entity. If a sole proprietorship, the name and address of the sole owner. If a partnership, the partnership name, and the name and address of each general and limited partner. If a corporation, the California corporation number and the

name, address and title of each principal officer, director, or stockholder participating in the direction, control, and management of the policy of the business.

(F) A statement signed by the sole proprietor, each partner, or a corporate officer authorized to sign for the corporation (the corporate seal may be affixed), under penalty of perjury under the laws of the state of California, that all statements made on the application and all attachments to the application are true and correct.

(2) A detailed description of the device, including a photograph, drawing, or other graphic depiction of the device.

(3) Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features.

(4) A complete and true copy of data from an independent laboratory demonstrating that the device meets or exceeds the minimum federal standards pursuant to Vehicle Code Section 13386(d). For purposes of this article, the term "independent laboratory" shall be interpreted to include any of the following, provided the laboratory is properly equipped and staffed to conduct laboratory tests on ignition interlock devices to ensure they meet the accuracy requirements and specifications provided in Sections 1 and 2 of the model specifications for breath alcohol ignition interlock devices as published as a Notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, on pages 11774–11787:

(A) A state-run laboratory

(B) A private laboratory which can demonstrate its capability to carry out the required tests

(C) A laboratory certified by a state department of Public Health to conduct chemical tests

(5) A certification on Form DL 28, Laboratory Report (REV. 3/2000), signed by an authorized official of the laboratory which tested the device, that the device was tested by the laboratory indicated in accordance with the federal regulations and that the device was found to satisfy the requirements of Sections 1 and 2 of the model specifications for breath alcohol ignition interlock devices as published as a Notice in the Federal Register, Vol. 57, No. 67, Tuesday, April 7, 1992, on pages 11774–11787. The certification shall specify that the laboratory used properly maintained equipment, and trained personnel to conduct the tests, and that the test results are accurate. The Laboratory Report shall include the name, address and telephone number of the testing laboratory; the name, model number, and description of the device tested.

(6) A complete listing of all authorized installers' locations and their satellite locations that includes the name, Bureau of Automotive Repair number, telephone number, contact name, and hours of operation.

(7) A copy of the instructions that will be provided to authorized installers, including complete instructions for installation, operation, service, repair, and removal of the device.

(8) A copy of the written instructions that will be provided to participants who have the device installed.

(9) A certificate from an insurance company that the manufacturer holds product liability insurance and that the department is named as an additional insured. The policy limit shall be a minimum of one million dollars (\$1,000,000). The liability insurance shall include coverage for manufacturing, defects in product design and materials, calibration, installation, and removal of devices. The certificate of insurance shall contain a statement that the insurance company will notify the department 30 days before cancellation of the insurance.

(10) A signed statement that the manufacturer shall indemnify and hold harmless the state of California, the department and its officers, employees and agents from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use and removal of an ignition interlock device.

(11) A copy of the fee schedule or schedules adopted by a manufacturer and manufacturer's authorized installer pursuant to subdivision (h) of Section 13386 of the Vehicle Code. The fee schedule shall include provi-

sions for the payment of the costs of the device by an applicant in amounts commensurate with the applicant's ability to pay. The fee schedule shall include the cost of all services provided, including standard charges for installation, service and maintenance, and removal of the devices, and any non-standard charges for service and maintenance of the devices.

(12) An imprint of the manufacturer's stamp. A manufacturer shall ensure that each authorized installer has the stamp of the manufacturer of the device, meaning a stamping tool, not an imprint.

(13) A manufacturer shall provide the department with a toll-free telephone number through which participants may be referred to the authorized installers.

(14) An application fee of \$100.00.

(b) The department may have the laboratory test results reviewed, at the manufacturer's expense, by an agency or individual outside the department, and of the department's choice, when such review is deemed necessary to determine whether or not a device meets the requirements for certification.

(c) The department may require that manufacturers install devices on vehicles approved by the department to field test the devices.

(d) The department shall certify, or refuse to certify, a device within 90 days of receipt of a complete application. The department shall notify the manufacturer within 10 days of receipt of the application if the application is incomplete and shall specify what information or documents are needed to complete the application.

(e) An applicant who has not received notification within the time periods specified may file an appeal with the Secretary of the Business, Transportation and Housing Agency in accordance with Chapter 6 of Division 3 of Title 21 of the California Code of Regulations. If the Secretary finds that the department failed to provide the notification required within the time period specified without good cause, the department shall reimburse the applicant fully for all application fees paid.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652 and 13386, Vehicle Code; and Sections 15374–15378, Government Code.

HISTORY

1. Renumbering of former section 100.91 to section 125.02, including amendment of section and NOTE, filed 6–22–2001; operative 7–22–2001 (Register 2001, No. 25).
2. Amendment of subsections (a)(6), (a)(11) and (a)(12), new subsection (a)(13) and subsection renumbering filed 10–29–2003; operative 11–28–2003 (Register 2003, No. 44).
3. Amendment of subsections (a)(4) and (a)(11) filed 9–18–2007; operative 10–18–2007 (Register 2007, No. 38).

§ 125.04. Modification of Certified Device.

A manufacturer shall notify the department in writing of any material modification or alteration in the components, design or installation and operating instructions of any device certified for use in this state. The manufacturer shall provide the department satisfactory proof (to include retesting by an independent laboratory, if required by the department), prior to the sale or distribution of a modified or altered device, that these modifications or alterations do not adversely affect the ability of the device to satisfy the requirements of the minimum federal standards pursuant to Vehicle Code Section 13386(e).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13386, Vehicle Code.

HISTORY

1. Renumbering of former section 100.93 to section 125.04, including amendment of section and NOTE, filed 6–22–2001; operative 7–22–2001 (Register 2001, No. 25).
2. Amendment filed 9–18–2007; operative 10–18–2007 (Register 2007, No. 38).

§ 125.06. Compliance with Changes in Certification Requirements.

(a) A manufacturer of an ignition interlock device certified by the department shall comply with any regulatory changes within 60 days from adoption for the device to remain certified.

(b) If there are any changes to the list of authorized installers, a manufacturer shall submit an updated list to the department within 10 days of the change.

(c) If there are any changes to an adopted fee schedule, a manufacturer shall submit the updated fee schedule to the department within 30 days of the changes.

(d) If there are any changes to the manufacturer's stamp, a manufacturer shall provide an imprint of the new stamp to the department 30 days prior to its use.

(e) If there are any changes to the toll-free telephone number, a manufacturer shall provide the new toll-free telephone number to the department 90 days prior to its use.

(f) If there are any changes to any information provided on the Application for Certification of Ignition Interlock Device form (DL 9) (REV. 4/2000), a manufacturer shall submit an updated application within 30 days of the changes.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13386, Vehicle Code.

HISTORY

1. New section filed 10–29–2003; operative 11–28–2003 (Register 2003, No. 44).

§ 125.08. Refusal, Suspension or Revocation of Device Certification.

(a) The department may refuse to certify a device, or may suspend or revoke the certification of a device and remove it from the list of certified devices, for any of the following reasons:

(1) Defects in design, materials, or workmanship of the device causing repeated failures of a device to function as intended.

(2) Termination or cancellation of a manufacturer's liability insurance.

(3) The manufacturer ceases to manufacture ignition interlock devices.

(4) Voluntary request by a manufacturer to cancel certification of a device.

(5) Violation of a provision of this article by a manufacturer or authorized installer.

(6) The manufacturer or certifying laboratory provides materially false or inaccurate information relating to the performance of a device.

(7) Modification or alteration of the components, design, or installation and operation instructions in such a way that the requirements of the minimum federal standards adopted in Vehicle Code Section 13386(e) are no longer satisfied.

(b) Suspension or revocation of certification shall be effective 30 days after written notification is sent to the manufacturer by certified mail. The notice of suspension or revocation shall specify the basis for the action.

(c) Within ninety days of the suspension or revocation of certification, the manufacturer shall be responsible for and shall bear the cost of removal of any and all de-certified devices and the replacement with a certified device regardless of the manufacturer of the device being substituted.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13386, Vehicle Code.

HISTORY

1. Renumbering of former section 100.92 to section 125.08, including amendment of section and NOTE, filed 6–22–2001; operative 7–22–2001 (Register 2001, No. 25).
2. Amendment of subsection (a)(7) filed 9–18–2007; operative 10–18–2007 (Register 2007, No. 38).

§ 125.10. Referral to an Authorized Installer.

(a) A manufacturer shall only refer a driver participating in the ignition interlock program (a participant) to an authorized installer who meets the requirements in Sections 3363.1 through 3363.4 of Title 16 of the California Code of Regulations. The manufacturer shall also ensure that an authorized installer complies with the installation procedures established in Title 16 of the California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13386(f), Vehicle Code.

HISTORY

1. Renumbering of former section 100.94 to section 125.10, including amendment of section and NOTE, filed 6–22–2001; operative 7–22–2001 (Register 2001, No. 25).

2. Amendment of subsection (a) and repealer of subsections (b)–(c) filed 10–29–2003; operative 11–28–2003 (Register 2003, No. 44).

§ 125.12. Service and Maintenance of Ignition Interlock Devices.

(a) A manufacturer shall ensure that an authorized installer has the training and skills necessary to install, troubleshoot, check for proper operation of the device, screen the vehicle for acceptable condition, and complies with the following:

(1) Provides all participants with the following:

(A) A verification of installation report upon installation of an ignition interlock device. The installer shall submit verification forms under the following circumstances:

(i) When a participant is requesting a restricted driver license pursuant to Vehicle Code section 13352(a)(3) through (a)(7), the installer shall complete an original Verification of Installation, form DL 920 (REV 1/2007), which is hereby incorporated by reference, in accordance with section 125.16 of this article.

(ii) When a court has ordered the installation of an Ignition Interlock Device, the installer shall complete and submit a court-authorized verification of installation form to the court. The installer shall provide verification of installation to the department and must submit an original Verification of Installation, form DL 920 (REV 1/2007) or a copy of the court-authorized verification of installation form.

(B) Written instructions on cleaning and caring for the device.

(C) Written instructions on types of vehicle malfunctions or repairs that may affect the device, and what to do when such repairs are necessary.

(D) Written and hands-on training for the participant and all persons who operate the vehicle on use of the device after it is installed in the vehicle.

(E) A 24-hour emergency phone number that may be used to request assistance in the event of failure of the device or vehicle problems related to operation of the device. The assistance provided by the authorized installer shall include technical information, tow service, or road service. The device shall be made functional within 48 hours of the call for assistance, or the device shall be replaced.

(2) Follows the manufacturer's specifications for service and repair of an ignition interlock device.

(A) Services the device in intervals not to exceed 60 days.

(B) Service shall include, but not be limited to, physical inspection of the device and vehicle for tampering, calibration of the device, and monitoring of the data contained within the device's memory.

(C) Each time a device is serviced, downloads all the data recorded in the device's memory. The electronic log shall specify the corresponding device or participant file identification number (that when accessed will clearly specify the corresponding device), the date the download occurred and can be either a hardcopy or an electronic copy. If an electronic copy is used it shall be electronically maintained and a hardcopy shall be provided upon request. The downloaded data shall also contain a summary report that includes each incident the breath alcohol level was at or above the alcohol setpoint, any attempts to bypass or tamper with the device and shall specify the corresponding device or participant file identification number, and date the download occurred.

(D) Each time a device is serviced, a hardcopy of the summary report shall be included in the participant's file.

(E) Each time a device is serviced, a hardcopy of the calibration results shall be included in the participant's file.

(F) If an installed device is replaced with another device, the event shall be documented. The documentation shall specify each device and the documentation shall be included in the participant file.

(G) If a participant fails to return the vehicle for recalibration within 60 days, and does not contact the installer to reschedule the appointment for service, the installer shall schedule another appointment within seven days of the missed appointment. The installer shall notify the participant of the new appointment by mail and by telephone, if possible. If the participant fails to keep the second appointment, and does not contact the in-

staller to reschedule the appointment, the installer shall schedule a third appointment within seven days of the missed appointment. The installer shall notify the participant of the new appointment by mail and by telephone, if possible. If the participant fails to keep the third appointment, the installer shall report the participant's non-compliance to the department on the Notice of Non-Compliance, form DL 921 (NEW 11/99), pursuant to Section 125.18 of this article.

(H) If the participant is unable to return the vehicle for recalibration within 60 days due to military service, a family death, or similar event beyond the control of the participant, and the participant can document the event to the satisfaction of the installer prior to non-compliance being reported to the department by the installer, the installer may extend the time for recalibration as appropriate. A copy of the documentation shall be included in the participant's file. If the participant fails to return the vehicle for recalibration as scheduled, the installer shall follow the procedure in subdivision (G) to determine non-compliance.

(3) Conducts physical tamper inspections every time the device is serviced, or given routine inspection, maintenance, or repair, or is replaced.

(A) A tamper inspection shall include checking the device for proper operation of tamper detection capabilities. If tampering is detected, the inspection shall also include installation wiring connection and tamper seals.

(B) Documenting evidence of tampering shall include photographing the damage, an electronic log hardcopy, or completing a comprehensive incident report or other written documentation. If originals of such evidence are sent to a court or the department, copies shall be included in the participant's file.

(C) The installer shall report any evidence of attempts to bypass or circumvent the device or of physical tampering to the appropriate court or the department within three working days. When reporting such evidence to the department, the installer shall complete the Notice of Non-Compliance, form DL 921 (NEW 11/99) pursuant to Section 125.18 of this article.

(D) After the evidence of tampering has been recorded or photographed, and reported to the appropriate court or the department, the installer shall restore the system and its tamper seals, or equivalents, and all other components to their original condition to prevent further abuse.

(E) If a participant fails to maintain the device pursuant to Section 23575 of the Vehicle Code, the installer shall report non-compliance to the appropriate court or the department within three working days.

(F) When reporting non-compliance to the court personnel, the installer shall follow procedures and forms provided by the appropriate court and a copy shall be included in the participant's file.

(b) Whenever a device is removed, a manufacturer shall ensure that the vehicle is restored to its original condition by the authorized installer. When reporting the removal to the court personnel, the installer shall follow procedures and forms provided by the appropriate court and a copy shall be included in the participant's file or an "Ignition Interlock Notice of Removal," form DL 922 (REV 1/2007), which is hereby incorporated by reference, pursuant to Section 125.20 of this article, shall be sent to the department, within three working days after removal of a device.

(c) A manufacturer shall be responsible for providing continuing service by an authorized installer during the period the device is installed, without interruption, when an authorized installer is replaced with another affiliated authorized installer or replaced with another authorized installer affiliated with another manufacturer.

(1) The manufacturer shall obtain all participant files from an authorized installer being replaced, and shall provide the participant files to the new installer.

(2) The manufacturer shall ensure that each participant with an existing, installed device is able to obtain the required service within a similar distance or less from the participant's residence or place of business. If there are installed devices for which authorized service is no longer accessible, such devices shall be replaced by the manufacturer, at no cost

to the participant, with a device from another manufacturer's authorized installer located at a similar distance or less from the participant's residence or place of business.

(3) The manufacturer shall make every effort to notify all participants of a change of the authorized installer or replacement of the device 30 days before the change or replacement will occur. When the manufacturer is unable to notify participants 30 days prior to the change or replacement, the manufacturer shall notify all participants of the change as soon as possible.

(4) The removal of the device shall be recorded on an Ignition Interlock Notice of Removal form DL-922 (REV 1/2007) pursuant to § 125.20. Section II of the Ignition Interlock Notice of Removal form DL-922 (REV 1/2007) is not applicable for this type of removal. The installation of the new manufacturer's device shall be recorded on a Verification of Installation form DL-920 (REV 1/2007) pursuant to section 125.16. To substantiate that no break in service has occurred, the department copies of the Verification of Installation form DL-920 (REV 1/2007) and Ignition Interlock Notice of Removal form DL-922 (REV 1/2007) shall be submitted to the department together.

(d) A manufacturer shall be responsible for providing continuing service by an authorized installer during the period the device is installed, without interruption, when the participant elects to transfer to an affiliated authorized installer or to another authorized installer affiliated with another manufacturer.

(1) The participant's file shall be transferred pursuant to the procedures described in § 125.12(c)(1).

(2) The device removal and installation shall be recorded and reported pursuant to the procedures described in § 125.12(c)(4).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 13386 and 23575(g), Vehicle Code.

HISTORY

1. New section filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Amendment filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).
3. Amendment of subsection (a)(1)(A), new subsections (a)(1)(A)(i)-(ii), and amendment of subsections (b) and (c)(4) filed 9-18-2007; operative 10-18-2007 (Register 2007, No. 38).

§ 125.14. Installation Locations and Participant Files.

(a) Authorized installer installation locations may include mobile units or satellite locations for the installation, calibration, servicing, monitoring and removal of the devices.

(b) A manufacturer shall ensure that each authorized installer creates and maintains a participant file for each participant.

(c) A copy of all completed ignition interlock device program forms used by the court shall be included in the participant file.

(d) The department may obtain copies of participants' files directly from an authorized installer.

(e) The department may inspect the authorized installer's participant files or the installation locations during regular business hours.

(f) A manufacturer shall ensure that each authorized installer, after a device is removed, retains the participant's file for a minimum of five (5) years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 13386, Vehicle Code.

HISTORY

1. Renumbering of former section 100.95 to section 125.14, including amendment of section and NOTE, filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Repealer and new section heading and amendment of section filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).

§ 125.16. Verification of Installation.

(a) Unless the participant is ordered by the court to install an Ignition Interlock Device, the participant shall submit the \$15 fee specified in Section 124.95 of Title 13 of the California Code of Regulations and a Verification of Installation, form DL 920 (REV 1/2007) upon application for a restricted driver license pursuant to subdivisions (a)(3) through (a)(7) of Section 13352 of the Vehicle Code. This fee and form is in addi-

tion to all other application requirements. The Verification of Installation, form DL 920 (REV 1/2007), shall contain the following information:

- (1) The stamp of the manufacturer of the device.
- (2) The participant's name and driver license number.
- (3) The participant's mailing address, and residence address, if different from the mailing address.
- (4) The participant's birth date.
- (5) The participant's home and work telephone numbers.
- (6) The name of the manufacturer of the ignition interlock device installed.
- (7) The installation location name, Bureau of Automotive Repair number, and address.
- (8) The date the device was installed.
- (9) The make, year, license plate number, and vehicle identification number of the vehicle in which the ignition interlock device was installed.

(10) The installer's printed name and a statement signed and dated by the installer, under penalty of perjury under the laws of the State of California, that the information provided on the form is true and correct.

(11) The installer's daytime telephone number.

(b) If an Ignition Interlock Device is ordered by the court, the participant shall submit an original Verification of Installation, form DL 920 (REV 1/2007) or the court ordered verification of installation form to the department.

(c) The Verification of Installation, Form DL 920 (REV 1/2007), may contain the date of the next monitor check.

(d) A manufacturer shall account for each Verification of Installation, form DL 920 (REV 1/2007), issued to the manufacturer. If any unused forms become lost, stolen, or misplaced the manufacturer shall immediately notify local law enforcement and provide written notification to the department.

(e) Completed copies of the Verification of Installation, form DL 920 (REV 1/2007), shall be distributed as follows:

(1) The original completed Verification of Installation, form DL 920 (REV 1/2007), shall be submitted to the department at a local field office, or mailed to the Department of Motor Vehicles, Mandatory Actions Unit, Mail Station J233, P.O. Box 942890, Sacramento, California, 94290-0001.

(2) One copy each shall be provided to the driver, the authorized installer of the device to include in the participant's file, and the manufacturer of the device or the manufacturer's agent, if applicable.

NOTE: Authority cited: Sections 1651, 13352 and 13386, Vehicle Code. Reference: Sections 1652, 13352 and 13386, Vehicle Code.

HISTORY

1. New section filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Amendment of subsections (a) and (a)(7), new subsection (c), subsection relettering, and amendment of newly designated subsections (d)-(d)(2) filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).
3. Amendment of subsection (a), new subsection (b), subsection relettering and amendment of newly designated subsections (c)-(e)(1) filed 9-18-2007; operative 10-18-2007 (Register 2007, No. 38).

§ 125.18. Notice of Non-Compliance.

(a) An installer shall submit to the department within three working days a Notice of Non-Compliance, form DL 921 (NEW 11/99), if an ignition interlock device indicates that the participant has attempted to remove, bypass, or tamper with the device, or if the participant fails three or more times to comply with any requirement for the maintenance or calibration of the ignition interlock device, pursuant to subdivision (g) of Section 23575 of the Vehicle Code. The Notice of Non-Compliance form, DL 921 (NEW 11/99), shall contain the following information:

- (1) The participant's name and driver license number.
- (2) The participant's mailing address, and residence address, if different from the mailing address.
- (3) The participant's date of birth.
- (4) The participant's home and work telephone numbers.
- (5) The name of the manufacturer of the device.

(6) The installation location name, Bureau of Automotive Repair number, and address.

(7) The serial number of the device and the date the device was installed in the vehicle.

(8) The make, year, license plate number, and vehicle identification number of the vehicle with the ignition interlock device.

(9) Whether the installed device shows evidence of attempts to remove, bypass or tamper with the device, and the corresponding date or dates.

(10) Whether the participant failed three or more times to comply with the device maintenance or calibration requirements, and the corresponding dates of non-compliance.

(11) The installer's printed name and a statement signed and dated by the installer, under penalty of perjury under the laws of the State of California, that the information provided on the form is true and correct.

(12) The installer's daytime telephone number.

(13) The date the form is sent to the department.

(b) Completed copies of the Notice of Non-Compliance form, DL 921 (NEW 11/99), shall be distributed as follows:

(1) The installer shall submit the original completed Notice of Non-Compliance form, DL 921 (NEW 11/99), to the department. The installer may mail the form to the Department of Motor Vehicles Mandatory Actions Unit, Mail Station J233, P. O. Box 942890, Sacramento, California, 94290-0001, or fax the completed form to the department at (916) 657-6001.

(2) One copy each shall be provided to the driver, the authorized installer to include in the participant's file, and the manufacturer of the device or the manufacturer's agent, if applicable.

NOTE: Authority cited: Sections 1651 and 23575, Vehicle Code. Reference: Sections 1652, 13386 and 23575, Vehicle Code.

HISTORY

1. New section filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Amendment of subsections (a), (a)(6) and (b)-(b)(2) filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).

§ 125.20. Notice of Removal.

(a) An installer shall submit to the department within three working days an Ignition Interlock Notice of Removal, form DL 922 (REV 1/2007), when the installer removes an ignition interlock device, pursuant to Section 125.12 of this article. The Ignition Interlock Notice of Removal, form DL 922 (REV 1/2007), shall contain the following information:

(1) The stamp of the manufacturer of the device.

(2) The participant's name and driver license number.

(3) The participant's mailing address, and residence address if different from mailing address.

(4) The participant's birth date.

(5) The participant's home and work telephone numbers.

(6) The date the ignition interlock device was removed.

(7) When an installer removes a device from a participant's vehicle and reinstalls the device into another vehicle operated by the same participant, the removal and reinstallation is to be recorded by completing Section II "Removal/Installation Information."

(A) The first segment of Section II identifies the vehicle make, year, license plate number and vehicle identification number of the vehicle from which the device is being removed.

(B) The second segment of Section II identifies the vehicle make, year, license plate number, and vehicle identification number of the vehicle in which the device is being reinstalled and also includes the date of installation, and the date of the next monitor check.

(8) The name of the manufacturer of the device removed.

(9) The name, Bureau of Automotive Repair number, and address of the installation location that removed the device.

(10) A certification signed and dated by the installer, under penalty of perjury under the laws of the State of California, that the information provided on the form is true and correct.

(11) The installer's printed name and daytime telephone number.

(12) The date the form is sent to the department.

(b) A manufacturer shall account for each Notice of Removal, form DL 922 (REV 1/2007), issued to the manufacturer. If any unused forms become lost, stolen, or misplaced the manufacturer shall immediately notify local law enforcement and provide written notification to the department.

(c) Completed copies of the Notice of Removal form, DL 922 (REV 1/2007), shall be distributed as follows:

(1) The installer shall submit the original completed Notice of Removal, form DL 922 (REV 1/2007), to the department. The installer may mail the completed form to the Department of Motor Vehicles Mandatory Actions Unit, Mail Station J233, P. O. Box 942890, Sacramento, California, 94290-0001, or fax the completed form to the department at (916) 657-6001.

(2) One copy each shall be provided to the driver, the authorized installer of the device to include in the participant's file, and the manufacturer of the device or the manufacturer's agent, if applicable.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652, 13386 and 23575(g), Vehicle Code.

HISTORY

1. New section filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Amendment filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).
3. Amendment of subsections (a) and (b)-(c)(1) filed 9-18-2007; operative 10-18-2007 (Register 2007, No. 38).

§ 125.22. Notice to Employers Regarding an Ignition Interlock Restriction.

(a) The department shall provide to any requesting participant a Notice to Employers, Ignition Interlock Restriction, form DL 923 (NEW 11/99).

(b) The participant shall provide a Notice to Employers, Ignition Interlock Restriction, form DL 923 (NEW 11/99), to any employer who owns a vehicle that the participant must operate during the course of employment, and keep a copy of the Notice to Employers Ignition Interlock Restriction in his or her possession or with the vehicle operated. The Notice to Employers, Ignition Interlock Restriction, form DL 923 (NEW 11/99), allows the participant to operate the employer's vehicle without an ignition interlock device. The Notice to Employers, Ignition Interlock Restriction form DL 923 (NEW 11/99), shall contain the following information:

(1) The participant's name.

(2) The employer's name.

(3) The business name, telephone number, and address.

(4) A certification signed and dated by the employer, under penalty of perjury under the laws of the State of California, that the employer has been notified by the employee pursuant to Section 23576 of the Vehicle Code.

NOTE: Authority cited: Sections 1651 and 23576, Vehicle Code. Reference: Sections 1652 and 23576, Vehicle Code.

HISTORY

1. New section filed 6-22-2001; operative 7-22-2001 (Register 2001, No. 25).
2. Amendment of subsections (a)-(b) filed 10-29-2003; operative 11-28-2003 (Register 2003, No. 44).

Article 2.6. Reinstatement Fees

§ 140.00. Reissue Fee.

(a) Pursuant to Section 14904 of the Vehicle Code, a \$42.00 driver license reissue fee is required to be paid after the suspension or revocation of a person's driving privilege. This fee is in addition to any other fees required by the Vehicle Code, and shall be paid prior to the issuance, reissuance or return of the driver license.

(b) Pursuant to Section 14906 of the Vehicle Code, a \$13.00 notice of sanction fee is required to be paid after the suspension or revocation of a person's driving privilege. This fee is in addition to any other fees required by the Vehicle Code, and shall be paid prior to the issuance, reissuance or return of the driver license.

(c) This Section does not apply to any suspension or revocation that is set aside by the department or a court, or which is based upon a physical or mental condition.

(d) This Section does not apply to any person subject to the fee required by Section 14905 of the Vehicle Code.

(e) The provisions of this section apply to driver license reissue and notice of sanction fees paid to the department on or after June 30, 1997.

NOTE: Authority cited: Sections 1651 and 14904, Vehicle Code. Reference: Sections 13106, 14904 and 14906, Vehicle Code.

HISTORY

1. New section filed 5-27-97 as an emergency; operative 5-27-97 (Register 97, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-24-97 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 5-27-97 order transmitted to OAL 8-11-97 and filed 8-15-97 (Register 97, No. 33).

§ 146.00. Penalty Fee for Failure to Surrender Driver License.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 13551, 13551.1 and 14908, Vehicle Code.

HISTORY

1. New article 2.6 and section filed 9-7-95; operative 10-7-95 (Register 95, No. 36).
2. Change without regulatory effect repealing section filed 1-9-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 2).

Article 2.7. Certificates and Endorsements

§ 147.00. House Car Endorsement.

(a) Applicants for a house car endorsement issued pursuant to Vehicle Code Sections 35400, 12804.09, 12804.10, and 12804.15 shall meet the following requirements:

- (1) Obtain a non-commercial class B driver license.
- (2) Meet and maintain the minimum medical requirements, by submitting a Physician's Health Report, form DL 546A (NEW 12/2001), upon application and every two years thereafter. The minimum medical requirement shall be the same as the requirements established for a restricted class A driver license in Title 13, Section 28.21, California Code of Regulations.
- (3) Successfully complete a specialized written test based on the California Recreational Vehicles and Trailers Handbook.
- (4) Successfully complete the practical (drive) test which includes (1) a vehicle safety check; (2) two skill tests that simulate the positioning of the house car in a designated space; and (3) driving/road test.
- (5) Pay a fee pursuant to subdivision (c)(3) of Vehicle Code Section 12804.15.

(b) The following driver license classifications shall be exempt from the house car endorsement requirement:

- (1) Commercial class A.
- (2) Commercial class B.

(c) The medical form provided by the department, shall be the Physician's Health Report, form DL 546A (NEW 12/2001), and shall be completed and signed by a physician and contain the following information:

- (1) The applicant's true full name, address, date of birth, driver license number, and daytime telephone number.
- (2) A "yes" or "no" response as to whether the applicant:
 - (A) has difficulty recognizing the colors of red, green, and amber used in traffic signal lights and devices.
 - (B) has peripheral vision of less than 70 degrees for either eye.
 - (C) has difficulty perceiving a forced whispered voice in the better ear without a hearing aid, at not less than five (5) feet.
 - (D) has a vision impairment in either eye that is not correctable to visual acuity of 20/40 or better.
 - (E) has a missing foot, leg, hand, finger, or arm.
 - (F) has any other impairment of a hand, finger, arm, foot, or leg, or any other limitation.

(G) has diabetes requiring insulin for control.

(H) has had a hypoglycemic episode or any other adverse reaction related to diabetes in the last three (3) years.

(I) has had a heart attack, angina, coronary insufficiency, thrombosis, stroke, or other heart problem, or cardiovascular disease, and if "yes", whether the applicant has had labored breathing, fainting, collapse, congestive heart failure, or other symptoms in the last three (3) years.

(J) has been diagnosed with a respiratory condition, such as emphysema, chronic asthma, or tuberculosis and, if "yes", whether the respiratory condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(K) has ever been diagnosed with high blood pressure of 160/90 or higher.

(L) has been diagnosed with rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease, and if "yes", whether the condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(M) has ever been diagnosed with any mental, nervous, organic or functional disease, or psychiatric disorder, and if "yes", whether the condition is likely to interfere with the applicant's ability to drive a motor vehicle safely.

(N) has ever been diagnosed with epilepsy or any other condition which may cause loss of consciousness or loss of control, and if "yes", whether the applicant has had a loss of consciousness or loss of control in the last three (3) years.

(O) uses a controlled substance, amphetamine, narcotic, or any other habit-forming drug, and if "yes", whether the drug will interfere with the patient's ability to drive a motor vehicle.

(P) has a history or current clinical diagnosis of alcoholism.

(3) Visual acuity of each eye must be given and be at least 20/40 in each eye with or without corrective lenses.

(A) Whether contact lenses are worn, and if "yes", whether they are well adapted and tolerated.

(4) The applicant's blood pressure reading at the time of the exam.

(5) An explanation for any "yes" answers.

(6) A check-box indicating the applicant has been examined and has no physical impairment or condition to preclude him or her from driving a house car of more than 40 feet in length.

(7) The physician's name, office address, telephone number, date of applicant's last visit, physician's medical license or certificate number with the issuing state, date of the exam, and the signature of the physician.

(8) A certification signed and dated by the applicant under penalty of perjury, that the information provided is true and correct, and that the applicant consents to release of medical information to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 12804.9, 12804.10, 12804.15 and 35400, Vehicle Code.

HISTORY

1. New article 2.7 (section 147.00) and section filed 5-12-2003; operative 6-11-2003 (Register 2003, No. 20).
2. Editorial correction adding article heading and amending HISTORY 1 (Register 2004, No. 19).

Article 3. Vehicle Registration and Titling

§ 150.01. Vehicle Engine or Motor.

A motor vehicle engine or motor shall hereafter be defined as the principal parts of a motor assembly, which are the cylinder block with the crank shaft, pistons, and connecting rods for the number of cylinders in the block, cam shaft or cam shafts; within or without the lower half of the crank case.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 4161, 4163 and 9257, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 200.01 to section 150.01 and amending article 3 heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment repealing subheading filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 150.02. Decorative or Facsimile License Plate Size.

Pursuant to Section 4463.5 of the Vehicle Code, facsimile plates shall not be of a size substantially similar to the motor vehicle license plate issued by the department. The facsimile plate shall be:

- (1) Smaller than 9 inches in length and 3 inches in width, or
- (2) Larger than 15 inches in length and 9 inches in width.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 4463.5, Vehicle Code.

HISTORY

1. New section filed 3–11–94; operative 4–11–94 (Register 94, No. 11).

§ 150.04. Pickup Trucks.

(a) Pursuant to Section 471 of the Vehicle Code, any motor vehicle, except a motorcycle, motorized bicycle, or motorized quadricycle, with an open box type bed not exceeding 9 feet in length is by definition a pickup. Examples of this type of motor vehicle include the Ford Explorer Sport Trac, Nissan Frontier and other similarly designed vehicles.

(b) Pursuant to Section 471 of the Vehicle Code, any motor vehicle, except a motorcycle, motorized bicycle, or motorized quadricycle, that may be configured or reconfigured to provide an open box type bed not exceeding 9 feet in length is by definition a pickup. Examples of this type of motor vehicle include the Chevrolet Avalanche and similarly designed vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 471, Vehicle Code.

HISTORY

1. New section filed 6–24–2003; operative 7–24–2003 (Register 2003, No. 26).
2. Editorial correction adjusting placement of section (Register 2003, No. 27).

§ 150.06. Description of Vehicle Required for Sale or Transfer.

For purposes of notifying the department of the sale or transfer of a vehicle as required in Vehicle Code Section 5900, the description of the vehicle shall consist of either the California license plate number or the vehicle identification number or both numbers.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5900, Vehicle Code.

HISTORY

1. New section filed 12–27–2004; approved by operation of law 12–22–2004; operative 1–21–2005 (Register 2004, No. 53).

§ 150.08. Truck Tractors with Living Quarters.

Truck tractors as defined in Vehicle Code section 655 that have been initially manufactured, modified by a second stage manufacturer or otherwise altered to include living quarters shall be considered commercial vehicles under Vehicle Code section 260 unless the living quarters permanently prevent the truck tractor from towing or drawing other vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 260 and 655, Vehicle Code; and *California Career Schools v. Department of Motor Vehicles* (2004) 120 Cal. App. 4th 10, 15 Cal. Rptr. 3d 813.

HISTORY

1. New section filed 7–11–2007; operative 8–10–2007 (Register 2007, No. 28).

§ 151.00. Refusal of Registration.

(a) Pursuant to California Health and Safety Code section 43151 and Vehicle Code section 4750, a new motor vehicle that is not certified by the California Air Resources Board as equipped with a California emission system may be refused California registration. The new motor vehicle shall not be driven or sold to circumvent this law.

(1) A new motor vehicle shall be defined as a vehicle with less than 7,500 miles on the odometer at the time it is first acquired, purchased, imported, delivered, rented, leased, or received by a California resident or a California established place of business.

(A) The odometer reading at the location and on the date the vehicle was purchased, imported, delivered, rented, leased, acquired or received by the California resident or an established place of business shall determine compliance with California Health and Safety Code sections 43150 through 43156.

(2) A new motor vehicle may include, but not be limited to, passenger motor vehicles, motorcycles, off-highway vehicles, and gas and diesel-powered motor vehicles.

(3) The term "resident" as used in Health and Safety Code section 43151 shall be as defined in Vehicle Code section 516.

(4) California residents that are military personnel on active duty outside of California when the new motor vehicle was purchased, imported, delivered, rented, leased, acquired or received may be considered non-residents for purposes of this section.

(b) The department may require additional documentation pursuant to California Vehicle Code section 4751 to substantiate the odometer reading, or the request of a California resident or a California established place of business for an exemption to register a non-California certified vehicle as provided in subdivisions (b) and (c) of Health and Safety Code section 43151; Vehicle Code sections 6701, 27156.2, and 27156.3; and Article 2, Section 1958 of Chapter 1, Division 3, Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 516, 4750, 6701, 27156.2 and 27156.3, Vehicle Code; and Sections 43150, 43151, 43153, 43154, 43155 and 43156, Health and Safety Code.

HISTORY

1. New section filed 12–22–2004; operative 1–21–2005 (Register 2004, No. 52).

§ 152.00. Motor Vehicle Bond Requirements.

(a) A motor vehicle owner applying for a California certificate of title without the required supporting evidence of ownership may submit a bond as authorized under Vehicle Code section 4157. The bond shall be executed by an admitted surety insurer on a Motor Vehicle Ownership Surety Bond, form REG 5057 (REV. 12/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The penal sum of the bond shall be in the amount of the fair market value of the motor vehicle.

(1) The fair market value shall be determined by either:

(A) A written appraisal provided by a California licensed or other state licensed motor vehicle dealer or motor vehicle insurance representative; or

(B) Identification of the motor vehicle and its price variations based on information provided in a recognized industry motor vehicle valuation and pricing handbook, such as the Kelly Blue Book. The highest and lowest price variations shall be added together and then divided by two; the result is the average price of the vehicle. The average price shall be the fair market value.

(c) A motor vehicle owner applying for a California certificate of title without the required supporting evidence of ownership may submit a deposit equal to the monetary amount appraised in Section 152.00(b)(1)(A) or calculated in Section 152.00(b)(1)(B) in lieu of bond as provided in Section 995.710 of the Code of Civil Procedure.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 995.010 and 995.710, Code of Civil Procedure; and Sections 4157 and 4307, Vehicle Code.

HISTORY

1. New section filed 2–14–2006; operative 3–16–2006 (Register 2006, No. 7).

§ 154.00. Commercial Vehicle Weight Decals.

(a) The department shall issue a set of two (2) weight decals to each vehicle weighing 10,001 pounds or more in accordance with subdivision (f) of Vehicle Code section 9400.1. Except for school buses, as defined in Vehicle Code Section 545 (see subsection (a)(1) below for the requirements that apply only to school buses), one (1) weight decal shall be affixed to each door on the right and left sides of the vehicle, or, if the vehicle has sliding doors, immediately in front of or behind each door. The decals may be affixed to plaques that are permanently attached to or adjacent to the right and left door of the vehicle. Both decals shall be visible from fifty feet.

(1) School Buses, as defined in Vehicle Code Section 545, shall have one weight decal affixed on each side of the vehicle, or upon plaques which are permanently affixed to the vehicle, twelve (12) inches from the rear portion of the rear wheel well opening. Both decals shall be visible from fifty feet.

(b) The department shall charge a three dollar (\$3) fee for each set of weight decals, including substitute and duplicate weight decals.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9400.1, Vehicle Code.

HISTORY

1. New section filed 12-15-2004; operative 1-14-2005 (Register 2004, No. 51).
2. Amendment of subsection (a), new subsection (a)(1) and amendment of NOTE filed 7-28-2006; operative 8-27-2006 (Register 2006, No. 30).

§ 155.00. Definitions.

As used in this article, the following definitions shall apply:

(a) An uncovered total loss vehicle is a stolen vehicle that is not recovered within 60 days of the date the theft of the vehicle is reported to the police.

(b) A constructive total loss vehicle is a vehicle meeting the conditions set forth in section 544 of the Vehicle Code defining a total loss salvage vehicle.

(c) A nonrepairable vehicle is a vehicle meeting the conditions set forth in section 431 of the Vehicle Code.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 431, 11515 and 11515.2, Vehicle Code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.00 to section 155.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a) and (b), new subsection (c) and amendment of NOTE filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.02. Vehicle License Fee Refund Requirements.

(a) Prior to the submission of a vehicle license fee refund request for an unrecovered total loss vehicle, the following conditions shall be satisfied:

(1) The vehicle shall be registered in the name of the owner of the salvage value of the total loss vehicle in accordance with section 5902 of the Vehicle Code.

(2) Sixty (60) days shall have elapsed from the date the theft of the vehicle was reported to the police.

(b) Prior to, or at the same time as, the vehicle license fee refund request is submitted for a constructive total loss or nonrepairable vehicle, the requirements of section 11515 or 11515.2 of the Vehicle Code shall be satisfied.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 9868, 11515, 11515.2 and 42231, Vehicle Code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.02 to section 155.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (b) and NOTE filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.04. Application for a Vehicle Licensee Fee Refund.

(a) The application for the refund of the remaining portion of the vehicle license fee for an unrecovered total loss vehicle shall be submitted to the department on an Application for Vehicle License Fee Refund, Part A, Unrecovered Total Loss Vehicle form, [REG 65 (1/1/2003)] and shall contain the following information:

(1) The vehicle license plate number, vehicle identification number, year model, and vehicle make of the unrecovered total loss vehicle.

(2) The month, day and year of the vehicle theft.

(3) The month, day and year of the vehicle theft report and the name and location of the police where the theft was reported.

(A) A copy of the police vehicle theft report shall be submitted to the department with the application for a refund for an unrecovered total loss vehicle when a Department of Justice stolen vehicle update is not included in the vehicle report of the department.

(4) A certification signed by the applicant under penalty of perjury under the laws of the State of California that the information entered by the applicant is true and correct.

(5) The true full name(s) and address of the registered owner(s) of record at the time the vehicle was stolen.

(6) The signature of the applicant and the date signed.

(b) The application for the refund of the remaining portion of the vehicle license fee for a constructive total loss or nonrepairable vehicle shall be submitted to the department on an Application for Vehicle License Fee Refund, Part B, Constructive Total Loss or Nonrepairable Vehicle form, [REG 65 (1/1/2003)], and shall contain the following information:

(1) The vehicle license plate number, vehicle identification number, year model, and vehicle make of the constructive total loss or nonrepairable vehicle.

(2) The month, day and year the constructive total loss or nonrepairable vehicle was wrecked, destroyed or damaged by a single event.

(3) The true full name(s) and the address of the registered owner(s) of record at the time the vehicle was wrecked, destroyed or damaged.

(4) A certification signed under penalty of perjury under the laws of the State of California by the registered owner(s) of record named in subdivision (3) that he and/or she was not cited or convicted of one or more violations pursuant to section 23152 or section 23153 of the Vehicle Code which relates to driving under the influence of alcohol or drugs, or pursuant to section 23103 of the Vehicle Code as specified in section 23103.5 of the Vehicle Code which involves a substitute (plea) for an original citation of driving under the influence on connection with the loss of the vehicle described in the application.

(A) If the registered owner of record named in subdivision (3) was cited under any of these code sections, acceptable proof of the dismissal of the citation or a finding of not guilty shall be submitted to the department with the application.

(B) Acceptable proof shall be defined as a court abstract form (DL106R), a magnetic tape court abstract, a letter from a court on court letterhead, a departmental phone slip signed or initialed by the department employee who initiated the telephone call, or departmental microfilm or microfiche documentation.

(5) A declaration signed by the registered owner(s) of record named in subdivision (3) under penalty of perjury under the laws of the State of California that all the information entered on the application by the owner(s) is true and correct.

(6) The signature(s) and the date signed by the registered owner(s) of record named in subdivision (3).

(7) The true full name and address of the applicant who is the owner of the salvage value of the vehicle.

(8) A certification signed by the applicant under penalty of perjury under the laws of the State of California that the information entered by the applicant is true and correct.

(9) The signature of the applicant and the date signed.

(c) The application for a refund for the remaining portion of the vehicle license fee for a total loss vehicle shall be received by the department within three (3) years after the date the vehicle license fees were paid.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 9868, 11515 and 11515.2, Vehicle Code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.04 to section 155.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Editorial correction of subsection (b)(7) (Register 95, No. 43).
3. Editorial correction reinstating inadvertently omitted section (Register 2003, No. 27).
4. Amendment of section and NOTE filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.05. Application for Salvage or Nonrepairable Vehicle Certificates.

(a) In addition to the requirements specified in Section 11515 and 11515.2 of the Vehicle Code to obtain a salvage certificate for a constructive total loss vehicle, an Application for Salvage Certificate or Nonrepairable Vehicle Certificate form [REG 488C (REV 10/2003)] shall be submitted to the department and shall contain the following:

(1) The vehicle description, including the vehicle license number, make, year, vehicle identification number, the state of last known registration, and the date registration expires.

(2) The insurance claim number, if available.

(3) The cost/value of the vehicle as determined either by the insurance company's payoff or the purchase price from the previous owner.

(A) The cost/value shall not be required when the application is for a duplicate salvage certificate.

(4) The date the vehicle was wrecked or destroyed.

(5) The date the vehicle was stolen.

(6) The date the vehicle was recovered if stolen.

(7) A statement signed and dated by the applicant or authorized agent to certify that the described vehicle is a total loss salvage, that a properly endorsed certificate of ownership document or documents are attached, and a request for a salvage certificate.

(A) If the properly endorsed certificate of ownership or other appropriate evidence of ownership cannot be secured, a Statement of Facts form [REG. 256 (REV. 1/2003)] explaining why the title cannot be obtained must be submitted.

(B) When a certificate of ownership or other evidence of ownership is not attached, then a surety bond pursuant to Section 4157 of the Vehicle Code in the amount of the cost/value of the vehicle shall be required if the insurance payoff plus the salvage value is \$5,000 or more. A surety bond is also required when settlement is made to the legal owner of a vehicle without the release of the registered owner unless repossession documentation is attached.

(8) The name and address of the insurance company or applicant.

(9) The California Driver License or Identification Card number if the applicant is an individual and not a business or an agent.

(10) If applicable, the agent's name and occupational license number when the agent is licensed by the department.

(b) In addition to the requirements specified in Section 11515.2 of the Vehicle Code to obtain a nonrepairable vehicle certificate for a vehicle, an Application for Salvage Certificate or Nonrepairable Vehicle Certificate form [REG 488C (REV 10/2003)] shall be submitted to the department and shall contain the following:

(1) The vehicle description, including the vehicle license number, make, year, vehicle identification number, the state of last known registration, and the date registration expires.

(2) The insurance claim number, if available.

(3) The cost/value of the vehicle as determined either by the insurance company's payoff or the purchase price from the previous owner.

(A) The cost/value shall not be required when the application is for a duplicate nonrepairable certificate only.

(4) The date the vehicle was wrecked or destroyed.

(5) The date the vehicle was stolen.

(6) The date the vehicle was recovered if stolen.

(7) An indication of whether the nonrepairable condition pursuant to Vehicle Code section 431 was due to a surgical strip, a complete burn, or declared nonrepairable by the owner.

(8) A statement signed and dated by the applicant or authorized agent certifying that the described vehicle is a nonrepairable vehicle, that properly endorsed ownership documents are attached, and requesting a nonrepairable vehicle certificate to be issued.

(9) The name and address of the insurance company or applicant.

(10) The California Driver License or Identification Card number if the applicant is an individual and not a business nor an agent.

(11) If applicable, the agent's name and occupational license number when the agent is licensed by the department.

(c) The License Plate Disposition Certification Section shall be completed with original applications for salvage and nonrepairable vehicle certificates and shall contain the following:

(1) An indication by the applicant certifying that the license plates assigned to the vehicle either are being surrendered, have been lost, have been destroyed by an occupational licensee, or are special plates retained by the owner.

(2) If the plates are surrendered, the applicant shall indicate the number of plates surrendered.

(3) If the plates were destroyed by an occupational licensee, the occupational license number shall be indicated.

(d) A statement signed and dated by the applicant certifying under penalty of perjury under the laws of the State of California that the information provided on the application is true and correct.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 9868, 11515 and 11515.2, Vehicle Code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. New section filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.06. Surrender of License Plates.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code. Reference: Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.06 to section 155.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Repealer filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.08. Vehicle License Fee Refund Calculations.

(a) The amount of the vehicle license fee refunded for an unrecovered or constructive total loss or nonrepairable vehicle shall be based on one-twelfth of the annual vehicle license fee for each full month that remains until the vehicle registration expires.

(1) The number of full months remaining shall be calculated from the date of loss of the vehicle through the registration expiration date. A portion of each full month that remains until registration expires shall not be considered a full month when calculating the number of remaining months.

(b) An administrative fee pursuant to Vehicle Code section 11515.2(d) shall be deducted from the refund amount.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 9868 and 11515.2, Vehicle Code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.08 to section 155.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Amendment of section and NOTE filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 155.10. Repayment of the Refunded Vehicle License Fee.

(a) When a refund is received for an unrecovered total loss vehicle which is subsequently recovered in the same registration year for which the refund was received, the current owner shall return the amount of the vehicle license fee refunded per section 155.08(a) of these regulations.

(1) When the repayment is not received by the department prior to the subsequent renewal of the registration, the renewal fees will include the amount of the vehicle license fee refunded per section 155.08(a) of these regulations.

(b) When a refund is received for a constructive total loss vehicle which is subsequently repaired and registered in the same registration year for which the refund was received, the registration fees shall include the amount of the vehicle license fee refunded per section 155.08(a) of these regulations.

NOTE: Authority cited: Section 10902, Revenue and Taxation Code; and Section 1651, Vehicle Code. Reference: Sections 9868, 11515 and 11515.2, Vehicle code; and Section 10902, Revenue and Taxation Code.

HISTORY

1. Change without regulatory effect renumbering former section 205.10 to section 155.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Amendment of section and NOTE filed 9-2-2004; operative 10-2-2004 (Register 2004, No. 36).

§ 156.00. Clean Air Vehicle Stickers.

(a) Applicants for Clean Air Vehicle Stickers shall complete an Application for Clean Air Vehicle Stickers [Form REG 1000 (REV. 5/2007)] which is hereby incorporated by reference, and available at all field offices and on the Internet at www.dmv.ca.gov.

(b) Only vehicles that meet both the Federal Inherently Low Emission Vehicle standards [as defined in Part 88 (commencing with Section 88.311-93) of Title 40 of the Code of Federal Regulations] and the California Ultra-Low Emission Vehicle (ULEV) or Super Ultra-Low Emission Vehicle (SULEV) standards, [as defined in Title 13, Section 1960.1, of the California Code of Regulations]; or hybrid vehicles or alternative fuel vehicles that meet California's advanced technology partial zero emission vehicle (ATPZEV) standards and have a 45 miles per gallon or greater fuel economy rating; or hybrid vehicles produced during the 2004 model year or earlier and have a 45 miles per gallon or greater fuel economy highway rating, and meet California's ULEV, SULEV, or partial zero emission vehicle standards, as listed on the Air Resources Board (ARB)'s Internet website at www.arb.ca.gov/msprog/carpool/carpool.htm, are eligible for Clean Air Vehicle Stickers and must be powered by one of the following:

- (1) Electric (E);
- (2) Liquid Petroleum Gas [LPG] (P);
- (3) Compressed Natural Gas [CNG] (N);
- (4) Hybrid [gasoline in combination with electric] Power (Q).

(c) If the applicant's vehicle(s) does not appear on the ARB's list of eligible vehicles, the application shall be refused, and if necessary, the department shall refer the applicant to the ARB's Internet website or toll free telephone number (800) 242-4450, for assistance. A certification from the ARB verifying the vehicle meets the emission standards as set forth in subdivision (b) will be required by the department before stickers may be issued.

(1) Vehicles converted by means of "aftermarket" kits to 100% electric power to meet the sticker qualification shall be referred to ARB's toll free telephone number to obtain an ARB certification before stickers may be issued.

(d) Registered owners who have a fleet of like vehicles may submit one application for the entire fleet.

(1) A list shall be attached to the application, which identifies each vehicle by:

- (A) Vehicle Identification Number;
- (B) License Plate Number;
- (C) Make;
- (D) Model and year.

(2) "Like" vehicles are those vehicles that are powered by the same energy source.

(e) If the application is incomplete or deficient, the department shall notify an applicant, in writing, within 30 days of receipt of the application.

(1) An application is considered deficient when the applicable requirements of these regulations are not fulfilled.

(A) When an application is determined to be deficient, the department shall identify the specific requirement(s) needed to complete the application.

(2) An application is considered complete when the applicable requirements of these regulations have been fulfilled.

(A) When an application is determined to be complete, a set of stickers shall be issued.

(f) An \$8.00 application fee for each set of Clean Air Vehicle Stickers requested and the completed application(s) as set forth in subdivision (c)(1), along with a list as set forth in subdivision (d)(1), if applicable, shall be mailed to:

SPECIAL PROCESSING UNIT - MS D238
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932345
SACRAMENTO, CA 94223-3450

or delivered to any department field office.

(g) Number, color and placement of the Clean Air Vehicle stickers shall be as follows:

(1) For vehicles meeting ULEV, SULEV, or ZEV standards [as described in paragraph (b)], the stickers shall be of white material, issued to each vehicle in sets of three. The two larger stickers shall be affixed on each vehicle's rear quarter panels, one on each side of the vehicle, behind the wheel wells, with the State Seal in the up position. The smaller sticker in the set shall be affixed to the right side of the vehicle's rear bumper, with the State Seal in the up position.

hind the wheel wells, with the State Seal in the up position. The smaller sticker in the set shall be affixed to the right side of the vehicle's rear bumper, with the State Seal in the up position.

(2) For vehicles meeting California's ATPZEV standards or hybrid vehicles [as described in paragraph (b)], the stickers shall be of yellow material, issued to each vehicle in sets of four, with placement as described in paragraph (g)(1), except that the fourth sticker shall also be of the smaller size referenced in paragraph (g)(1) and shall be affixed to the right side of the vehicle's front bumper.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 5205.5 and 21655.9, Vehicle Code.

HISTORY

1. New section filed 2-19-2002; operative 3-21-2002 (Register 2002, No. 8).
2. Amendment of subsections (a) and (b), new subsections (c)-(c)(1), subsection relettering and amendment of newly designated subsection (d)(1)(D) filed 7-7-2004; operative 8-6-2004 (Register 2004, No. 28).
3. Amendment of section heading and section filed 3-24-2006; operative 4-23-2006 (Register 2006, No. 12).
4. Change without regulatory effect amending subsection (a) and Form REG 1000 (incorporated by reference) filed 7-25-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 30).
5. Change without regulatory effect amending subsection (g)(2) filed 10-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 43).

§ 156.01. Clean Air Vehicle Stickers: Transfers and Replacements.

(a) Clean Air Vehicle Stickers shall remain with the qualifying vehicle for which they were originally issued, regardless of changes in ownership.

(b) A new Clean Air Vehicle certification document (i.e., "Clean Air Certificate," issued with each set of Clean Air Vehicle Stickers) shall be made available for subsequent (i.e., transfer) purchasers of qualifying vehicles to which Clean Air Vehicle stickers have been issued. The department shall issue a new Certificate which shall retain the vehicle description while providing the new ownership information.

(c) Clean Air Vehicle Stickers shall be made available for issuance in complete sets as replacements for Clean Air Vehicle Stickers that are damaged, destroyed, stolen or not received, provided that such replacement stickers are issued to the same vehicle to which Clean Air Vehicle Stickers were originally issued.

(d) Applicants for replacement Clean Air Vehicle Stickers or a replacement Clean Air Certificate shall complete an Application for Clean Air Vehicle Stickers [Form REG 1000 (Rev. 10/2007)] which is hereby incorporated by reference and made available to the public at all field offices and on the department's internet website at www.dmv.ca.gov. The applicant shall sign the application under penalty of perjury under the laws of the State of California.

(e) An acceptable Application for Clean Air Vehicle Stickers, form REG 1000, herein after referred to as "application," requesting replacement stickers shall contain a check mark in the box labeled "Replacement sticker" and a check mark in one of the boxes indicating the reason a replacement is needed.

(1) An acceptable application requesting replacement Clean Air Vehicle Stickers that are declared "stolen" shall include a copy of the police report that was created by the responding law enforcement agency to which the stolen stickers were reported.

(2) An acceptable application requesting replacement Clean Air Vehicle Stickers which have been declared "lost," "not received," "damaged," or "destroyed," shall complete the vehicle information portion and Parts G and H of a Statement of Facts (Form REG 256 (Rev. 1/2007) which is hereby incorporated by reference and available to the public at all field offices and on the department's internet website at www.dmv.ca.gov. The applicant shall provide an explanation as to how the stickers were lost, not received, damaged or destroyed.

(3) An acceptable application requesting a new Clean Air Certificate only, due to the applicant acquiring a qualified vehicle through transfer, shall contain the word "transfer" or other words to indicate a transfer has taken place, in the space provided under the box marked "Other."

(f) Any and all remaining Clean Air Vehicle Stickers previously assigned to a vehicle shall be removed and surrendered to the department, either at a department field office or by mail to the address identified in subsection (g) of this section, before replacement stickers are affixed to the vehicle.

(g) An \$8.00 fee for each set of Clean Air Vehicle Sticker replacements and the completed application shall be mailed to:

SPECIAL PROCESSING UNIT — MS A 238
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932345
SACRAMENTO, CA 94232-3450

or delivered to any department field office. There is no fee for an applicant requesting a Clean Air Certificate only.

(1) The \$8.00 fee will not be required of an applicant who indicates on the application that the original stickers were never received.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 5205.5 and 21655.9, Vehicle Code.

HISTORY

1. New section filed 6-16-2008; operative 7-16-2008 (Register 2008, No. 25).

§ 157.00. Firefighting Vehicles.

(a) A firefighting vehicle is defined as any vehicle that contains firefighting apparatus and equipment which is designed and intended primarily for firefighting. The following privately owned vehicles, when operated upon a highway only in responding to, and returning from, emergency fire calls, qualify as firefighting vehicles and are exempt from registration:

(1) Fire trucks equipped with hose and ladders.

(2) Fire engines.

(3) Other vehicles permanently equipped with firefighting apparatus and equipment.

(4) A tank truck operated solely in conjunction with a fire truck, fire engine or other self propelled firefighting apparatus.

(b) Privately owned vehicles or a combination of vehicles, which are not designed primarily for firefighting, including hazardous materials response vehicles, dedicated rescue vehicles, command post communications vehicles, passenger vehicles, buses, mobile kitchens, mobile sanitation facilities, and heavy equipment transport vehicles, do not qualify as firefighting vehicles as defined under subdivision (a) of this section.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 8589.10(c), Government Code; and Section 4015, Vehicle Code.

HISTORY

1. New section filed 4-17-2003; operative 5-17-2003 (Register 2003, No. 16).

§ 158.00. Zero Emission Vehicle Parking Decal.

(a) Applicants for a Zero Emission Decal shall complete an Applica-

tion for Zero Emission Parking Decal [Form REG 4048 (REV. 6/2003)], which is hereby incorporated by reference and available at all field offices and on the Internet at www.dmv.ca.gov.

(b) The issuance of the decal will be limited to zero emission vehicles that use electricity as the motive power and require the use of recharging equipment.

(1) A zero emission vehicle is defined as a car, truck, or any other vehicle that provides no tailpipe or evaporative emissions.

(c) If the application is incomplete or deficient, the department shall notify an applicant, in writing, within 30 days of receipt of the application.

(1) An application is considered deficient when the applicable requirements of these regulations are not fulfilled.

(A) When an application is determined to be deficient, the department shall identify the specific requirement(s) needed to complete the application.

(2) An application is considered complete when the applicable requirements of these regulations have been fulfilled.

(A) When the application is determined to be complete, a decal shall be issued.

(d) A completed application and a \$17.00 fee for each Zero Emission Vehicle Decal shall be mailed to:

SPECIAL PROCESSING UNIT — MS D238
DEPARTMENT OF MOTOR VEHICLES
PO BOX 932345
SACRAMENTO, CA 94232-3450

or delivered to any department field office.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 22511 and 22511.1, Vehicle Code.

HISTORY

1. New section filed 10-10-2003; operative 11-9-2003 (Register 2003, No. 41).

§ 159.00. Vehicle Classification.

(a) After determining the cost price to the purchaser, the department shall classify or reclassify every vehicle, other than a trailer or semi-trailer described in subdivision (a) of Section 5014.1 of the Vehicle Code, in its proper class according to the classification plan set forth in this section.

(b) For the purpose of this section, a classification plan is established consisting of the following classes: a class from zero dollars (\$0) to and including forty-nine and ninety-nine cents (\$49.99); a class from fifty dollars (\$50) to and including one hundred ninety-nine dollars and ninety-nine cents (\$199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars (\$200), consisting of a number of classes that will permit classification of all vehicles.

[The next page is 8.3.]

(c) The market value of a vehicle, other than a trailer or semi-trailer as described in subdivision (a) of Section 5014.1 of the Vehicle Code, for each registration year, starting with the year the vehicle was first sold to a consumer as a new vehicle, or the year the vehicle was first purchased or assembled by the person applying for original registration in this state, or the year the vehicle was sold to the current registered owner as a used vehicle, shall be as follows: for the first year, 100 percent of a sum equal to the middle point between the extremes of its class as established in subdivision (b); for the second year, 90 percent of that sum; for the third year, 80 percent of that sum; for the fourth year, 70 percent of that sum; for the fifth year, 60 percent of that sum; for the sixth year, 50 percent of that sum; for the seventh year, 40 percent of that sum; for the eighth year, 30 percent of that sum; for the ninth year, 25 percent of that sum; and for the 10th year, 20 percent of that sum; and for the 11th year and each succeeding year, 15 percent of that sum; provided, however, that the minimum tax shall be the sum of one dollar (\$1). Notwithstanding this subdivision, the market value of a trailer coach first sold on and after January 1, 1966, which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code, shall be determined by the schedule in Section 10753.3 of the Revenue and Taxation Code.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 10752, Revenue and Taxation Code. Reference: Section 5014.1, Vehicle Code; and Sections 10751, 10752, 10752.1, 10753 and 10754, Revenue and Taxation Code.

HISTORY

1. New section filed 3-1-2004 as an emergency; operative 3-1-2004 (Register 2004, No. 10). A Certificate of Compliance must be transmitted to OAL by 6-29-2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 3-1-2004 order transmitted to OAL 6-16-2004 and filed 7-21-2004 (Register 2004, No. 30).

§ 159.10. Window Decal for Vehicles with a Wheelchair Lift or Wheelchair Carrier.

(a) Applicants for a Window Decal shall complete Sections D and H of a Miscellaneous Statements of Fact (REG 256, REV. 2/2004), which is available at all field offices and on the Internet at www.dmv.ca.gov, as follows:

- (1) The disabled person plate, disabled veteran plate, or disabled person placard number.
- (2) The license number, vehicle make, and vehicle identification number of the vehicle to which the decal will be affixed.
- (3) The name and address where the decal is to be mailed.
- (4) A signature certifying under penalty of perjury under the laws of the State of California that the information provided is true and correct.
- (5) The date the form was signed.
- (6) Daytime phone number.

(b) A decal bearing a vehicle's license plate number will be issued, at no charge, to vehicles equipped with a wheelchair lift or wheelchair carrier, which obstructs the view of the vehicle's rear license plate. To qualify for the decal, the applicant must have been issued one of the following:

- (1) A disabled person license plate under Vehicle Code Section 5007;
- (2) A disabled veteran license plate under Vehicle Code Section 5007;
- (3) A disabled person permanent placard under Vehicle Code Section 22511.55.

(c) A completed Miscellaneous Statements of Fact form shall be mailed to:

SPECIAL PROCESSING UNIT — MS D238
DEPARTMENT OF MOTOR VEHICLES
P.O. BOX 932345
SACRAMENTO, CA 94232-3450

Or delivered to any field office.

NOTE: Authority cited: Sections 1651 and 5201, Vehicle Code. Reference: Sections 1652 and 5201, Vehicle Code.

HISTORY

1. New section filed 5-3-2005; operative 6-2-2005 (Register 2005, No. 18).

Article 3.1. Special Interest License Plates

§ 160.00. Applications and Fees for Special Interest License Plates.

(a) Sponsors of special interest license plates shall establish an account in a federally insured financial institution for the deposit of the funds collected for the required number applications, as specified in Vehicle Code Section 5060(d)(1), for the special interest license plates.

(b) Sponsors shall submit monthly reports to the department indicating:

(1) Number of applications for special interest license plates received in the reporting month, by type (sequential/Environmental License Plate);

(2) Amount of fees collected in the reporting month, by type (sequential/ELP);

(3) Total number of applications and total amount of fees collected to date.

(c) Sponsors shall submit the required number of applications, as specified in Vehicle Code Section 5060(d)(1), for the initial issuance of special interest license plates to the department, with a summary of the monthly reports for audit purposes.

(d) The required number of initial applications, as specified in Vehicle Code Section 5060(d)(1), for special interest license plates shall be submitted to the department with the associated fees collected by the sponsoring organization:

(1) The fees shall be submitted to the department in the form of one check payable in an amount equal to the fees due;

(2) The check shall be made payable in United States funds to the Department of Motor Vehicles;

(3) The check shall be currently dated and signed by the person(s) designated as signatory(ies) for the account;

(4) The check shall be drawn on a California financial institution.

(e) Applications for the initial number of special interest license plates, as specified in Vehicle Code Section 5060(d)(1), which are submitted to the department with more than one check will be returned, unprocessed, to the sponsor.

(f) Sponsors shall submit an annual report to the department as specified in Vehicle Code Section 5060(h).

NOTE: Authority cited: Sections 1651 and 5110(a), Vehicle Code. Reference: Section 5060, Vehicle Code.

HISTORY

1. Amendment of article 3.1 heading and new section filed 5-19-99; operative 6-18-99 (Register 99, No. 21).
2. Amendment of section and NOTE filed 2-5-2002; operative 3-7-2002 (Register 2002, No. 6).

ENVIRONMENTAL LICENSE PLATES

§ 170.00. Information Required on a Special Interest/Environmental License Plate Application.

(a) An application for special interest/environmental license plates, as defined in Sections 5060 and 5103 of the Vehicle Code, shall be submitted in person or by mail to the department on a Special Interest License Plate Application, Form REG 17 (Rev. 7/2000), provided by the department and available on the Internet at www.dmv.ca.gov.

(1) If the application is made in person, it shall be made to any department location which processes vehicle registrations.

(2) If the application is made by mail, it shall be sent to the Department of Motor Vehicles, P.O. Box 932345, Sacramento, CA 94232-3450, or to any department location which processes vehicle registrations.

(3) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(b) The application shall be accompanied by the applicable fee specified in Sections 4850, 5106 and 5108 of the Vehicle Code; the fee schedule is on the back of the form.

(c) The application shall include the following information:

(1) An indication of whether the application is for original plates, for replacement plates or to reassign, hold or release current plates.

(2) The purchaser's or plate owner's true full name.

(3) The mailing address of the person who will be the plate owner.

(4) The name of the recipient, if the plates are a gift.

(5) An indication of whether the license plates will be assigned to an auto, truck, trailer, or motorcycle, and the type of plate ordered.

(6) The location of the department or auto club office where the special interest/environmental license plates will be picked up or exchanged for

the current license plates and registration, if the license plates will not be mailed.

(7) The applicant's first, second, and third choices of the configuration of letters and numbers to appear on the license plates and the meaning of each.

(A) The configuration shall comply with the specifications of Section 5105 of the Vehicle Code.

(B) When a desired configuration is not available, a letter shall not be substituted for a number, nor shall a number be substituted for a letter, to create another configuration of a similar appearance.

(C) The number zero shall not be used in the configuration.

(D) The department shall refuse any configuration that may carry connotations offensive to good taste and decency, or which would be misleading, based on criteria which includes, but is not limited to, the following:

1. The configuration has a sexual connotation or is a term of lust or depravity.

2. The configuration is a vulgar term; a term of contempt, prejudice, or hostility; an insulting or degrading term; a racially degrading term; or an ethnically degrading term.

3. The configuration is a swear word or term considered profane, obscene, or repulsive.

4. The configuration has a negative connotation to a specific group.

5. The configuration misrepresents a law enforcement entity.

6. The configuration has been deleted from regular series license plates.

7. The configuration is a foreign or slang word or term, or is a phonetic spelling or mirror image of a word or term falling into the categories described in subdivisions 1. through 6. above.

(8) If the plate is reassigned, held for future use or relinquished, complete the appropriate information as required:

(A) The special interest license plate number.

(B) The Vehicle Identification Number (VIN) of the vehicle the plate was taken from.

(C) If reassigned, the current license plate number of the vehicle it will be on and that vehicle's VIN

(D) An indication if the plate is being reserved for future use.

(E) An indication of release of interest in the plate.

(9) If the application is for replacement of lost, stolen or mutilated plates indicate whether one or two plates are needed.

(10) A statement signed by the purchaser certifying under penalty of perjury under the laws of the State of California that the purchaser has provided true and correct information.

(11) The date the application is signed.

(12) The purchaser's daytime telephone number.

(13) If the plate is being purchased as a gift, the plate owner specified in subdivision (c)(4), of this regulation, shall be the recipient, and the purchaser specified in subdivisions (c)(2), (10), and (12), of this regulation, shall be the applicant.

(d) The department shall not honor a request for a change of choice or spacing in the letter/number configuration, or a request for a refund, after the license plate reservation is made, unless the request is due to departmental error.

(1) If the department erred when making the special interest/environmental license plate reservation, and the plate owner requests a change, the plate owner shall be permitted to submit a new special interest/environmental license plates application without payment of additional fees.

(2) If the department did not err when making the reservation, a new application and application fees shall be submitted for any change in the configuration.

NOTE: Authority cited: Sections 1651, 1652 and 5110, Vehicle Code. Reference: Sections 4850, 5060, 5101, 5102, 5103, 5105, 5106, 5108 and 5109, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

2. Amendment of section heading, section and NOTE filed 2-5-2002; operative 3-7-2002 (Register 2002, No. 6).

3. Editorial correction of subsection (c)(7)(D)7. (Register 2002, No. 23).

§ 170.02. Assignment of Environmental License Plates to Leased or Company Vehicle.

(a) If the applicant is the lessee of the vehicle to which the environmental license plates are to be assigned but the registration certificate does not show the applicant's name as the lessee, a statement of facts authorizing the use of the environmental license plates on the vehicle shall be required from the leasing company.

(b) If the environmental license plates are to be assigned to a company vehicle, a statements of facts authorizing the use of the environmental license plates on the vehicle shall be required from the company.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 5101, 5104 and 5105, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 170.04. Receipt of Environmental License Plates as a Gift.

(a) A statement of facts shall be required when the plates were ordered as a gift and the purchaser's name was incorrectly listed as the plate owner.

(1) The statement of facts shall indicate that the plates are a gift to the registered owner or lessee of the vehicle to which the plates will be assigned and that no money changed hands.

(2) The statement of facts shall be completed either by the original applicant or the recipient.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 5101, 5104 and 5105, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 170.06. Surrender of Current Plates.

(a) When application for environmental license plates is made for a currently registered vehicle, and the vehicle to which the plates will be assigned is known, the current plates shall be surrendered to the department at the time of application, with the following exception:

(1) If the current plates are not available, the applicant shall complete a statement of facts.

(A) The statement of facts shall state that the applicant understands that the current plates are no longer valid and the applicant will destroy the plates.

1. The plates shall be considered destroyed when they are mutilated in a manner which renders them useless.

(b) When the vehicle to which the plates will be assigned is unknown at the time of application, the current plates and registration certificate shall be surrendered when the environmental license plates are picked up and assigned to the vehicle, with the following exception:

(1) If the current plates are not available, the applicant shall complete a statement of facts.

(A) The statement of facts shall state that the applicant understands that the current plates are no longer valid and the applicant will destroy the plates.

1. The plates shall be considered destroyed when they are mutilated in a manner which renders them useless.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 5101 and 5105, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 170.08. Delivery of Environmental License Plates.

(a) When the vehicle to which the plates will be assigned is known and the registration documents are furnished at the time of application, the department shall mail the plates to the plate owner.

(b) When the vehicle to which the plates will be assigned is unknown or the registration documents are not furnished at the time of application, the department shall notify the plate owner when the plates have been delivered to the designated office.

(1) The department shall make three attempts by telephone or mail to contact the plate owner to pick up the plates and assign them to a vehicle.

(A) If the owner does not respond within four months of the first contact attempt, the department shall notify the owner in writing that priority to the plates will be lost in 30 days and the plates will be destroyed.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 5104 and 5105, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 170.10. Retention of Environmental License Plates.

(a) When payment of registration renewal fees is not required as specified in Vehicle Code Section 4000 for a vehicle to which the environmental license plate was last assigned, the environmental license plate owner shall be permitted to retain the plate upon payment of an annual retention fee of \$25, as specified in Vehicle Code Section 5106(c).

(1) If the annual retention fee is not paid by the expiration of the registration year for which payment of registration renewal fees is not required, the plate owner shall lose ownership and the letter/number configuration shall become available for reassignment.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 5105 and 5106, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 170.12. Cancellation of Environmental License Plates.

(a) Pursuant to Vehicle Code Section 5105, the department shall cancel and order the return of any environmental license plate previously issued which contains any configuration of letters and/or numbers which the department later determines may carry connotations offensive to good taste and decency.

(1) The department shall base this determination on the criteria specified in Section 170.00(c)(3)(D).

(b) The department shall notify the plate owner in writing of the cancellation and advise the plate owner of the options available for further action, as specified in Vehicle Code Section 5105(b).

(1) Pursuant to Vehicle Code Section 5105(b), the plate owner shall be entitled to a hearing by submitting a written request to the department no later than ten departmental business days after receiving the notification.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Section 5105, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

FORMER PRISONER OF WAR PLATES

§ 171.00. Requirements for Former Prisoner of War License Plates.

(a) To be eligible for former Prisoner of War license plates, the applicant for plate ownership must meet the definition of a former prisoner of war as described in Section 324.5 of the Vehicle Code.

(b) In addition to the requirements specified in Sections 170.00 through 170.08 for environmental license plates, the applicant shall present proof of the registered owner's or lessee's eligibility for a former Prisoner of War license plate by submitting to the department one of the following documents:

(1) A letter of verification from the National Personnel Records Center showing the registered owner's or lessee's name and establishing that the registered owner or lessee was held a prisoner of war by forces hostile to the United States during a period of armed conflict.

(2) An official document which substantiates that the registered owner or lessee was a prisoner of war, such as a Veterans Administration Hospital Card marked "POW" or military discharge papers which declare the bearer to be an ex-prisoner of war.

(c) The evidence submitted to the department shall be returned to the applicant.

(d) The configuration specified in Section 170.00(c)(3) shall meet the specifications of Vehicle Code Section 5101.5.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Sections 324.5, 5101.5, 5106 and 5108, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 171.02. Number of Prisoner of War License Plate Sets.

(a) Upon application, submission of eligibility proof, and payment of fees specified in Section 170.00(b), additional sets of Prisoner of War license plates, each set bearing a different configuration, shall be issued for each vehicle owned or leased by the former prisoner of war.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Section 5101.5, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 171.04. Surrender of Prisoner of War License Plates upon Death.

(a) Prisoner of War license plates shall be surrendered to the department within 60 days after the death of the former prisoner of war.

(b) Prisoner of War license plate ownership shall not be transferred to any other person, including the co-owner of the vehicle.

NOTE: Authority cited: Sections 1651 and 5110, Vehicle Code. Reference: Section 5101.5, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

PRESS PHOTOGRAPHER LICENSE PLATES

§ 172.00. Definitions.

(a) A press photographer is a person who is regularly employed or engaged as:

- (1) A newspaper photographer or cameraman.
- (2) A newsreel photographer or cameraman.
- (3) A television photographer or cameraman.
- (4) A newsmagazine photographer or cameraman.
- (5) A news gathering company photographer or cameraman.

(b) Regularly employed means full time employment (with the principal assignment as a photographer or cameraman) by:

- (1) A newspaper.
- (2) A newsmagazine.
- (3) A news gathering company.
- (4) A newsreel company.
- (5) A television station.

(6) A company taking pictures for newspapers, newsmagazines, news gathering companies, for newsreels, or for presentation on television.

(c) Regularly engaged means devoting more than 50 percent of employment time or deriving more than 50 percent of personal income from taking pictures for newspapers, newsmagazines, news gathering companies, for newsreels, or for television.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5008, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 210.00 to section 172.10 and adding article 3.1 heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 172.05. Application.

(a) Application for press photographer license plates shall be completed upon an appropriate form provided by the department.

(b) Proof that an applicant is a press photographer as defined herein shall consist of:

- (1) The applicant's certification to that effect.
- (2) The name and address of the newspaper, newsmagazine, news gathering company, newsreel company, television station, or company taking pictures for presentation on television he is employed by or to which he sells pictures or his services.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5008, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 210.05 to section 172.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 172.10. Plates.

(a) Press photographer license plates may be issued to not more than one motor vehicle registered (either solely or jointly with one or more owners) to a person who is a press photographer as defined herein.

(b) The press photographer license plates issued to a motor vehicle shall be surrendered to the Department of Motor Vehicles immediately when

(1) The press photographer owner ceases to be a press photographer as defined herein.

(2) The vehicle is transferred from the registered ownership of the press photographer.

(c) Press photographer license plates shall be used only on the motor vehicle to which they have been assigned by the Department of Motor Vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5008, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 210.10 to section 172.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 172.15. Display of Validating Stickers.

NOTE: Authority cited: Sections 1651 and 5205, Vehicle Code. Reference: Sections 4457 and 5204, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 210.15 to section 172.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer filed 9-6-96; operative 10-6-96 (Register 96, No. 36).

LEGION OF VALOR AND PURPLE HEART LICENSE PLATES

§ 173.00. Application Requirements for Legion of Valor License Plates or Purple Heart License Plates.

(a) An application for Legion of Valor license plates or Purple Heart license plates for a vehicle currently registered in California shall be submitted to the department on a Special License Plate Application, Form REG. 583 (12/91), provided by the department and shall include the following information:

(1) The vehicle identification number of the vehicle which will be assigned Legion of Valor or Purple Heart license plates.

(2) The make of the vehicle which will be assigned Legion of Valor or Purple Heart license plates.

(3) The current license plate number of the vehicle to which the Legion of Valor or Purple Heart license plates will be assigned.

(4) The true full name of the registered owner of the vehicle which will be assigned Legion of Valor or Purple Heart license plates.

(A) To be eligible for a Legion of Valor license plate, the registered owner must be the recipient of one or more of the following medals: Army Medal of Honor, Navy Medal of Honor, Air Force Medal of Honor, Army Distinguished Service Cross, Navy Cross or Air Force Cross.

(B) To be eligible for a Purple Heart license plate, the registered owner must be a recipient of a Purple Heart.

(5) The address of the registered owner.

(6) A statement signed and dated by the registered owner certifying under penalty of perjury under the laws of the State of California that all the information entered on the application by the registered owner is true and correct.

(7) The registered owner's daytime telephone number.

(8) An indication of whether the vehicle to which the Legion of Valor license plates will be assigned is classified as auto/commercial or trailer.

(A) Legion of Valor license plates shall not be assigned to motorcycles.

(9) An indication of whether the vehicle to which the Purple Heart license plate will be assigned is classified as auto/commercial, motorcycle, or trailer.

(10) An indication that the type of plates requested are Legion of Valor or Purple Heart license plates.

(b) The application shall be submitted with:

(1) Proof of eligibility as specified in Section 173.02 for Legion of Valor license plates or Section 173.04 for Purple Heart license plates.

(2) The fee required by Section 5101.4 of the Vehicle Code for Legion of Valor license plates; or

(3) In addition to the regular fees for an original or renewal registration, a fee of \$36 for Purple Heart license plates, unless the recipient is exempt from the additional fees for one vehicle pursuant to Section 5101.8(d) of the Vehicle Code.

(4) The current registration certificate.

(c) The current plates shall be surrendered to the department at the time of application, with the following exception:

(1) If the current plates are not available, the applicant shall complete a statement of facts.

(A) The statement of facts shall state that the applicant understands that the current plates are no longer valid and the applicant will destroy the plates.

1. The plates shall be considered destroyed when they are mutilated in a manner which renders them useless.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 5101.4 and 5101.8, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 173.02. Additional Requirement for Legion of Valor License Plate Application.

(a) In addition to meeting the requirements specified in Section 173.00, the registered owner shall provide proof of eligibility by surrendering to the department a copy of one of the following documents, containing the medal recipient's name and type of medal awarded, which shall be retained by the department:

(1) Department of Defense form D.D. 214.

(2) A General Order issued by the Department of Defense.

(3) Correspondence with a letterhead from the Awards and Decorations Unit, Department of Defense, The Pentagon, Washington, D.C.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5101.4, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 173.04. Additional Requirement for Purple Heart License Plate Application.

(a) In addition to meeting the requirements specified in Section 173.00, the registered owner shall provide proof of eligibility by surrendering to the department a copy of one of the following documents, containing the Purple Heart recipient's name, which shall be retained by the department.

(1) Orders awarding the Purple Heart.

(2) The applicant's service record or discharge papers showing receipt of the Purple Heart award.

(3) Certification from a Purple Heart organization.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5101.8, Vehicle Code.

HISTORY

1. New section filed 9-27-94; operative 10-27-94 (Register 94, No. 39).

§ 173.06. Number of Legion of Valor or Purple Heart License Plate Sets.

(a) Upon application, submission of eligibility proof, and payment of the applicable fee specified in Section 173.00(b)(2) and (3), additional sets of Legion of Valor or Purple Heart license plates, each set bearing a different configuration, shall be issued for each vehicle owned by the medal or Purple Heart recipient, respectively, regardless of the number of awards received.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 5101.4 and 5101.8, Vehicle Code.

HISTORY

1. New section filed 9–27–94; operative 10–27–94 (Register 94, No. 39).

§ 173.08. Surrender of Purple Heart License Plates upon Death.

(a) Purple Heart license plates shall be surrendered to the department within 60 days of the death of the Purple Heart recipient.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5101.8, Vehicle Code.

HISTORY

1. New section filed 9–27–94; operative 10–27–94 (Register 94, No. 39).

§ 174.00. Requirements for Fire Fighter License Plates.

(a) To be eligible for Fire Fighter license plates, the registered owner must be a fire fighter or retired fire fighter.

(b) In addition to the requirements specified in Sections 170.00 through 170.08 for environmental license plates, the applicant shall present proof of the registered owner's eligibility for Fire Fighter license plates by submitting to the department one of the following documents, containing the fire fighter's name:

- (1) Applicant's fire department identification card; or
- (2) Applicant's International Association of Fire Fighters membership card; or
- (3) Applicant's California Professional Fire Fighters Callback Association membership card; or
- (4) Written documentation from the California Professional Firefighters verifying the applicant's eligibility.

NOTE: Authority cited: Sections 1651 and 5110(a), Vehicle Code. Reference: Section 5101.2, Vehicle Code.

HISTORY

1. New section filed 6–10–99; operative 7–10–99 (Register 99, No. 24).

§ 180.00. Application for Regular Series License Plates for State-Owned University Vehicle.

(a) In addition to the requirements for registration of a vehicle pursuant to Vehicle Code Section 4150 and 4150.2, the applicant for regular series license plates for a state-owned vehicle assigned to a university chancellor or president of the University of California or California State University, or one of their campuses, shall submit to the department a request for such plates. The request shall be completed on university letterhead and signed by the president, or his or her designee, of either the Trustees of the California State University or the Regents of the University of California, as applicable. The request shall identify the following:

(1) The chancellor or president to whom the vehicle will be assigned. Identification shall include the person's name, title, and driver license number and the name of the university system or campus of which the person is the president or chancellor.

(2) The vehicle to which the regular series license plates will be assigned.

(A) For original registrations, the vehicle identification shall include the make, model, vehicle identification number, and the date the vehicle was first sold by a manufacturer, remanufacturer or dealer to a consumer.

(B) For non-original registrations, the vehicle identification shall include the make, model, vehicle identification number, and vehicle license number.

(b) In addition to the request specified in subsection (a), when regular series license plates are ordered to replace exempt license plates, an Application for Duplicate or Substitute, Form REG 156 (Rev. 4/92), shall be completed and signed by the applicant to whom the vehicle is assigned. The Application for Duplicate or Substitute shall include:

(1) An indication that the type of substitute item being requested is a license plate.

(2) The vehicle license number, make, and vehicle identification number.

(3) An indication that the plates for which replacement is being requested are being surrendered to the department.

(4) A signed and dated certification under penalty of perjury under the laws of the State of California that the information provided is true and correct.

(5) The applicant's name, address and telephone number.

(c) When regular series license plates are ordered to replace exempt license plates, the exempt license plates shall be surrendered to the department at the time of application.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5002.6.

HISTORY

1. New section filed 4–10–95; operative 5–10–95 (Register 95, No. 15).

§ 180.02. Surrender of Regular Series License Plates Upon Reassignment of Vehicle.

(a) When the vehicle to which the regular series plates have been assigned is reassigned to a person other than the person who requested the plates, the trustees or regents shall remove the regular series plates from the vehicle on the effective date of the reassignment and shall surrender the regular series plates to the department no later than 60 days after the vehicle reassignment.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 5002.6.

HISTORY

1. New section filed 4–10–95; operative 5–10–95 (Register 95, No. 15).

§ 181.00. Foreign Organization License Plates.

(a) Officers and designated employees of the Taipei Economic and Cultural Office (TECO) are eligible for exemption from registration fees and are entitled to apply for special Foreign Organization license plates. The American Institute in Taiwan, located in Arlington, Virginia, shall be authorized to verify the official status of these officers and employees and notify the department.

(1) The notification shall be in writing and shall include the officer's or employee's name, official status, and the date the officer's or employee's appointment is approved.

(b) Upon successful completion of the application process by a TECO officer or designated employee, the department shall grant exemption from registration fees and issue a special Foreign Organization license plate bearing the words, "Foreign Organization," for a vehicle owned or leased by the officer or employee.

(c) The TECO officer or designated employee shall apply to the department for registration exemption and special Foreign Organization license plates by doing the following for each vehicle owned or leased by the officer or employee:

(1) Complete and present to the department in person or by mail the following portions of Miscellaneous Certifications, Form REG 256A (Rev. 2/2007), provided by the department, which shall contain the following information:

(A) The vehicle identification number; license plate number; vehicle make and year.

(B) An indication that the vehicle is exempt from registration because the registered owner is an officer or designated employee of TECO (Part B).

(C) A certification, signed and dated by the applicant under penalty of perjury, that the information on the form is true and correct (Part F).

(D) The daytime telephone number of the applicant (Part F).

(2) Provide the Certificate of Title or bill of sale for an original/nonresident vehicle.

(3) Provide a photocopy of the Tax Exemption Card (BT 111) issued by the California State Board of Equalization and an identification card issued by the Department of State.

(4) If applicable, surrender the current state or country license plates, or sign a statement of facts certifying the plates will be destroyed and disposed of in a manner which renders them useless.

(5) Provide a certificate of compliance as specified in Vehicle Code section 4000.1.

(d) The department shall refund any registration fees previously paid on the vehicle by a TECO officer or designated employee for the period after the official approval date of appointment specified pursuant to subdivision (a)(1).

(e) The registration fee exemption does not apply to duplicate certificates or substitute license plates. A TECO officer or designated employee shall be required to pay the fees specified in Vehicle Code sections 4850(c) and 9265 when applying for duplicate certificates and substitute license plates.

(f) Registration of the vehicle owned or leased by a TECO officer or designated employee expires on December 31 of each year.

(g) If a TECO officer or designated employee transfers ownership of a vehicle to another person, the TECO officer or employee shall remove the Foreign Organization plates from the vehicle on the effective date of the transfer and shall surrender the plates to the department within 60 days of transfer of ownership.

NOTE: Authority cited: Sections 1651 and 5006.5, Vehicle Code. Reference: Sections 1652 and 5006.5, Vehicle Code; and Sections 10781 and 10901, Revenue and Taxation Code.

HISTORY

1. New section filed 7-21-97; operative 8-20-97 (Register 97, No. 30).
2. Amendment filed 12-21-98; operative 1-20-99 (Register 98, No. 52).
3. Editorial correction of subsection (c)(1)(A) (Register 2003, No. 20).
4. Change without regulatory effect amending subsections (c)(1) and (c)(1)(B)-(D) filed 6-26-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 26).
5. Change without regulatory effect amending subsection (c)(1) filed 6-29-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 26).

DISABLED PERSON PLACARDS OR PLATES

§ 182.00. Definitions.

(a) Disabled Person Permanent Placard — A placard that has a fixed expiration date of June 30 every odd numbered year that is issued to permanently disabled persons meeting the disability requirements in Section 295.5 of the Vehicle Code.

(b) Disabled Person Temporary Placard — A placard that is issued for a maximum of six (6) months to a temporarily disabled person meeting the disability requirements in Section 295.5 of the Vehicle Code.

(c) Disabled Person Travel Placard — A placard issued to permanently disabled persons meeting the disability requirements in Section 295.5 of the Vehicle Code. The placard is issued to California residents for no more than thirty (30) days and to non-residents for no more than ninety (90) days.

(d) Readily observable and uncontested permanent disability — The disability of any person who has lost or has lost use of, one or more lower extremities or both hands.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 295.5, 5007, 22511.55 and 22511.59, Vehicle Code.

HISTORY

1. New section filed 3-26-2007; operative 4-25-2007 (Register 2007, No. 13).

§ 182.01. Application for Disabled Person Placard or Plates Form.

(a) Applicants for a disabled person placard or plates shall complete and submit an Application for Disabled Person Placard or Plates form (REG 195, REV 2/2007), which is hereby incorporated by reference. This form is available on the department's internet website at www.dmv.ca.gov, in any field office, or by calling the department's Telephone Service Center at (800) 777-0133. The form shall contain the following information:

- (1) The type of disabled person placard being requested and/or if disabled person license plates are being requested.
- (2) The applicant's true full name or organization name.
- (3) The applicant's residence address or organization address.
- (4) The applicant's or organization's mailing address, if different from the residence address.
- (5) The applicant's date of birth. This information is not required for an organization or government agency.
- (6) The applicant's driver license or identification card number, if one has been issued. This information is not required for an organization or government agency.

(7) The applicant's daytime telephone number.

(8) An indication of whether California disabled person or disabled veteran license plates or permanent parking placard have previously been issued. If the applicant indicates that license plates or a placard have previously been issued, the plate or placard number must be provided.

(9) If the applicant is requesting disabled person license plates, a current license plate number, a vehicle identification number and make of the vehicle to which the disabled person license plates will be affixed. For a new vehicle purchase, only the vehicle identification number and vehicle make are required. To qualify for disabled person license plates, the applicant must provide a registration card in the applicant's name or documents to register the vehicle in the applicant's name. License plates currently assigned to the vehicle must be surrendered to the department.

(A) An indication of whether the applicant is requesting an exemption from weight fees for the vehicle described. (Note: To qualify for an exemption, the vehicle must weigh less than 8,001 pounds unladen.)

(10) A statement by the applicant certifying that the applicant has read the information in Section D and fully understands and takes responsibility for the use of the disabled person placard or plates that are issued, and certifies under penalty of perjury under the laws of the State of California that the information provided in the application is true and correct and the applicant is a disabled person as defined under California Vehicle Code Section 295.5. The applicant shall designate if the disability is permanent or temporary and indicate what the disability is due to. The applicant shall sign and date the application and indicate the city and state in which the signature was executed.

(A) The application may be completed and signed by a parent or guardian of a disabled minor if parts G and H of a Statement of Facts form (REG 256, REV 9/2005), which is hereby incorporated by reference, are completed and signed by a parent or guardian indicating his or her relationship to the minor. This form is available on the department's website at www.dmv.ca.gov, in any field office or by calling the department's Telephone Service Center at (800) 777-0133.

(B) A person, other than the applicant, may complete the application if the applicant's disability prevents him or her from completing the application. Parts G and H of a Statement of Facts form (REG 256, REV 9/2005, which is hereby incorporated by reference, must be completed and signed indicating relationship to the applicant.

(11) The Doctor's Certification of Disability completed by a licensed physician, surgeon, chiropractor, optometrist, physician assistant, nurse practitioner, or certified nurse midwife that states the applicant meets the disability requirements described in Section 295.5 of the Vehicle Code. The physician shall indicate the type of qualifying criteria and provide any additional qualifying information.

(12) The doctor, physician assistant, nurse practitioner, or certified nurse midwife shall indicate the type of placard that is to be issued and the length of time a temporary or travel placard is to be issued.

(13) The doctor, physician assistant, nurse practitioner, or certified nurse midwife's name, address, daytime telephone number and medical license number.

(14) A statement by the doctor, physician assistant, nurse practitioner, or certified nurse midwife, certifying under penalty of perjury under the laws of the State of California that all statements provided on the application are true and correct and he or she will retain information sufficient to substantiate the certification and shall make that information available for inspection by the Medical Board of California at the department's request. The doctor, physician assistant, nurse practitioner, or certified nurse midwife shall sign and date the certification and indicate the city and state in which the signature was executed.

(A) The Doctor's Certification of Disability is not required if the applicant indicates that a disabled person or disabled veteran license plate or placard have previously been issued unless the placard was cancelled by the department or if the placard is no longer on record with the department.

(B) The Doctor's Certification of Disability is not required if the applicant appears in person and has a readily observable and uncontested per-

manent disability as specified in section 182.00(d) and the disability is verified by an employee of the Department of Motor Vehicles.

(C) The Doctor's Certification of Disability is not required for an organization or government agency involved in the transportation of disabled persons or disabled veterans. The applicant must complete Parts G and H of a Statement of Facts form (REG 256 9/2005), which is hereby incorporated by reference, certifying the organization or government agency is involved in the transportation of disabled persons or disabled veterans.

(15) The signature, office number, date and identification number of the Department of Motor Vehicles employee who certifies a readily observable and uncontested disability as specified in section 182.00(d).

(b) The completed form with the applicable fee may be mailed to:

DMV PLACARD
P.O. BOX 942869
SACRAMENTO, CA 94269-0001

Or submitted to any Department of Motor Vehicles field office.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 295.5, 5007, 22511.55 and 22511.59, Vehicle Code.

HISTORY

1. New section filed 3-26-2007; operative 4-25-2007 (Register 2007, No. 13).

§ 182.02. Surrender of Disabled Person License Plates and/or Permanent Disabled Person Placards upon Death.

(a) The disabled person license plates and/or placard shall be surrendered to the department within sixty (60) days of the death of the disabled person or upon the expiration of the vehicle registration, whichever occurs first.

(1) The disabled person license plates shall not be transferred to any other person, including the co-owner of the vehicle.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 5007 and 22511.55(d), Vehicle Code.

HISTORY

1. New section filed 3-26-2007; operative 4-25-2007 (Register 2007, No. 13).

Article 3.2. Registration of Vessels

§ 190.00. Display of Numbers.

(a) The number issued to each undocumented vessel shall be displayed in the following manner:

(1) Be painted on or permanently attached to each side of the forward half of the vessel.

(2) Be in plain vertical block characters of not less than 3 inches in height.

(3) Contrast with the color of the background and be distinctly visible and legible.

(4) Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the prefix and the number, and the number and the suffix.

EXAMPLE: CF 1234 AB

(5) Letters and numbers to read from left to right.

(b) Vessels used by a manufacturer or by a dealer for testing or demonstrating shall have the number painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel.

(c) On inflatable vessels or on vessels so configured that a number on the hull or superstructure would not be clearly visible or properly adhere, the number shall be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.

(d) No numerals, letters or devices other than those used in connection with the state number issued shall be placed in the proximity of the state number, and no numerals, letters or devices which might interfere with the ready identification of the vessel by its state number shall be carried on any part of the vessel.

NOTE: Authority cited: Sections 1651 and 9853.2, Vehicle Code. Reference: Sections 9850, 9853.2 and 9857, Vehicle Code; and CFR, Title 33, Sections 173.19, 173.27, 174.13 and 174.14.

HISTORY

1. Change without regulatory effect renumbering former section 300.00 to section 190.00 and amending article heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.01. Registration Stickers.

The registration stickers issued by the department under the authority of Vehicle Code Section 9853.4 to identify a vessel as currently registered shall be securely affixed on each side of the vessel three inches aft (toward the stern) of and directly in line with the registration numbers and shall be so maintained as to be clearly visible at all times.

NOTE: Authority cited: Sections 1651 and 9853.4, Vehicle Code. Reference: Section 9853.4, Vehicle Code; and CFR, Title 33, Section 174.15.

HISTORY

1. Change without regulatory effect renumbering former section 300.01 to section 190.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.02. Proof of Ownership.

Proof of ownership of vessels may be established for the purposes of Vehicle Code Section 9852 by one of the following:

(a) A Bill of Sale executed by the seller showing the name and address of the seller, name and address of the purchaser, the name and address of the legal owner if any, the location and date of sale, and description of the vessel; or a Certificate of Sale executed by the seller under oath showing the information required to be shown on the Bill of Sale.

(b) A properly endorsed document indicating title if the vessel has been numbered and issued a title by another state.

(c) Where neither (a) nor (b) above is appropriate, an affidavit executed by the applicant fully setting forth the facts to support applicant's claim of ownership in the vessel. Affidavits for materials used in construction of homemade boats shall be supported with Bills of Sale for major components.

(d) A Certificate of Origin, Bill of Lading or Invoice describing the vessel shall be required from any dealer who upon application for original

[The next page is 9.]

registration lists himself as the owner of the vessel when such vessel is obtained through the dealer's inventory.

NOTE: Authority cited: Sections 1651 and 9852, Vehicle Code. Reference: Section 9852, Vehicle Code; and CFR, Title 33, Section 174.31.

HISTORY

1. Change without regulatory effect renumbering former section 300.02 to section 190.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.03. Vessel Bond Requirements.

(a) A vessel owner applying for a California certificate of title without the required proof of ownership may submit a bond as authorized by Vehicle Code section 9923. The bond shall be executed by an admitted surety insurer on an Undocumented Vessel Surety Bond, form REG 5058 (REV. 10/2005), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The penal sum of the bond shall be in the amount of the fair market value of the vessel.

(1) The fair market value shall be determined by either:

(A) A written appraisal provided by a California licensed or other state licensed yacht and shipbroker; or

(B) Identification of the vessel and its price variations based on information provided in a recognized industry vessel valuation and pricing handbook. The highest and lowest price variations shall be added together and then divided by two; the result is the average price of a vessel. The average price shall be the fair market value.

(c) A vessel owner applying for a California certificate of title without the required supporting evidence of ownership may submit a deposit equal to the monetary amount appraised in Section 190.03 (b)(1)(A) or calculated in Section 190.03(b)(1)(B) in lieu of bond as provided in Section 995.710 of the Code of Civil Procedure.

NOTE: Authority cited: Sections 1651 and 9852, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Section 9923, Vehicle Code.

HISTORY

1. New section filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7). For prior history, see Register 95, No. 34.

§ 190.04. Definition of a Livery Boat.

A livery boat is any vessel subject to registration under the California Vehicle Code, that is held primarily for the purpose of renting, leasing or chartering to others.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. Change without regulatory effect renumbering former section 300.04 to section 190.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.05. Definition of a Vessel Carrying Passengers for Hire.

Vessels carrying passengers for hire means any vessel subject to registration under the California Vehicle Code which is held for use for the carriage of any person by such vessel for valuable consideration whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. Change without regulatory effect renumbering former section 300.05 to section 190.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment filed 8-21-95; operative 9-20-95 (Register 95, No. 34).

§ 190.06. Definition of a Boat Manufacturer.

A boat manufacturer is a person who is engaged wholly or in part in the business of building or assembling vessels who subsequently offers these vessels for sale and receives or expects to receive money, profit or any other thing of value resulting from such transactions.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9840, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 300.06 to section 190.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.07. Definition of a Boat Dealer.

A boat dealer is a person who is engaged wholly or in part in the business of selling or offering for sale, buying or taking in trade for the purpose of resale, or exchanging, any vessel or vessels and receives or expects to receive money, profit, or any other thing of value.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9856 and 9912, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 300.07 to section 190.07 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.08. Certificates of Number for Dealer, Manufacturer, Livery Vessel and Vessel Carrying Passengers for Hire.

(a) The Certificates of Number for dealer, manufacturer, livery vessels, commercial vessels of less than five net tons and vessels carrying passengers for hire shall be clearly marked to show the vessel use.

(b) All applications for numbering of such vessels shall be submitted directly to the Department of Motor Vehicles, Sacramento, who may upon approval after the payment of the required fees issue a vessel number with distinctive suffix letters.

(c) Dealer or manufacturer numbers shall only be temporarily attached to the vessel during demonstration or test period and are valid for that period of demonstration or test only.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9850, 9853, 9853.1-9853.3, Vehicle Code; CFR, Title 33, Sections 173.27 and 174.19; and CFR, Title 46, Section 67.01-11.

HISTORY

1. Change without regulatory effect renumbering former section 300.08 to section 190.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.09. Terms and Conditions for Vessel Registration and Numbering.

The issuance of Certificates of Ownership and Number may be conditioned on:

(a) Title to, or other proof of ownership of a vessel except a recreational-type public vessel of the United States, and

(b) The payment of State or local taxes, except for such public vessels as defined in Section 9851 V.C.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852, 9853.1, 9853.4, 9855 and 9858, Vehicle Code; and CFR, Title 33, Section 174.31.

HISTORY

1. Change without regulatory effect renumbering former section 300.09 to section 190.09 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.10. Contents of Applications for Certificate of Ownership and Certificate of Number.

(a) Applications for Certificates of Ownership and Number shall contain the following information:

(1) Name of the registered owner.

(2) Address of the registered owner and ZIP code.

(3) State in which vessel will be principally used.

(4) Location of vessel, city and/or county.

(5) Any number previously issued by an issuing authority for the vessel.

(6) Whether the application is for a new number, renewal of a number, transfer of ownership, duplicate Certificates of Ownership or Number.

(7) Whether the vessel is to be used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying or other commercial use.

(8) Make of vessel.

(9) Year vessel was manufactured and model year, if known.

(10) Hull identification number.

(11) Overall length of vessel.

(12) Type of vessel.

- (13) Hull material.
- (14) Propulsion.
- (15) Fuel, gasoline, diesel or other.
- (16) Name and address of legal owner, if any.
- (17) Signature of the registered owner.

(b) Applications made by a manufacturer or dealer for a number that is to be temporarily affixed to a vessel for demonstration or test purposes need only furnish items 1, 2, 6, 7 and 17 of paragraph (a).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852 and 9853, Vehicle Code; and CFR, Title 33, Section 174.17.

HISTORY

1. Change without regulatory effect renumbering former section 300.10 to section 190.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.11. Contents of Certificate of Number.

(a) Each Certificate of Number shall contain the following information:

- (1) Number issued to vessel.
- (2) Expiration date of the Certificate of Number.
- (3) State of principal use.
- (4) Name of the registered owner.
- (5) Address of registered owner, including ZIP code.
- (6) Name and address of legal owner, if any.
- (7) Use of vessel such as pleasure, livery, dealer or manufacturer for demonstration, commercial passenger carrying or other commercial.
- (8) Hull identification number.
- (9) Make of vessel.
- (10) Year manufactured and year model, if known.
- (11) Overall length of vessel.
- (12) Type of vessel.
- (13) Hull material.
- (14) Type of propulsion.
- (15) Fuel type, gasoline, diesel or other.
- (16) Information pertaining to change of ownership, documentation, theft or recovery of vessel, carriage of the Certificate of Number on board when vessel is in use; rendering aid in accidents and reporting casualties and accidents shall be contained on the Certificate of Number.

(b) A Certificate of Number issued to a manufacturer or dealer to be used on a vessel for demonstration purposes need only show items 1, 2, 3, 4, 5, 7 and 16 of paragraph (a) if the word "manufacturer" or "dealer" is plainly marked on the certificate.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853 and 9853.1, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. Change without regulatory effect renumbering former section 300.11 to section 190.11 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a)(16) filed 8-21-95; operative 9-20-95 (Register 95, No. 34).

§ 190.12. Validity of Certificate of Number.

- (a) The Certificate of Number shall become invalid after the date:
 - (1) The vessel is documented or required to be documented under Part 67 of Title 46, Code of Federal Regulations.
 - (2) The owner of the vessel transfers all of his ownership in the vessel.
 - (3) The vessel is destroyed or abandoned.
- (b) A Certificate of Number shall be invalid if the application contains a false or fraudulent statement.
- (c) A Certificate of Number shall become invalid 60 days after the day on which the vessel is no longer principally used within the State of California.
- (d) The Certificate of Number shall become invalid when the person whose name appears on the certificate involuntarily loses his interest in the numbered vessel by legal process.
- (e) The Certificate of Number shall become invalid when the primary use of the vessel changes from the use indicated on the Certificate of Number pursuant to Section 190.11(a)(7).

(1) The owner of a vessel shall apply to the department for a new Certificate of Number when the primary use of the vessel changes from that indicated on the Certificate of Number.

(2) "Primary use of the vessel" means use that accounts for more than fifty percent of the operation of the vessel during a calendar year.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.1, 9855, 9858, 9864, 9874 and 9915, Vehicle Code; and CFR, Title 33, Section 173.77.

HISTORY

1. Change without regulatory effect renumbering former section 300.12 to section 190.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. New subsections (c)-(e)(2) filed 8-21-95; operative 9-20-95 (Register 95, No. 34).

§ 190.13. Removal of Stickers.

The number and sticker shall be removed from the vessel if the Certificate of Number becomes invalid for reasons contained in Section 190.12(a)(1), (b), or (c) of these regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.4 and 9874, Vehicle Code; and CFR, Title 33, Section 173.33.

HISTORY

1. Change without regulatory effect renumbering and amending former section 300.13 to section 190.13 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.14. Temporary Certificate of Number.

A Temporary Certificate of Number shall be issued to applicants in accordance with Section 9858 V.C. to be valid for 60 days from date of issue.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9858; and CFR, Title 33, Sections 173.75 and 174.29.

HISTORY

1. Change without regulatory effect renumbering former section 300.14 to section 190.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.15. Hull Identification Numbers.

(a) All vessels subject to registration under the California Vehicle Code shall display a hull identification number. On vessels built after 1971, this number shall consist of at least 12 characters in a configuration consistent with federal regulations.

(b) Hull identification numbers will be assigned by the manufacturer or by the Department of Motor Vehicles upon failure by the manufacturer to assign the number.

(c) The hull identification number shall be carved, burned, stamped, embossed or otherwise permanently affixed using letters and numerals not less than 1/4 inch in height to the outboard side of the transom, or if there is no transom to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the water line of the boat in such a way that alterations, removal or replacement would be obvious.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9871 and 9871.5, Vehicle Code; and CFR, Title 33, Sections 181.23, 181.25, 181.27 and 181.29.

HISTORY

1. Change without regulatory effect renumbering former section 300.15 to section 190.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.16. Fee-Exempt Boats.

(a) Boats belonging to State, County, or City Governments and Federal agencies of the United States shall not be required to pay the fees provided for in Sections 9853, 9855 and 9860 of the California Vehicle Code.

NOTE: Authority cited: Section 9851, Vehicle Code. Reference: Section 9851, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 300.16 to section 190.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.17. Recreational-Type Public Vessels.

Boats owned by the United States Armed Forces that are used for recreational purposes shall be known as "recreational-type public vessels."

The Department of Motor Vehicle, Sacramento, California, shall upon application issue a Certificate of Number and Certificate of Ownership to the Armed Forces Agency owning the vessel. Such vessels shall be exempt from payment of all fees.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9851, Vehicle Code; and CFR, Title 33, Section 173.11.

HISTORY

1. Change without regulatory effect renumbering former section 300.17 to section 190.17 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.18. Fee-Exempt Annual Renewal.

The number issued to fee-exempt vessels shall contain suffix letters to designate the vessel as "fee-exempt." Display of the number shall be in accordance with Section 190 of this regulation. A sticker shall be issued to each vessel to identify it to be currently registered. Display of the sticker shall be in accordance with Section 190.01.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9850, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 300.18 to section 190.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.19. Racing Vessels.

Boats brought to this state exclusively for racing purposes and remaining for less than 90 days, may be exempted from registering and numbering in California, providing the state of origin also exempts such vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9854 and 9873, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 300.19 to section 190.19 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.20. Livery Vessels.

No person may operate a livery vessel unless that vessel has on board a valid Certificate of Number, a valid Temporary Certificate of Number, or a copy of the rental or lease agreement. The agreement must contain:

- (1) The signature of the owner of the vessel or his representative.
- (2) The signature of the person leasing or renting the vessel.
- (3) The vessel number that appears on the Certificate of Number.
- (4) The time period for which the vessel is leased or rented.

No obligation is created by these regulations (Sections 190.00 through 190.20) under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred in carrying on any program or performing any service required to be carried on or performed under these regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9853.3, Vehicle Code; and CFR, Title 33, Section 173.21.

HISTORY

1. Change without regulatory effect renumbering and amending former section 300.20 to section 190.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.21. Notification to the Department.

A person whose name appears as the owner of a vessel on a Certificate of Number shall, within 15 days, notify the Department of:

- (a) Any change in his address.
- (b) The loss or destruction of a valid Certificate of Number.
- (c) The destruction or abandonment of the vessel.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864, 9865 and 9911, Vehicle Code; and CFR, Title 33, Section 173.29.

HISTORY

1. Change without regulatory effect renumbering former section 300.21 to section 190.21 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.22. Surrender of Certificate of Number.

A person whose name appears as the owner of a vessel on a Certificate of Number shall surrender the certificate in a manner prescribed by the Department within 15 days after it becomes invalid under Section 190.12, paragraphs (a)(1)(2)(3), (b), (c), (d).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864 and 9900, Vehicle Code; and CFR, Title 33, Section 173.31.

HISTORY

1. Change without regulatory effect renumbering and amending former section 300.22 to section 190.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 190.30. Department Agent's Authorization.

(a) Agents authorized by the department under Vehicle Code Section 9858 to accept registration applications of undocumented vessels shall be known as Undocumented Vessel Registration Agents. The appointment of such agents shall be at the pleasure of the department and they shall serve without compensation from the department.

(b) Undocumented Vessel Registration Agents may charge their customers a documentary preparation fee pursuant to Vehicle Code Section 9858.1.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858, 9858.1 and 9859, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 190.03 to new section 190.30 and amendment of NOTE filed 8-21-95; operative 9-20-95 (Register 95, No. 34).

§ 190.32. Application for Appointment as an Undocumented Vessel Registration Agent.

(a) An applicant for appointment as an Undocumented Vessel Registration Agent shall submit to the department an Application for Appointment and Agreement as a Non-Public Undocumented Vessel Registration Agent, Form OL 54 (Rev. 3/2003).

(1) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(b) The Application for Appointment and Agreement as a Non-Public Undocumented Vessel Registration Agent shall contain the following information:

(1) Information specifying the reason the application is being submitted.

(A) An application shall be submitted for the original appointment, change of name or address, change of ownership structure, or when adding a branch location.

(2) The business name, address and telephone number.

(3) The days and hours the business is open for business and the days the business is closed.

(4) The nature of the business.

(5) The applicant's Board of Equalization resale number (including a copy of the resale permit).

(6) The limited liability company or corporate number.

(7) An indication of how the business is structured.

(8) The name, residence address, telephone number, and driver license or identification card number of the owner, each partner, each of the corporation's principal officers, or all association representatives depending on the business structure.

(9) An indication as to whether the applicant, any partner, or corporate officer has ever been a Vessel Registration Agent for the state, has ever been a yacht and ship broker, or has ever been a Department of Motor Vehicles Occupational Licensee, and, if so, the license number and date of the license.

(10) An indication as to whether the applicant partner or officer has ever been convicted of any misdemeanor or felony offense including the dates of offense and court information.

(11) An explanation of the bankruptcy, including the date and court of jurisdiction, if the applicant, any partner or officer has ever declared bankruptcy.

(12) A certification that the information provided on the application is true and correct, and an agreement to comply with the department's requirements as set forth in the Agreement for Appointment as an Undocumented Vessel Registration Agent to Represent the California Department of Motor Vehicles, Form OL 54 (REV. 3/2003) page 2.

(A) The certification and agreement shall be dated and signed under penalty of perjury under the laws of the State of California by the sole proprietor, all individual partners of a co-partnership, or all principal officers of the corporation, depending on the business structure.

(B) When the business is a corporation, the application shall also include the corporate officer title of each of its principal officers.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

HISTORY

1. New section filed 8-21-95; operative 9-20-95 (Register 95, No. 34).
2. Amendment filed 10-25-2004; operative 11-24-2004 (Register 2004, No. 44).

§ 190.34. Responsibilities of Undocumented Vessel Registration Agents.

(a) Each Undocumented Vessel Registration Agent shall agree to assume, as a condition of appointment, the following responsibilities:

- (1) Maintain an established place of business.
- (2) Be engaged in an activity directly related to boating.
- (3) Display a means of identification which will clearly indicate to the public the name of the business. Each separate branch of the business which will be authorized to conduct registration of vessels shall display such means of identification.

(4) Maintain all supplies at the business location described on the Application for Appointment and Agreement as a Non-Public Undocumented Vessel Registration Agent, Form OL 54 (REV. 3/2003).

(5) Make available for review all accountable vessel registration items upon demand by an authorized department employee. Accountable vessel registration items shall include any item bearing a serial number and having a value attached to it.

(6) Notify the Department of Motor Vehicles, Occupational Licensing Unit, P.O. Box 932342, Sacramento, CA 94232-3420, in writing no later than the first business day following the event of any of the following:

(A) Sale of business or change of terms in the agreement for appointment.

(B) Change of business structure, including the addition or deletion of partners or corporate officers.

(C) Change of business name or address.

(D) Adding or deleting a branch location.

(E) Lost or stolen accountable vessel registration items.

(7) Upon sale or termination of the business, all accountable vessel registration supplies, applications, and fees shall be forwarded to the department no later than the first business day following the sale or termination.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

HISTORY

1. New section filed 8-21-95; operative 9-20-95 (Register 95, No. 34).
2. Amendment of subsection (a)(4) filed 10-25-2004; operative 11-24-2004 (Register 2004, No. 44).

§ 190.36. Duties of Undocumented Vessel Registration Agents.

(a) Each Undocumented Vessel Registration Agent shall agree to assume, as a condition of appointment, the following duties:

(1) Accept applications and fees for registration and transfer of vessels and issue Permanent Vessel Numbers, Temporary Certificates of Number, and vessel stickers to applicants.

(2) Forward a report every seven days listing all vessel registration transactions received during the previous seven days, accompanied by each application listed on the report and a single check or money order for all fees received for the registration of a vessel, to the address designated by the department no later than the close of business on the date shown on the report.

(A) The report shall be prepared on the Transmittal Record of Vessel Agent Registration Applications, Form ADM 173-1 (10/94) provided by the department. Another department-approved version of this form with

a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(B) The Transmittal Record of Vessel Agent Registration Applications shall be completed in ink and shall include the following information: the business name, address, and telephone number; the agent's number; date submitted; the vessel's CF number, or, if a new vessel, the hull identification number or the last name of the registered owner; the amount of cash, check, or credit media collected; the number of the sticker issued; miscellaneous receipts issued for transactions such as transfers, duplicates, etc.; an indication of whether a credit or refund is desired; an indication of the preferred delivery method; the total number of items by type submitted with the transmittal bundle; an authorized signature; and, the printed name of the person signing the report.

(C) All accountable items issued shall be listed on the transmittal in numerical order.

(D) Each registration transaction processed shall be entered on the transmittal immediately after the receipt has been written.

(E) Three copies of the transmittal shall be sent weekly to the department, and the agent shall retain a fourth copy.

(F) A Transmittal of Vessel Agent Registration Applications shall be submitted indicating, "No transactions during week of xx/xx/xx" when no transactions have occurred during the week.

(3) Process the types of vessel registration transactions indicated on the Agreement for Appointment as an Undocumented Vessel Registration Agency to Represent the California Department of Motor Vehicles, Form OL 54 (REV. 3/2003) page 2.

(A) These transactions shall include either or both: original vessel registration for new boats; or, vessel ownership transfer applications for used boats, registration renewals and applications for duplicate certificates and stickers.

(B) Agents shall register only those vessels they sell.

(4) Complete and provide a Quarterly Physical Inventory of Accountable Items, Form BOAT 124-1 (12/94) by the fifth day of January, April, July, and October. Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(A) The Quarterly Physical Inventory of Accountable Items shall include a listing of receipts for new and used boats, as evidenced by the beginning and ending number of Certificates of Number and Temporary Certificates of Numbers issued, and the number of each on hand; a listing of the number of vessel stickers issued, as evidenced by the beginning and ending number of stickers issued and the number on hand, a listing of void receipts, and an authorized signature.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

HISTORY

1. New section filed 8-21-95; operative 9-20-95 (Register 95, No. 34).
2. Amendment of subsections (a)(2)(A) and (a)(3) filed 10-25-2004; operative 11-24-2004 (Register 2004, No. 44).

§ 190.38. Agreement for Appointment as an Undocumented Vessel Registration Agent.

(a) Each applicant for appointment as an Undocumented Vessel Registration Agent shall complete an Agreement for Appointment as an Undocumented Vessel Registration Agency to Represent the California Department of Motor Vehicles, Form OL 54 (REV. 3/2003) page 2 on which the owner, all partners of a co-partnership, or all principal officers of a corporation, agree to assume the duties and responsibilities which are outlined in the agreement and reflect the requirements specified in the Vehicle Code and in regulation. The signature of the applicant on page 1 of this form shall serve as acknowledgement of this agreement.

(1) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858, 9858.1 and 9859, Vehicle Code.

HISTORY

1. New section filed 8-21-95; operative 9-20-95 (Register 95, No. 34).

2. Amendment of subsection (a) filed 10-25-2004; operative 11-24-2004 (Register 2004, No. 44).

§ 191.00. Non-Motorized Surfboard-Like Vessels Exempted Under Vehicle Code Section 9873(e).

Non-motorized surfboard-like vessels over 8 feet in length, propelled solely by sail, and with a mast which is required to be held upright by the operator in order to sail are exempt from the numbering requirements of Vehicle Code Section 9850.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9873, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 301.00 to section 191.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 192.00. Proof Documents Re Lien Sale Vessels.

All applications for the transfer of title of an undocumented vessel after a lien sale of such vessel under Article 4 (commencing with Section 500) of the Harbors and Navigation Code shall be accompanied by proof of the possessory character of the lien so that the department may be satisfied of the genuineness and regularity of the transfer pursuant to Vehicle Code Section 9915(b). For the purposes of such proof, "storage" means services rendered in the safekeeping of a vessel by a person not the owner who has a right of possession together with a duty to care for the vessel and may include mooring, berthage, wharfing and anchorage and rental of vessel trailer parking space done in the process of the storage of a vessel. "Storage" does not include the rental of mooring space or of vessel trailer parking space when there is no duty to keep the vessel safe when occupying such space. Costs of repair means all material and labor of a repairman when a vessel is put in his keeping for such purposes and may include costs of mooring, berthage, wharfing and anchorage and rental of vessel trailer parking space if such services are included in the repairman's cost of handling a vessel for the purpose of repairing it.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9915, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 302.00 to section 192.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 200.01. Vehicle Engine or Motor.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 4161, 4163 and 9257, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment filed 4-11-85; effective thirtieth day thereafter (Register 85, No. 15).
3. Change without regulatory effect renumbering former section 200.01 to section 150.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 3.3. Special Plates

§ 201.00. Use of Special Plates Issued to a Dealer, Manufacturer, Remanufacturer, or Distributor.

(a) Special plates referenced in this section may only be used on vehicles that a dealer, manufacturer, remanufacturer, or distributor owns or lawfully possesses.

(b) The following individuals may operate a vehicle with special plates for any purpose:

(1) An individual who is the sole owner, a general partner, a manager of a limited liability company, or a corporate officer or director of a dealer, manufacturer, remanufacturer, or distributor, provided that individual is actively engaged in the management and control of the business operations of the dealer, manufacturer, remanufacturer, or distributor;

(2) A general manager, or business manager, or sales manager who is actively engaged in the management and control of the business operations of the dealer, manufacturer, remanufacturer, or distributor when no other individual meets the criteria in (1) above;

(3) An individual employed by a manufacturer or distributor and licensed as a representative.

(c) Any licensed driver may operate a vehicle with special plates for any purpose if an individual identified in section (b) is also in the vehicle.

(1) An unaccompanied licensed driver, who regularly resides in the immediate household of an individual identified in section (b), may operate a vehicle with special plates solely to pick up or drop off that individual.

(d) A licensed driver who is an employee of a dealer, manufacturer, remanufacturer or distributor may drive a vehicle with special plates when that employee is acting within the course and scope of his or her employment.

(e) Any licensed driver may operate a vehicle with dealer, manufacturer, remanufacturer, or distributor special plates for special event purposes if the operator carries a letter of authorization from the licensee identifying the vehicle, duration, and location of operation, and person(s) authorized to operate the vehicle.

(f) Any licensed driver, who is a prospective buyer or lessee, may test drive a vehicle with special plates for up to seven days.

(1) A salesperson is not required to be present.

(2) If a salesperson is not present, the operator must carry a letter of authorization from the licensee identifying the vehicle, duration, and person(s) authorized to operate the vehicle.

(g) Employees of a commercial vehicle dealer, manufacturer, remanufacturer, or distributor who must operate a commercial vehicle in the course of their employment, may take a commercial drive test in a commercial vehicle displaying dealer, manufacturer, remanufacturer, or distributor special plates.

(h) A trailer, displaying special plates, may be towed by a vehicle with Vehicle Code authority to operate on the highways.

(i) Any use of special plates issued to a dealer, manufacturer, remanufacturer, or distributor except as specified is prohibited.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11714, 11715 and 11716, Vehicle Code.

HISTORY

1. Amendment of article heading and new section filed 6-8-2000; operative 7-8-2000 (Register 2000, No. 23). For prior history of article 3.3, see Register 93, No. 30 and Register 96, No. 35.

Article 3.4. Hearing Procedure Seizure of Vehicles

§ 212.04. Conduct of the Hearing.

(a) The department shall fix a time and place for the hearing as early as may be arranged in the county where the person requesting the hearing resides, and shall give ten (10) days' notice of the hearing to the registered owner, the legal owner, and to any other person known to be claiming an interest in the vehicle, except that the hearing may be set for a different place with the concurrence of the person requesting the hearing and the period of notice may be waived.

(b) The hearing shall be conducted by the Registrar or by a referee appointed by him from officers or employees of the department.

(c) The entire proceedings shall be recorded by a phonographic recorder or otherwise perpetuated by mechanical, electronic, or other means capable of reproduction or transcription.

(d) All evidence shall be taken only on oath or affirmation.

(e) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any mat-

ter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. The registered owner may be called and examined as if under cross-examination.

(f) Each party upon written request made to another party, prior to the hearing and within thirty (30) days after service by the department of the notice of lien, is entitled to

(1) obtain the names and addresses of witnesses known to the other party, intended to be called to testify at the hearing, and

(2) inspect and make a copy of all writings to include statements of witnesses, investigative reports, traffic or parking citations or any other thing which is relevant and which would be admissible in evidence at the hearing; this right does not extend to any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

(g) Before the hearing is commenced, the department shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing, in accordance with Section 11510 of the Administrative Procedure Act.

(h) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil action. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(i) In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such representation to be determined by the department.

(j) Upon the conclusions of the hearing, the referee shall make findings on the matters under consideration and shall prepare and submit recommendations to the Registrar.

(k) The Registrar, or an employee designated by the Registrar to act on his behalf, following the hearing, upon review of the record, evidence, and the findings, shall render his decision concerning the validity of the imposition of the fees or penalties. The decision of the Registrar or his designee shall be effective on notice to the registered and legal owners.

NOTE: Authority cited: Section 1651, Vehicle Code; and Sections 11180, 11181 and 11182, Government Code. Reference: Section 9801, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 310.04 to section 212.04 and amending and repositioning article 3.4 heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 3.5. Motor Carriers Permit Program

§ 220.00. Definitions.

As used in this article, the following definitions shall apply:

(a) "Administrative costs" shall be defined as attorney fees and support staff costs incurred in determining legal entitlement to all or a portion of the cash deposit(s) or savings account(s) held in assignment(s) pursuant to Vehicle Code section 34631(c).

(b) An "applicant" shall be defined as a motor carrier applying as an original applicant for or a current holder of a motor carrier permit.

(c) An "assignor" shall be defined as a motor carrier who is granted a certificate of self-insurance.

(d) The "Deputy Director" shall be defined as the deputy director of the Department of Motor Vehicles for the State of California, who administers the Motor Carrier Permit Program.

(e) The "Director" shall be defined as the Director of Motor Vehicles for the State of California and any other department employee designated to act on behalf of the Director.

(f) A "fictitious name" as used in Vehicle Code section 34621(b)(1) shall be defined as a DBA (Doing Business As) and/or a trade name.

(g) "Licensed to write insurance in this state" as stated in Vehicle Code section 34631 shall be defined as an "admitted insurer" as stated in Insurance Code section 700.

(h) A "motor carrier" shall be defined as a business entity who operates vehicles in California and participates or qualifies to participate in the Motor Carrier Permit program.

(i) A "permit term" shall be defined as twelve (12) months starting on the first day of the month that the original application was received and ending on the last day of the following 12th month. The permit term shall establish the annual renewal date.

(j) For the purpose of this article, the terms "Motor Carrier of Property Permit" and "Motor Carrier Permit" shall be used interchangeably.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 34621 and 34631, Vehicle Code; and Section 700, Insurance Code.

HISTORY

1. New article 3.5 (sections 220.00–221.12) and section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 85, No. 15.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New article 3.5 (sections 220.00–221.12) and section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including relettering of subsections, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment of article heading and section filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.02. Application for a Motor Carrier Permit.

(a) An applicant for an original Motor Carrier Permit shall complete, sign and certify, under penalty of perjury under the laws of the State of California, an Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)], which is hereby incorporated by reference.

(b) A change of motor carrier ownership status shall require a completed Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)], signed under penalty of perjury under the laws of the State of California. This change shall be processed as an original application.

(1) A change of a motor carrier's Employer Identification Number (EIN) requires a new application.

(c) A change of motor carrier name shall require a completed Notice of Change form [DMV 152 MCP (REV. 8/2002)] signed under penalty of perjury under the laws of the State of California. The Notice of Change form is hereby incorporated by reference.

(d) An addition or deletion of "DBA" name or trade name shall require a completed and signed Notice of Change form [DMV 152 MCP (REV. 8/2002)].

(e) A change of motor carrier physical or mailing address shall require a completed and signed Notice of Change form [DMV 152 MCP (REV. 8/2002)] indicating a change of address within ten (10) days of the change.

(f) A list of vehicles shall be submitted with an original, reinstatement and renewal application and contain the full Vehicle Identification Number (VIN), license plate number and state of plate issuance for all motor vehicles the motor carrier intends to use during the permit period.

(g) The department shall notify an applicant in writing within ten (10) days of receipt of the application, that it is complete or deficient.

(1) An application is considered complete when the applicable requirements of the Motor Carriers of Property Permit Act and these regulations have been fulfilled.

(A) With the determination that an application is complete, a permit shall be issued.

(2) An application is considered deficient when the applicable requirements of the Motor Carriers of Property Permit Act and these regulations are not fulfilled.

(A) With the determination that an application is deficient, the department shall identify the specific requirement(s) needed to complete the application.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 1652, 1653, 34621 and 34632, Vehicle Code; and Section 15376, Government Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment of section heading and section filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.04. Expiration and Renewal of a Motor Carrier Permit.

(a) Motor Carrier of Property Permit Renewal Application form [DMV 134 MCP (REV. 1/2004)], which is hereby incorporated by reference, shall be completed and submitted to the department, prior to the date of expiration, when a motor carrier applies for renewal of a Motor Carrier Permit.

(b) The permit term shall remain the same unless the permit is withdrawn pursuant to Section 220.18 of these regulations or is suspended or revoked pursuant to California Vehicle Code sections 34505.6, 34623, or 34624(d).

(c) A permit term shall be limited to 12 months.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 1652, 34620 and 34621, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section heading and section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).
6. Amendment of subsection (a) filed 2-22-2005; operative 3-24-2005 (Register 2005, No. 8).

§ 220.05. Manner of Submission of Renewal Registration Transactions to the Department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 4610, Vehicle Code; and Section 12155, Insurance Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment filed 4-11-85; effective thirtieth day thereafter (Register 85, No. 15).
3. Change without regulatory effect renumbering former section 220.05 to section 201.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 220.06. Motor Carrier Financial Responsibility.

(a) Acceptable proof of financial responsibility, pursuant to Vehicle Code section 34630, shall be submitted to the department in the form of a Certificate of Insurance, [DMV 65 MCP (REV. 7/2002)] pursuant to Vehicle Code section 34631(a); or a surety bond, [DMV 55 MCP (REV. 10/2003)] pursuant to Vehicle Code Section 34631(b); or a Certificate of Self-Insurance, [DMV 131 MCP (NEW 4/98)] pursuant to Vehicle Code Section 34631(c), which are hereby incorporated by reference.

(1) The Certificate of Insurance [DMV 65 MCP (REV. 7/2002)] shall be submitted to the department by the motor carrier's insurance provider.

(2) Proof of financial responsibility pursuant to Division 7, Vehicle Code section 16000 et seq., shall not be substituted for the proof required for a Motor Carrier Permit.

(3) The name of the motor carrier on the Certificate of Insurance, surety bond or Self-Insurance Certificate shall match the name of the motor carrier entered in Part 2 of an Application for Motor Carrier Permit form [DMV 706 MCP, (REV. 4/2003)].

(b) An Insurance Policy Endorsement, [DMV 67 MCP (REV. 6/2001)], which is hereby incorporated by reference, amending the insurance policy to comply with insurance requirements imposed by the Motor Carriers of Property Permit Act, commencing with Vehicle Code section 34630, shall be attached to and made part of, the insurance policy insuring the motor carrier.

(1) The Insurance Policy Endorsement, [DMV 67 MCP (REV. 6/2001)] shall be retained by the insurer and a copy provided to the insured motor carrier.

(2) A duplicate and all related documentation shall be provided to the department upon request.

(c) Written notice of cancellation of the Certificate of Insurance, required under Vehicle Code section 34630(b), shall be submitted by the insurer to the department on a Notice of Cancellation of Insurance, [DMV 66 MCP (REV. 6/2001)], which is hereby incorporated by reference.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 1652, 34630, 34631 and 34631.5, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.08. Verification of Vehicles Used by Motor Carriers.

(a) The annual list of motor vehicles, pursuant to Vehicle Code section 34632, shall be submitted to the department upon original application, renewal or reinstatement of a Motor Carrier Permit. The list shall contain the full Vehicle Identification Number (VIN), license plate number and state of plate issuance for all motor vehicles used in transportation during the previous permit term. The requirement to furnish the department with an annual list shall be satisfied by submitting the annual list signed and certified under penalty of perjury under the laws of the State of California.

(b) Each motor vehicle operated under the Motor Carrier Permit for thirty-one (31) days or longer shall be included in the list of motor vehicles submitted in accordance with Vehicle Code section 34632, upon renewal or reinstatement.

(1) This list shall include vehicles owned, rented, leased, or used on a seasonal or independent contract basis under the authority of the Motor Carrier Permit.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34632, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of subsection (a), transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.10. Motor Carriers' Employees.

(a) The annual report of employees and owner-operator drivers, pursuant to Vehicle Code Section 34633, shall be submitted to the department by a Motor Carrier with a carrier fleet of 20 or more commercial motor vehicles, upon renewal or reinstatement of a Motor Carrier Permit. The report shall contain the total number of employees and owner-operator drivers, employee classifications (job titles), and compensation (annual gross salary).

(b) The requirement to file a report under oath shall be satisfied by submitting the list in the form of a sworn statement signed under the penalty of perjury under the laws of the State of California.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 34633 and 34640, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 93, No. 30.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).

§ 220.12. Owner-Operators.

(a) A motor carrier may submit a written statement to the department, within fifteen (15) calendar days of the date of service of the order of suspension, showing why good cause exists not to suspend the Motor Carrier Permit pursuant to Section 34624(d) of the Vehicle Code.

(b) Good cause pursuant to Vehicle Code section 34624(d) shall be as follows:

(1) The motor vehicle(s) listed under an owner-operator's Motor Carrier Permit shall be operated by family members and other drivers who are enrolled in the department's Employer Pull Notice system, pursuant to Vehicle Code section 1808.1(a) and (e). This requirement shall be fulfilled prior to operating any motor vehicle defined in Vehicle Code section 1808.1(k) and operated under the owner-operator's Motor Carrier Permit.

(2) The motor vehicle(s) listed under an owner-operator's Motor Carrier Permit shall be operated by casual drivers, as defined in Vehicle Code section 1808.1(j), and under the owner-operator's Motor Carrier Permit.

(A) The owner-operator shall have possession of the casual driver's current public record prior to operating any motor vehicle identified in Vehicle Code section 1808.1(k) and operated under the owner-operator's Motor Carrier Permit.

(c) An owner-operator whose Motor Carrier Permit has been suspended pursuant to Vehicle Code section 34624(d) shall not be entitled to a hearing to show why the permit should not be suspended.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 1808.1 and 34624, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98

or emergency language will be repealed by operation of law on the following day.

2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section and NOTE, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).
6. Amendment of subsection (b)(1) filed 2-22-2005; operative 3-24-2005 (Register 2005, No. 8).

§ 220.14. Reinstatement Fee.

There shall be one reinstatement fee due after a single, overlapping or concurrent suspension period. Payment may be made upon receipt of the notice of suspension. Checks or money orders shall be made payable to the Department of Motor Vehicles and mailed to the following address: Department of Motor Vehicles, Motor Carrier Permit Branch, Mail Station G875, P.O. Box 932370, Sacramento, CA 94232-3700.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34623.5, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Renumbering of former section 220.14 to section 220.16 and new section 220.14 filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.16. Workers' Compensation.

(a) Acceptable evidence of compliance with Workers' Compensation laws, pursuant to Vehicle Code section 34640(a)(1), shall be submitted to the department on a Certificate of Insurance form [DMV 65 MCP (REV. 7/2002)] or Workers' Compensation letter, [SCIF 10262 (REV. 5/01)] or [SCIF 10265 (no revision date)], which are hereby incorporated by reference or certification of consent to self-insure issued by the Director of Industrial Relations pursuant to Vehicle Code section 34640(a)(2).

(b) An applicant for a Motor Carrier Permit that does not employ any persons in the motor carrier operation shall certify on an Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)], under penalty of perjury under the laws of the State of California, that as a motor carrier, no person is employed in any manner so as to become subject to California Workers' Compensation laws pursuant to Vehicle Code section 34640(a)(3).

(c) A motor carrier that becomes subject to California Workers' Compensation laws shall file with the department, within thirty (30) days, a certificate of workers' compensation coverage pursuant to Vehicle Code section 34640(a)(1), or certification of consent to self-insure issued by the Director of Industrial Relations pursuant to Vehicle Code section 34640(a)(2).

(d) Departmental notification of cancellation of insurance shall be on a Notice of Cancellation of Insurance form [DMV 66 MCP (REV. 6/2001)] or Workers' Compensation Notice of Cancellation letter [SCIF 19102 (NO REVISION)], which are hereby incorporated by reference.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 1652, 34621(b)(7) and 34640, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).

3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Renumbering of former section 220.16 to section 220.18 and renumbering and amendment of former section 220.14 to new section 220.16 filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.18. Voluntary Withdrawal.

(a) A motor carrier, who wishes to cease operations as a permitted motor carrier, prior to canceling or terminating liability insurance, shall submit a written request on a Request for Voluntary Withdrawal Motor Carriers of Property Permit form [DMV 716 MPC (REV. 6/2001)], which is hereby incorporated by reference.

(b) A refund of the fees for the next permit term shall only be issued when the vehicle will not be operated intrastate in California during the next permit term, and the term of the permit has not yet begun.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34630(b), Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 220.16 to new section 220.18 filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 220.20. Seasonal Operations.

(a) A seasonal permit shall be issued for a period of no less than six (6) months and no more than eleven (11) months within an assigned twelve (12)-month permit term.

(1) The months may or may not be contiguous.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 7236(a)(3), Revenue and Taxation Code.

HISTORY

1. New section filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52). For prior history, see Register 77, No. 41.

CERTIFICATE OF SELF INSURANCE

§ 221.00. Requirements to Self-Insure.

Qualifications as a self-insurer shall include all of the following requirements:

(a) The applicant shall have more than twenty-five (25) motor vehicles registered in the name of the motor carrier on the Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)].

(b) The applicant shall complete and submit to the department an assignment(s) of a cash deposit(s) or savings account(s) equal to the monetary amounts as specified in Vehicle Code section 34631.5, subdivision (a), paragraphs (1) and (2) and an additional \$5,000 to offset potential administrative costs along with the Assignment to the Department of Motor Vehicles [DMV 133 MCP, (REV. 8/2002)], which is hereby incorporated by reference, assigning the money to the department.

(c) The applicant shall have no unsatisfied final judgment(s) against the motor carrier name, the "Doing Business As" (DBA) name, or trade names listed on the Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)] resulting from property damages and/or bodily injury (including death) caused by a motor vehicle accident.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34630, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.02. Application to Self-Insure.

(a) An applicant requesting a Certificate of Self-Insurance [DMV 131 MCP (NEW 4/98)] shall complete, sign and certify under penalty of perjury under the laws of the State of California, an Application for a Certificate of Self-Insurance form [DMV 130 MCP (REV. 7/2002)], which is hereby incorporated by reference, to the department. The application shall be processed at no charge.

(b) The applicant shall indicate the level of financial responsibility requested and statutorily required for the type of commercial transportation operation(s) specified in Vehicle Code section 34631.5, subdivision (a), paragraphs (1) and (2).

(c) The department shall consider and may approve the Application for a Certificate of Self-Insurance in accordance with the provisions of Division 14.85 of the Vehicle Code and Sections 221.00 et seq. of Title 13, Division 1, Chapter 1 of the California Code of Regulations.

(d) The department shall notify an applicant in writing, within seven (7) days of receipt of an application, that it is complete or deficient.

(1) An application is considered complete when the applicable requirements of the Motor Carriers of Property Permit Act self-insurance statutes and these regulations have been fulfilled.

(A) With the determination that an application is complete, a certificate shall be issued.

(2) An application is considered deficient when the applicable requirements of the Motor Carrier of Property Permit Act self-insurance statutes and these regulations are not fulfilled.

(A) With the determination that an application is deficient, the department shall identify the specific requirement(s) needed to complete the application.

(e) An applicant shall respond in ten (10) days with supporting data requested by the department to determine initial eligibility as a self-insurer. Failure to respond may cause immediate cancellation of the application.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 34630, 34631 and 34631.5, Vehicle Code; and Section 15376, Government Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment of section heading and section filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.04. Assignment of Funds to the Department.

After approval, an applicant shall assign funds to the department in the manner described in this section.

(a) The applicant shall assign one or more cash deposits or savings accounts that accumulatively contain the monetary amounts specified in Vehicle Code section 34631.5, subdivision (a), paragraphs (1) and (2).

(b) The assignment of the monetary amount may be accepted on more than one assignment form, an Assignment for a Motor Carrier Certificate of Self-Insurance form [DMV 133 MCP (REV. 8/2002)].

(c) In addition to the statutorily required amount, the applicant shall deposit an additional \$5,000 to offset potential administrative costs. Administrative costs that exceed \$5,000 shall be paid out of the principal.

(d) An account shall be held in a bank(s) guaranteed by the Federal Deposit Insurance Corporation (FDIC); a savings association(s) guaranteed by the Savings Association Insurance Fund (SAIF); and/or a credit union(s) guaranteed by the National Credit Union Administration (NCUA). The financial institutions holding the funds assigned to the department shall have a physical office located in California.

(e) The applicant shall instruct the financial institution(s) to prepare and forward to the department an Assignment for a Motor Carrier Certificate of Self-Insurance, [DMV 133 MCP (REV. 8/2002)] assigning the above described funds to the department.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 34630 and 34631.5, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment of section heading and section filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.06. Issuance of the Certificate of Self-Insurance.

(a) After the application and assignment(s) are approved, the department shall issue a Certificate of Self-Insurance [DMV 131 MCP (NEW 4/98)], which shall contain an assigned number that serves as written evidence of self-insurance.

(b) The Certificate of Self-Insurance shall only serve as proof of financial responsibility under Vehicle Code section 34631.5, subdivision (a), paragraphs (1) and (2).

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34630(b), Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.08. Cancellation of the Certificate of Self-Insurance.

(a) Cancellation of a Certificate of Self-Insurance [DMV 131 MCP (NEW 4/98)], which is hereby incorporated by reference, and self insurance status may be initiated by the department for the following:

(1) Failure to maintain the requirements for obtaining a certificate pursuant to Section 221.020 of Title 13, Division 1, Chapter 1 of the California Code of Regulations.

(2) Failure to submit data in ten (10) days that is requested by the department to investigate and determine ongoing eligibility.

(3) Failure to provide adequate financial responsibility or greater financial responsibility that may be required in the future as a result of a change in statute.

(b) The department retains the authority to cancel the Certificate of Self-Insurance and self insurance status if the motor carrier fails to provide adequate financial responsibility as required in Vehicle Code section 34630.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Sections 34630 and 34631, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).

3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).

5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.10. Disbursement of Assignment.

(a) The assignment gives the Director the authority to disburse money from the principal and from the \$5,000 set aside for administrative costs.

(b) The money shall be disbursed for the following purposes:

(1) A final unsatisfied judgment against the assignor, to the limits set forth in Vehicle Code section 34631.5, subdivision (a), paragraphs (1) and (2), for damages to or destruction of property (other than the property being transported by the carrier), or bodily injury or death to any person arising from the use or operation of a motor vehicle under the Motor Carrier Permit.

(2) Administrative costs incurred by the department to determine legal entitlement to all or a portion of the cash deposit(s) or savings account(s). Costs that exceed \$5,000 shall be paid out of the principal.

(3) If the Director, the department, any of its officers or employees, or the State of California is a defendant in any action instituted to recover all or any part of the assigned account, or any action is instituted by the Director, the department, or the State of California to determine those entitled to any part of the account, the department shall be reimbursed for administrative costs from the account(s).

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34630, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-17-98 order, including amendment of section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
5. Amendment of subsections (b)(1) and (b)(3) filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).

§ 221.12. Termination of Assignment.

(a) A request for termination submitted on a Request to Terminate Self Insurance form [DMV 132 MCP (REV. 3/2001)] shall be deemed a termination of the assignment of the cash deposit(s) or savings account(s) and self-insurance status. The termination shall be processed at no charge.

(b) The Director shall release the money held by the assignment to the assignor seven years after the termination of the Motor Carrier Permit; or when acceptable proof of financial responsibility pursuant to Vehicle Code section 34630 is submitted to the department in the form of a Certificate of Insurance, [DMV 65 MCP (REV. 7/2002)] or a surety bond, [DMV 55 MCP (REV. 10/2003)]; or receipt of an incomplete Application for Motor Carrier Permit form [DMV 706 MCP (REV. 4/2003)] with no further activity. The Director may utilize his/her discretion and release the assignment before the seven-year period is complete when he/she is satisfied that there are no outstanding claims and unsatisfied final judgments against the motor carrier or former motor carrier. A judge of a superior court may order the return of the money held by the assignment prior to the expiration upon evidence satisfactory to the judge that there are no outstanding claims against the money held by the assignment.

(c) The assignment shall be released when the Director orders the assigned account(s) returned.

NOTE: Authority cited: Sections 1651 and 34604, Vehicle Code. Reference: Section 34630, Vehicle Code.

HISTORY

1. New section filed 4-10-98 as an emergency; operative 4-10-98 (Register 98, No. 15). A Certificate of Compliance must be transmitted to OAL by 8-10-98

- or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 34).
 3. New section filed 8-17-98 as an emergency; operative 8-17-98 (Register 98, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-15-98 or emergency language will be repealed by operation of law on the following day.
 4. Certificate of Compliance as to 8-17-98 order, including amendment of section heading and section, transmitted to OAL 10-16-98 and filed 12-2-98 (Register 98, No. 49).
 5. Amendment filed 12-23-2003; operative 1-22-2004 (Register 2003, No. 52).
 6. Amendment of subsection (b) filed 2-22-2005; operative 3-24-2005 (Register 2005, No. 8).

Article 3.6. Business Partner Automation Program

§ 225.00. Definitions.

The following definitions shall apply to this article.

(a) The term "BPA" shall identify the Business Partner Automation Program.

(b) The term "BPA contract" shall be defined as an agreement between the State and a qualified private industry partner as authorized under Section 1685 of the Vehicle Code.

(c) The term "accountable inventory" shall be defined as inventory identified by a unique serial number that is assigned by the department. These items are the department issued license plates and year stickers. These items are at all times the property of the department.

(d) The term "controlled inventory" shall be defined as inventory that may impact the registration of vehicles and collection of fees. These items are the department issued computer DMV95A paper and month stickers. These items are at all times the property of the department.

(e) The terms "first-line business partner," "first-line service provider," and "second-line business partner" shall be defined as set forth in Section 1685(b)(1)(A) through (C) of the Vehicle Code. A business partner that acts as a registration service is subject to Chapter 2.5, Division 5 of the Vehicle Code unless otherwise exempt.

(f) The term "interface" shall be defined as the electronic exchange of information.

(g) A "change in legal structure" shall be defined as a change between sole owner, partnership, corporation, Limited Liability Company or other legal entity.

(h) The term "owner" shall be defined as sole owner, partner (except for limited partner), Limited Liability Company members, or private and public corporation shareholders with 10% or more interest in the corporation.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New article 3.6 (sections 225.00-225.72) and section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New article 3.6 (sections 225.00-225.72) and section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New article 3.6 (sections 225.00-225.72) and section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.03. Application Requirements.

A business partner applicant shall complete all requirements and submit to the BPA Program Administrator the following:

(a) A business partner applicant shall complete, sign and submit an application form for the appropriate type of business.

(1) The application form for a first-line business partner is a Business Partner Automation Application, First-Line Business Partner form, REG 4024 (REV. 4/2005).

(2) The application form for a first-line service provider is a Business Partner Automation Application, First-Line Service Provider form, REG 4023 (REV. 4/2005).

(3) The application form for a second-line business partner is a Business Partner Automation Application, Second-Line Business Partner form, REG 4025 (REV. 4/2005).

(4) The application forms identified in Section 225.03(a)(1) through (3) of these regulations are hereby incorporated by reference.

(5) Each business partner owner shall be identified on the application form submitted pursuant to Section 225.03(a)(1) through (3) of these regulations.

(b) A business partner applicant shall pay a non-refundable application fee of three hundred and twenty-four dollars (\$324) for its principal place of business and one hundred and thirty dollars (\$130) for each site added with the application. Checks shall be made payable to the Department of Motor Vehicles. This fee shall be paid at the time the application is submitted. An application for a BPA contract shall be submitted via US mail or private courier to the following address: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS E383, Sacramento, CA 95818.

(1) An application shall be valid for one year from the date the application is first received by the department. An applicant who fails to fulfill the requirements identified in this section within one year from the date the application is first received by the department must reapply and pay a new application fee.

(c) A business partner applicant shall provide the information required by the Business Partner Automation Program Information Security Pre-Implementation Checklist for First-Line Business Partner and First-Line Service Provider form, INV5555A (NEW 11/2002) or the Business Partner Automation Program Information Security Pre-Implementation Checklist for Second-Line Business Partner form, INV 5555B (NEW 11/2002) and in the BPA contract.

(d) A business partner applicant shall submit a photocopy of the completed and signed Request for Live Scan Service form, DMV8016 (Rev. 11/2002) in accordance with Section 225.06 of these regulations and a Statement of Personal History form, REG 4019 (Rev. 11/2002) for each owner and each employee. The Statement of Personal History form is hereby incorporated by reference. A business partner applicant shall submit the documents required by this section for all owners, managers, and administrative staff responsible for the oversight of the program or who manage, administer, supervise, or monitor transactions, inventory, employees, or money; order or account for inventory; and employees who process vehicle registration transactions or work directly with customers.

(1) A business partner applicant located out-of-state or with BPA site locations out-of-state shall submit fingerprints for each owner identified on the application form and each of its employees on a Fingerprint Card form, ADM1316 (Rev. 1/97) or on a Request for Live Scan Service form in accordance with Section 225.06 of these regulations.

(A) The Fingerprint Card form shall be submitted to a local law enforcement agency. After the local law enforcement agency completes the form, processes for fingerprints, and signs and identifies itself, the form shall be returned to the business partner owner or employee, who will submit the form to the BPA Program Administrator.

(B) The completed original fingerprint forms, along with a copy of the receipt from the local law enforcement agency for processing the form, a photocopy of each person's valid driver license or identification card issued by the state where the site is located, a completed and signed Personal History Statement form for each person, and the fee as authorized in Penal Code section 11105(e) for the Department of Justice (DOJ) fingerprint checks for each set of fingerprints shall be sent by trackable mail. Checks shall be made payable to the Department of Motor Vehicles.

(e) Fingerprints shall not be required when the person to be fingerprinted is a business partner owner who is currently an occupational li-

cense of the department and whose fingerprints have already been submitted to the department.

(f) The business partner applicant shall submit evidence of compliance with Section 225.09 of these regulations.

(g) A business partner applicant shall complete, sign and submit the Information Security and Disclosure Statement (Firm) form EXEC201X (REV. 3/2003), which is hereby incorporated by reference.

(h) A business partner applicant that is a registration service, a dismantler or a vehicle dealer licensed by the department shall submit a copy of the Occupational License form, OL 39 (REV. 7/2004) form as evidence of a valid occupational license. The form is hereby incorporated by reference.

(i) A business partner with BPA site locations out-of-state shall maintain an office in the State of California or designate a registered agent within the State of California for service of process.

(1) The identification of a registered agent within the State of California that is available for service of process shall be provided on an application form identified in Section 225.03(a)(1) through (3) of these regulations.

(j) The department will review a submitted application package and determine whether or not the application package is complete within thirty (30) days of the receipt of the application package as required by Section 225.03 of these regulations. After a determination has been made by the department; written notification shall be sent to the applicant inform the applicant that the application is complete and acceptable for filing or that the application is deficient and what specific information is required by the applicant. The department will review a complete application package and decide whether or not to enter into a BPA contract within ninety (90) days of receipt of the complete package.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendments to subsections (a)(3), (c) and (d); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order, including amendment of subsection (g), transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsections (a)(1)-(3), (b) and (d)(1)(B), new subsection (h) and subsection relettering filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.06. Fingerprints.

(a) A business partner applicant shall submit fingerprints for business partner owners and employees located in California to a Live Scan facility for each person identified in Section 225.03(d) of these regulations. A copy of the Request for Live Scan Service form, DMV 8016 (Rev. 11/2001) shall be submitted for any and all persons being fingerprinted prior to participation in the BPA.

(1) The Request for Live Scan Service form shall contain the following:

- (A) The typed or printed true, full name of the person fingerprinted.
- (B) Any aliases used by the person fingerprinted.
- (C) The birth date of the person fingerprinted.
- (D) The birthplace of the person fingerprinted.
- (E) The sex, height, weight, eye color and hair color of the person fingerprinted.
- (F) The driver license or identification card number of the person fingerprinted and state of issue.
- (G) The social security number of the person fingerprinted.
- (H) The date the fingerprints are taken.

(I) The signature of the person taking the fingerprints.

(J) A statement that the Request for Live Scan Service form shall be for the purpose of determining approval to participate in the BPA.

(K) The home address and telephone number of the person fingerprinted.

(b) A business partner applicant shall submit fingerprints for business partner owners and employees located out-of-state for each person identified in Section 225.03(d) of these regulations to a Live Scan facility or to any local law enforcement agency. A Fingerprint Card form, ADM1316 (Rev. 1/97) shall be submitted for the person being fingerprinted prior to participation in the BPA.

(1) The Fingerprint Card form shall contain the following:

- (A) The true, full name of the person fingerprinted.
- (B) The signature of the person fingerprinted.
- (C) The date the person is fingerprinted.
- (D) The signature of the official at the local law enforcement agency taking the fingerprints.
- (E) The name and address of the law enforcement agency performing the fingerprinting.

(F) Aliases (AKA) of the person fingerprinted.

(G) The driver license or state issued identification card number of the person fingerprinted.

(H) The sex, height, weight, eye color and hair color of the person fingerprinted.

(I) The birthplace of the person fingerprinted.

(J) The date of birth of the person fingerprinted.

(K) The social security number of the person fingerprinted.

(L) On the reverse side, the "Occupational Licensing Branch" box and "Other" box shall be checked and the notation "BPA" added to explain why the "Other" box is checked.

(M) The name of the business partner that is owned by or employs the person fingerprinted.

(N) The street address and city of the business partner that is owned by or employs the person fingerprinted.

(O) The position (title) in the business of the person fingerprinted.

(P) The street address and city of the person fingerprinted.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsection (a) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.09. Financial Security Requirements.

(a) Every applicant for issuance or renewal of a business partner permit shall submit the bond required by Vehicle Code section 1685(b)(2)(C) to the department on a Business Partner Automation Surety Bond form, REG 866 (Rev. 4/2005), which is hereby incorporated by reference.

(1) The surety bond shall be valid for the term of its BPA contract plus three (3) months.

(2) A cash deposit as provided in Section 995.710 of the Code of Civil Procedure shall be acceptable in lieu of the surety bond.

(b) The amount of financial security required shall be as follows:

(1) A first-line business partner shall maintain a bond in the amount of six hundred and fifty thousand dollars (\$650,000).

(2) A first-line service provider shall maintain a bond in the amount of one million dollars (\$1,000,000).

(3) A second-line business partner processing new vehicle reports of sale, vehicle transfer, vehicle license fee (VLF) refund, salvage, junk, or nonrepairable vehicle transactions or any combination thereof shall maintain a bond in the amount of fifty thousand dollars (\$50,000). A second-line business partner processing registration renewal transactions only shall maintain a bond in the amount of ten thousand dollars (\$10,000).

(c) A business partner shall hold the State of California and any political subdivision thereof or any of its officers, agents, or employees harmless for monetary losses caused by the business partner's misuse of the information obtained from the department or obtained from customers for transactions processed by the business partner and secured by the bond.

(d) A rider for the surety bond may be accepted when adding processing transaction(s) to the surety bond.

(e) A business partner shall pay to the department monies collected by the business partner and due to the department, including any transaction fee imposed in regulation or statute by the State under Vehicle Code section 1685.

(f) A business partner shall reimburse the State of California, or any political subdivision thereof, for any loss or damage that the State of California, or any political subdivision thereof, may suffer by reason of any act of the business partner, its agents or employees arising out of or related to the business partner's duties, functions or obligations as a business partner, in any amount up to the maximum amount secured under the bond, when any of the following conditions occur:

(1) Information obtained from the department or customers by false or misleading representations while performing the duties, functions and obligations of a business partner.

(2) Information obtained from the department and customers and used for any purpose other than specified in the regulations or BPA contract.

(3) Any other act resulting in monetary losses being suffered by the State of California, any political subdivision of the State of California, or any of its officers, agents or employees arising out of or related to the duties, functions and obligations of a business partner.

(g) A cash deposit shall be released by the department five (5) years after the business partner ceases to do business in the BPA program or when the contract and permit expires and is not renewed and the department is satisfied that there are no outstanding claims and unsatisfied final judgments against the business partner arising out of or related to the duties, functions or obligations as a business partner.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of section heading and section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsection (a)(1), new subsection (b)(2) and subsection renumbering; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order, including amendment of subsections (a)(1) and (a)(3) and new subsections (c)-(e)(3), transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.12. Business Partner Contract.

(a) A business partner applicant shall sign the BPA contract prepared on a State of California, Standard Agreement form, STD213 (NEW 2/98) and executed in accordance with the Department of General Services requirements and the State Contracting Manual.

(b) A BPA contract shall be in effect for thirty-six (36) months. A renewal application and new BPA contract shall be required for each subse-

quent permit. The renewal application process may be started one hundred and twenty (120) days before the BPA contract and permit expire.

(c) Should any provision of the BPA contract, statute or regulations be deemed illegal or unenforceable, all remaining provisions of the BPA contract, statutes, and regulations shall remain in effect.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsections (b) and (c) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsection (b) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.15. BPA Permit Authority.

(a) No person shall act as a business partner who is not a party to a currently valid BPA contract.

(b) A BPA permit shall be issued to each first-line business partner, first-line service provider and second-line business partner for each site location that the department has determined meets the qualifications to enter into a BPA contract. Upon the execution of the BPA contract, the department will issue a BPA permit. The BPA permit shall identify the business as an authorized business partner.

(c) The Authorized Business Partner Permit form, REG 4027 (Rev. 6/2002) shall be displayed within view of the business partner's customers.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653 and 1685, Vehicle Code; and 15376, Government Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsection (c) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.18. Cause for Refusal to Enter into a Contract and Issue a Permit.

(a) The failure of an applicant to establish its honesty, integrity, good character and reputation to the satisfaction of the department is good cause for the department to refuse to enter into a BPA contract with such applicant.

(b) The failure of an applicant to establish the honesty, integrity, good character and reputation of any of its owners or employees to the satisfaction of the department is good cause for the department to refuse to enter into a BPA contract with such applicant.

(c) The information provided on a Statement of Personal History form, REG 4019 (Rev. 11/2002), the message(s) from DOJ in response to a fingerprint check and/or other information obtained by the department may be the basis for approval or disapproval of a business partner, business partner owner(s) or employee(s) in meeting the standards stated in Section 1685(b)(2)(B) of the Vehicle Code to participate in the BPA.

(d) There is good cause for the department to refuse to enter into a BPA contract with a business partner applicant if the applicant, one of its owners or employees:

(1) Has been convicted of a felony or a crime, or committed an act or engaged in conduct involving moral turpitude that is substantially related to the function of a BPA business partner.

(2) Is or has been the holder of an occupational license issued by the department that has been suspended or revoked.

(3) Is or has been a managerial employee of an occupational licensee licensed by the department that has been suspended or revoked.

(4) Is or has been a commercial requestor or one of its owners that has been suspended or revoked.

(5) Has failed to comply with their BPA contract or failed to complete any of the audit requirements of Section 225.63 of these regulations.

(6) Has used a false name, made any false statement, or concealed any material fact in any BPA application or statement of personal history.

(7) Has displayed, caused or permitted a sign, mark or advertisement, or used a "Doing Business As" (DBA) in violation of Section 25 of the Vehicle Code.

(8) Has permitted or engaged in fraudulent practices or acts, with reference to clients, members of the public or the department.

(9) Has committed or was responsible for any other act, occurrence, or event in California or any foreign jurisdiction that provides cause for refusal to issue a permit.

(10) Has failed to comply with Section 1685, of the Vehicle Code; Division 5, (commencing with Section 11100) of the Vehicle Code, has violated Article 3, commencing with Section 1800, Chapter 1, Division 2 of the Vehicle Code or any regulation adopted under these statutes.

(11) Was a departmental employee dismissed by the department for cause related to honesty, integrity, good character and reputation of the person dismissed by the department within the last ten (10) years.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsections (c) and (d)(10) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsections (c) and (d)(11); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsections (c) and (d)(10) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).
6. Amendment of subsection (c)(11) filed 7-9-2007; operative 8-8-2007 (Register 2007, No. 28).

§ 225.21. Review of Criminal History Information.

(a) In reaching a decision on approval or disapproval of a business partner owner or employee to participate in the BPA, the BPA Program Administrator or a designee may review and consider the criminal history information provided by the California Attorney General pursuant to Section 11105(b)(9) of the Penal Code. This information may be used as part of the department's process in reaching a decision as it relates to Sections 225.00 et seq. of these regulations. The BPA Administrator or designee will consider the "Occupational Licensing and Disciplinary Guidelines" (Rev. 3/98) incorporated by reference in Section 440.04, Article 6.1, Chapter 1, Division 1, Title 13, of the California Code of Regulations in reaching a decision.

(1) Deviation from the Guidelines is appropriate when the Director or designee, in his or her sole discretion, determines that the facts warrant such a deviation, for example, the presence of mitigating factors, how long ago the conduct, action, or offense occurred, evidentiary problems and customer complaints.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsection (a) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsection (a) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.24. Failure to Meet Security Requirements.

The failure of an applicant or a business partner to comply with the information security requirements identified in Section 225.51 shall be good cause for the department to cancel, terminate or refuse to enter into a BPA contract with such business partner applicant.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.27. Transaction Access.

(a) The processing of vehicle registration and titling transactions and issuing of vehicle registration indicia and documents by a business partner requires access to the department's data communication system and the vehicle registration and BPA inventory databases through a network approved by the department.

(b) A business partner's interface access shall be compatible with the department's interface. Equipment and software to access and interface with the department's databases shall be the responsibility of the business partner.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.30. Electronic Fund Transfer.

(a) A business partner shall execute and comply with all terms and conditions of the Electronic Fund Transfer Authorization Agreement for Pre-Authorized Payments (09/04/02) (EFT contract) that provides for payment to the department of the fees collected by the business partner and due to the department.

(1) The first-line business partner shall authorize the department to initiate debit entries into the account identified in the EFT contract for payment of all fees collected for and due to the department.

(2) The first-line service provider shall authorize the department to initiate debit entries into the account identified in the EFT contract for payment of all fees collected by its second-line business partners for payment of all fees collected for and due to the department.

(3) When the department is notified by the financial institution of insufficient funds or closed account status, the department shall suspend interface access until payment of all fees and charges. Applicable bank service charges, in addition to a thirty dollar (\$30) (returned item) charge, shall be paid to the department.

(4) When the business partner is notified by the department of its insufficient funds or closed account status, the business partner shall make a same-day reimbursement by wire transfer. The reimbursement shall include the exact amount of the electronic billing, the thirty dollar (\$30) (returned item) charge, wire transfer processing fee charged to the department by the depository, and any applicable bank service charges.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.33. Use and Retention of Information.

(a) A business partner shall not use any information received from a customer or the department for any purpose other than the purposes authorized by this article.

(b) All information shall be treated as confidential or restricted information and shall retain the protections provided by Vehicle Code sections 1808.21, 1808.45, 1808.46 and 1808.47.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1798.26, Civil Code; and Sections 1685, 1808.21, 1808.45, 1808.46, 1808.47, 1810, 1810.7 and 1811, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.35. Renewal.

(a) A business partner renewal applicant shall complete and submit the following to the BPA Program Administrator prior to the expiration of the contract and permit term:

(1) A completed and signed Business Partner Automation Program Renewal Application form, REG 5056 (NEW 2/2005), which is hereby incorporated by reference.

(2) A completed and signed Information Security and Disclosure Statement (Firm) form, EXEC 201X (REV. 3/2003).

(3) A copy of the business partner's valid occupational license form, OL 39 (REV 7/2004), if applicable.

(4) A non-refundable renewal application fee of one hundred and ninety-eight dollars (\$198). Checks shall be made payable to the Department of Motor Vehicles.

(b) A renewal application shall be received within thirty (30) days of the expiration date on the BPA Permit form, REG 4027 (REV. 6/2002). Applications received after that date shall be required to comply with the original application requirements as specified in section 225.03 in these regulations. The Business partner shall not process any transactions after the expiration of the contract and permit without the completion and approval of the BPA renewal or original application.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.36. Change of First-Line Service Provider.

(a) If a second-line business partner requests to change the first-line service provider identified in the BPA contract, the second-line business partner shall complete and submit to the BPA Program Administrator a request for a change in the BPA contract on the Business Partner Automation Program Service Provider Change form, REG 4022 (Rev. 11/2002), which is hereby incorporated by reference. The request shall be completed, signed and submitted to the BPA Program Administrator no less than twenty (20) days prior to any change of service provider.

(b) The department will process the requested change if the proposed first-line service provider is currently authorized by the department to act as a first-line service provider and the requirements of Section 225.36(a) of these regulations are met.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsection (a) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsection (a); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.39. Business Partner Responsibilities.

(a) First-line service providers shall be responsible for:

(1) Providing oversight for their second-line business partners to ensure they are in compliance with the terms and conditions of their BPA contracts.

(2) Ensuring that their prospective second-line business partners submit all application requirements pursuant to Section 225.03 of these regulations.

(3) Ordering and distributing inventory for their second-line business partners.

(4) Establishing an automated inventory tracking and assignment system to track accountable inventory shipped to the first-line service provider or their second-line business partner. The automated inventory tracking and assignment system shall be capable of recording the date received, status, and location of all accountable inventory.

(5) Tracking and monitoring the issuance of accountable and controlled inventory assigned to their second-line business partners.

(6) Ensuring that none of their second-line business partners have more than a three (3) month supply of inventory in their possession at any time.

(7) Submitting comprehensive quarterly physical inventory reports for their second-line business partners on a "Physical Inventory Non-DMV Entities" form, ADM 175A (Rev. 2/2000).

(8) Establishing security awareness and education programs and measures to ensure that all of their second-line business partners are aware of the first-line service provider's procedures for protecting the confidentiality of records.

(9) Ensuring that all of their second-line business partners have implemented the physical security required in this article and by the BPA contract to prevent and discourage inadvertent or deliberate alteration, disclosure, destruction, loss, misuse, or theft of DMV records, proprietary assets, and accountable and controlled items in their possession.

(10) Controlling access to the department's vehicle registration and titling and inventory databases by use of an authentication credentialing system that shall identify, authenticate and authorize access for each individual user.

(11) Providing registration and titling training for their second-line business partners authorized to participate in the BPA program.

(12) Auditing and reconciling transactions processed by their second-line business partners.

(13) Submitting all transactions to the department within twenty (20) days of the date the transaction was processed.

(14) Ensuring that all of their second-line business partners comply with the advertising requirements identified in any agreement with the department.

(15) Submitting all fees collected for and due to the department.

(16) Ensuring that their second-line business partners only process the types of vehicle transactions authorized for each second-line business partner.

(b) Whenever the State examines, audits or investigates any second-line business partner, the second-line business partner shall pay, within thirty (30) days after receipt of a statement from the State, the reasonable costs incurred by the State for the performance of the examination, audit or investigation, including, but not limited to:

(1) The reasonable amount of the salary and/or other compensation paid to the persons making the examination, audit or investigation.

(2) The reasonable expenses for travel, meals and lodging of the persons making the examination, audit or investigation.

(3) The reasonable amount of any other expenses, including overhead.

(c) When the second-line business partner fails to pay the department for the examination, audit or investigation within the thirty (30) days as required in Section 225.39(b) of these regulations, the first-line service provider that provides the interface access to the department for the second-line business partner shall be billed by the department and have thirty (30) days from the billing date to pay for the examination, audit or investigation.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653, and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.

2. New section with amendment of section heading and section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

5. Amendment of subsection (a)(7), new subsection (a)(16) and amendment of subsection (c) filed 7-9-2007; operative 8-8-2007 (Register 2007, No. 28).

§ 225.42. Business Partner Changes.

(a) A business partner shall notify the BPA Program Administrator within the timeframes identified for the changes listed in Sections 225.42(a)(1) through (7) of these regulations on a Business Partner Au-

tomation Program Application for Changes form, REG 4026 (Rev. 11/2002), which is hereby incorporated by reference. The completed and signed Business Partner Automation Program Application for Changes form shall be sent by US Mail or private courier to the Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS E383, Sacramento, CA 95818. The following changes shall be entered on the Business Partner Automation Program Application for Changes form:

(1) Closing a site, identified by the site identification number. The business partner shall notify the BPA Program Administrator no more than five (5) days after the closure of the site.

(2) Changing the business, corporate, or Limited Liability Company name. The business partner shall notify the BPA Program Administrator no more than twenty (20) days after the effective date of the name change.

(3) Adding a site. A nonrefundable processing fee of one hundred and seventy-five dollars (\$175) shall be submitted to the BPA Program Administrator with the Business Partner Automation Program Application for Changes form when a business partner adds a site after entering into a BPA contract.

(4) Changing the address of a principal place of business or site. The business partner shall notify the BPA Program Administrator no less than twenty (20) days prior to the address change.

(5) Adding an employee. A business partner shall not permit an employee to access DMV inventory or data unless the business partner has complied with the requirements of Section 225.03(d) of these regulations and has received approval from the department under Section 225.18(c) for the employee to have access to DMV inventory and data.

(6) Deleting an employee. The business partner shall notify the BPA Program Administrator no more than five (5) days after deleting an employee from the BPA program. The business partner shall identify the reason for deleting an employee.

(A) A business partner who terminates an employee for cause related to honesty, integrity, good character and reputation, pursuant to Vehicle Code section 1865, shall notify the BPA Program Administrator no more than one (1) day after the termination date.

(B) A business partner who terminates an employee for cause unrelated to honesty, integrity, good character and reputation, pursuant to Vehicle Code section 1865, shall notify the BPA Program Administrator within five (5) day after the termination date.

(7) Changing controlling director(s) and/or officer(s); changing member(s) of a Limited Liability Company; changing management and/or supervising BPA personnel; or changing partner(s) or stockholder(s). The business partner shall notify the BPA Program Administrator no more than twenty (20) days after the effective date of the change.

(b) A business partner shall notify the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier at least twenty (20) days prior to the effective date of the following changes:

(1) Change of "Doing Business As" (DBA) name.

(2) Change of mailing address.

(c) A business partner shall notify the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier no more than five (5) days after the effective date of the following changes:

(1) Change of operations contact person.

(2) Change of registered agent for service of process.

(d) A business partner shall notify the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier at least sixty (60) days prior to the effective date of a change of the account number identified pursuant to Section 225.30 of these regulations.

(1) A change of the account number shall require a new EFT contract pursuant to Section 225.30 of these regulations.

(e) The business partner shall notify the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier within seven (7) days of a change of telephone number.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Sections 1652, 1653 and 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsections (a) and (a)(6)(A) and new subsection (a)(6)(B); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of subsection (a)(6) (Register 2003, No. 33).
5. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
6. Amendment of subsection (a) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.45. Customer Fees.

(a) A business partner shall complete a Business Partner Automation Disclaimer form, REG 4020 (Rev. 1/2004) for each DMV transaction when a customer fee is charged.

EXCEPTIONS: (1) A business partner completing a conditional sales contract or lease agreement pursuant to Civil Code section 2982, 2982.5 or 2985.8 may disclose the amount of any optional Business Partnership Automation program fee to process transactions identified in Section 225.45(b)(1) through (3) of these regulations using the sales contract or lease agreement in place of the Business Partner Automation Disclaimer form. (2) A business partner acting as a salvage pool, as specified in Vehicle Code Section 543, shall be exempt from completing the form. (3) A business partner acting as a licensed registration service, as specified in Vehicle Code Section 505.2, may disclose the amount of any optional Business Partnership Automation program fee to process transactions identified in Section 225.45(b)(1) through (3) of these regulations using the methods required under Section 330.30, of Title 13 in the California Code of Regulations in place of the Business Partner Automation Disclaimer form.

(1) The business partner shall obtain the customer's signature on the form after the business partner enters on the form the fee amount that the business partner is charging to process the transaction.

(2) The business partner shall provide the completed original of the Business Partner Automation Disclaimer form to the customer, shall keep a completed copy, and shall send a copy to the department with the transaction documents. Voided copies of the form shall be retained with the completed copies kept by the business partner pursuant to Section 225.60 of these regulations.

(3) The Business Partner Automation Disclaimer form is hereby incorporated by reference.

(b) A customer may be charged the following maximum amounts for each type of transaction processed through to completion by a business partner.

(1) Licensed vehicle dealers and licensed dismantlers may charge up to \$25 for any transaction authorized under the Business Partnership Automation Program, in addition to any other fees authorized by statute.

(2) Licensed registration services may charge up to \$25 for a registration renewal, a substitute vehicle license plate and sticker, a substitute vehicle license plate sticker or new vehicle report of sale transaction, up to \$75 for a junk vehicle transaction, and up to \$75 for any other authorized transaction.

(3) Salvage pools may charge up to \$75 for salvage and non-repairable vehicle certificates.

(c) Business partners are not authorized to charge a fee for Vehicle License Fee refund transactions.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3-3-2003 as an emergency, including amendment of subsection (a); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3-3-2003 order, including further amendment of section, transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

5. Amendment of subsection (a) filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

6. Amendment of subsections (a) and (b), new subsections (b)(1)-(3) and repealer and new subsection (c) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

7. Amendment of subsection (b)(2) filed 7-9-2007; operative 8-8-2007 (Register 2007, No. 28).

§ 225.48. Transaction Fee.

(a) A first-line business partner and a first-line service provider shall pay a transaction fee to the department, pursuant to subdivision (d) of Vehicle Code section 1685, in the amount of three dollars (\$3) for each transaction processed through to completion. The transaction fee may be charged to the customer in addition to the customer fees authorized in Section 225.45 of these regulations.

EXCEPTION: Payment of a transaction fee for vehicle license fee refund transactions shall not be required.

(b) The transaction fee shall be paid to the department by the due date designated on the billing notice. The payment of the fee based on the billing notice shall be sent by traceable mail to the Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS-E383, Sacramento, CA 95818.

(c) Upon notification of insufficient funds or closed account status for the payment of transaction fees or failure to pay by the due date designated on the billing notice, the department shall suspend interface access until payment for all fees and charges is received.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 12-23-2003; operative 1-1-2004 pursuant to Government Code section 11343.4 (Register 2003, No. 52).

2. Amendment of subsections (a) and (b) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.51. Information Security Requirements.

(a) A business partner, its owners and employees shall comply with the department's *IT Security Guidelines for Use in BPA Program* (January 2004), which is hereby incorporated by reference, when processing transactions through the American Association of Motor Vehicle Administrators AAMVAnet conduit. A business partner, its owners and employees shall comply with the department's *California DMV Security Requirements for the Internet—Business Partners* (Revised November 2004), which is hereby incorporated by reference, when processing transactions through the Internet.

(b) A business partner, its owners and employees shall comply with the Information Practices Act of 1977 (Section 1798 et seq. of the Civil Code), the Public Records Act (Section 6250 of the Government Code), Sections 1808.21 and 1808.47 of the Vehicle Code, Sections 11015.5 and 11019.9 of the Government Code, and any and all related statutes pertaining to information security.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1798.19, Civil Code, Sections 6250, 11015.5, 11019.9, Government Code; and Sections 1685, 1808.21 and 1808.47, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.

2. New section with amendment of subsection (a) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.

3. New section refiled 3-3-2003 as an emergency, including amendment of subsection (a); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.

4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

5. Amendment of subsection (a) filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).
6. Amendment of subsection (a) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

§ 225.54. Transaction Procedures and Inventory Requirements.

A business partner shall process transactions and control inventory according to the "BPA Transaction Procedures and Inventory Requirements Handbook" (Revised April 2007), which is hereby incorporated by reference.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with repealer and new section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendments; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order, including further amendment of section, transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).
6. Amendment filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).
7. Amendment filed 7-9-2007; operative 8-8-2007 (Register 2007, No. 28).

§ 225.57. Inventory.

[Reserved for future use.]

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of section heading and repealer and reservation of section number refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. Repealer and reservation of section number refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.60. Retention of Business Records.

(a) Each business partner shall maintain all business records related to the BPA program. These records shall be retained for the term of the BPA contract in which they pertain, for three (3) years following the termination, cancellation or expiration of the BPA contract and during any ongoing examination, audit and investigation pursuant to Sections 225.63 and 225.66 of these regulations.

(b) Upon the department's request, all business records shall be immediately made available during normal business hours to the department's representative.

(1) A business partner's out-of-state site locations may be issued a permit only if the business partner agrees in writing, and subject to the sole discretion of the BPA Program Administrator, to (1) make the business records available in California for an examination, investigation or to complete an audit or (2) pay the reasonable costs of an examination, audit or investigation, including but not limited to the expenses for travel, meals and lodging of the department's representative incurred during an investigation or audit made at the business partner's out-of-state location.

(c) A business partner shall retain the business records at the business partner's principal place of business.

(d) The business records required to be maintained by the business partner under the terms of the BPA contract are records of the department.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendment of subsection (b)(1) refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order, including amendment of subsection (b)(1), transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.63. Audit Requirements.

(a) A business partner shall hire an independent auditor to perform three (3) compliance audits during the term of the BPA contract. The audits shall be conducted by an independent auditor in accordance with generally accepted government auditing standards and the department's BPA Audit Plan, which consists of the Independent Audit Plan (August 30, 2002) and Independent Audit Program (August 30, 2002). The independent auditor shall keep confidential the department's business practices obtained in the course of an audit.

(1) The department may accept the Business Partner Automation Program Audit Self Certification form, REG. 4016 (NEW 12/2002), which is hereby incorporated by reference, in lieu of a compliance audit from second-line business partners only.

(A) The second-line business partner shall submit a Business Partner Automation Program Audit Self Certification form, REG. 4016 (NEW 12/2002) to the BPA Program Administrator. A copy of the form shall be submitted to the first-line service provider and the Audits Office at the address indicated in Section 225.63(c).

(B) The Business Partner Automation Program Audit Self Certification form shall be submitted when an audit is due as set forth in Section 225.63(a)(2) of these regulations.

(2) An audit is required for each twelve (12) month period of the BPA contract. Each audit shall be completed within ninety (90) days of the end of each twelve (12) month audit period. A copy of the audit report, including any findings and recommendations, shall be submitted to the department within sixty (60) days of completion of each audit.

(3) The independent auditor shall be licensed as a certified public accountant in good standing in the state where the site is located.

(4) The independent auditor shall not be part of the ownership or involved in the operation or overview of any part of the business partner's business(es).

(b) The independent auditor shall sign a Representative Non-Disclosure Statement form, REG4028 (NEW 3/2002) agreeing to protect as confidential information all department records and information including, but not limited to, residence/ mailing addresses.

(1) The Representative Non-disclosure Statement form shall be kept with the business partner's BPA business records and available for audit.

(2) The Representative Non-Disclosure Statement form is hereby incorporated by reference.

(c) The independent auditor shall provide the business partner audit report, the independent auditor's findings and any suggested corrective action plan or audit response developed by the business partner to the department at the following address: Department of Motor Vehicles, Audits Office, P.O. Box 932328, MS H121, Sacramento, CA 94232-3890.

(1) Audits of second-line business partners shall require that a copy of the audit report, findings and any suggested corrective action plan or

audit response be sent to the department and the first-line service provider by the independent auditor. The first-line service provider shall retain and maintain a copy of the audit report and corrective action plan or audit response pursuant to Section 225.63.

(d) A business partner shall inform the BPA Program Administrator when an independent auditor is no longer employed by the business partner to perform an audit. This notice shall be sent within seven (7) days of release of the independent auditor. The signed and written notice on business partner letterhead shall be sent by facsimile, US mail, or private courier when an independent auditor is released from service.

(e) A business partner's principal place of business shall be open during normal business hours for an electronic or manual audit of the records required to be retained immediately upon a request from the State.

(f) The department may conduct a standard random audit to verify compliance without reimbursement from a business partner.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsections (a)(1)(A) and (b); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order, including amendment of subsection (d) and new subsection (f), transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsections (a)(1)-(a)(1)(A) and (c) filed 7-9-2007; operative 8-8-2007 (Register 2007, No. 28).

§ 225.66. Investigation and Review.

(a) The department may exercise any and all authority and powers available to it under any other provisions of law to administer and enforce this article, including, but not limited to, examining, auditing and investigating the business partner's books and records, and charging and collecting the reasonable costs for these activities. Any civil, criminal, and administrative authority and remedies available to the department may be sought and employed in any combination deemed advisable by the department to enforce the provisions of this article. Nothing in this section shall be construed to impair or impede the department's authority under any other provision of law.

(b) The State may examine, audit, or investigate a business partner's activities under Vehicle Code section 1685, these regulations, and any agreement between a business partner and the State even if the BPA contract is terminated, cancelled or expires. The examination, audit or investigation may relate to any matter, including, but not limited to, procedures, operations and finances relating to the business partner activity. The business partner shall make available to the State all of its records and reports relating to the conduct of the activity, whether hard copy, or stored in electronic media. Failure by a business partner to comply with the provisions of this section shall be cause for immediate termination of a business partner's authorization to process transactions as a business partner.

(c) Whenever the department examines, audits or investigates any business partner, that business partner shall pay, within thirty (30) days after receipt of a statement from the department, the reasonable costs incurred by the department for the performance of the examination, audit or investigation, including, but not limited to:

(1) The reasonable amount of the salary and/or other compensation paid to the persons making the examination, audit or investigation.

(2) The reasonable expenses for travel, meals and lodging of the persons making the examination, audit or investigation.

(3) The reasonable amount of any other expenses, including overhead.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.69. Cancellation or Termination of a BPA Contract and Permit.

(a) A first-line business partner and first-line service provider shall cancel a BPA contract and permit by notifying the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier no less than thirty (30) days prior to the cancellation.

(1) A second-line business partner shall cancel a BPA contract and permit by notifying its first-line service provider and the BPA Program Administrator in signed and written notifications on business partner letterhead and sent by facsimile, US mail, or private courier no less than thirty (30) days prior to the cancellation.

(b) The department may terminate a BPA contract and permit at any time without notice for any cause listed in Section 225.18 of these regulations.

(1) A business partner terminated for cause may not submit a new application until one year after the date its BPA contract was terminated by the department for cause.

(c) The department may terminate a BPA contract and permit without cause upon thirty (30) days written notification to a business partner.

(d) Upon the department's request, regardless of the reason, or upon the termination, cancellation or expiration of the BPA contract, a business partner shall immediately discontinue the use of electronic interface access and the issuance of any and all DMV inventory, including, but not limited to, license plates, stickers and DMV95A paper.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section with amendments refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency; operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).

§ 225.72. Voluntary Closing.

(a) A first-line service provider shall comply with the following procedures to close a site location within thirty (30) days of cancellation or expiration of the BPA contract:

(1) The first-line service provider shall collect all unassigned accountable and controlled inventory from all of its second-line business partner sites.

(2) The first-line service provider shall complete a Physical Inventory (Non-DMV Entities) form, ADM175A (Rev. 2/2000), by recording all of the unassigned accountable inventory on the form and signing the form.

(3) The first-line service provider shall update the status of its accountable inventory on the BPA Inventory Database system.

(4) The first-line service provider shall return the Physical Inventory (Non-DMV Entities) form and all accountable inventory by trackable

US mail or private carrier to: Department of Motor Vehicles, Automated Inventory Management Systems Unit, 2570 24th Street, MS G202, Sacramento, CA 94232-3820.

(5) The first-line service provider shall return all controlled inventory by trackable US mail or private carrier to: Department of Motor Vehicles, Inventory Management, 4201 Sierra Point Drive, Suite 112, Sacramento, CA 95834.

(6) The first-line service provider shall return all transactions and supporting documentation by trackable US mail or private carrier to: Department of Motor Vehicles, Manager Field Office Support Unit, 2415 1st Ave. MS E250, Sacramento, CA 95818.

(7) The first-line service provider shall return the permit by trackable US mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS E383, Sacramento, CA 95818.

(b) A first-line business partner shall comply with the following procedures to close a site location within thirty (30) days of cancellation or expiration of the BPA contract.

(1) The first-line business partner shall collect all unassigned accountable and controlled inventory from all branch site locations.

(2) The first-line business partner shall complete a Physical Inventory (Non-DMV Entities) form, ADM175A (Rev. 2/2000) by recording all unassigned accountable inventory on the form and signing the form.

(3) The first-line business partner shall record the status of its accountable inventory on the BPA Inventory Database system.

(4) The first-line business partner shall return the Physical Inventory (Non-DMV Entities) form and all accountable inventory by trackable US mail or private carrier to: Department of Motor Vehicles, Automated Inventory Management Systems Unit, 2570 24th Street, MS G202, Sacramento, CA 94232-3820.

(5) The first-line business partner shall return all controlled inventory by trackable US mail or private carrier to: Department of Motor Vehicles, Inventory Management, 4201 Sierra Point Drive, Suite 112, Sacramento, CA 95834.

(6) The first-line business partner shall return all transactions and supporting documentation by trackable US mail or private carrier to: Department of Motor Vehicles, Manager Field Office Support Unit, 2415 1st Ave, MS E250, Sacramento, CA 95818.

(7) The first-line business partner shall return the BPA permit by trackable US mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS E383, Sacramento, CA 95818.

(c) A second-line business partner and its first-line service provider shall comply with the following procedures to close a second-line business partner site location within thirty (30) days of cancellation or expiration of the BPA contract.

(1) The second-line business partner shall collect all unassigned accountable and controlled inventory and return it to its first-line service provider within seven (7) days of the cancellation or expiration of the BPA contract.

(2) The first-line service provider may redistribute the unassigned accountable inventory to its other second-line business partners.

(3) The second-line business partner shall return all transactions and supporting documentation to its first-line service provider within seven (7) days of the cancellation or expiration of the BPA contract. The first-line service provider shall return all transactions and supporting documentation by trackable US mail or private carrier to: Department of Motor Vehicles, Manager Field Office Support Unit, 2415 1st Ave, MS E250, Sacramento, CA 95818.

(4) The second-line business partner shall return the BPA permit by trackable US mail or private carrier to: Department of Motor Vehicles, BPA Program Administrator, 2415 1st Avenue, MS E383, Sacramento, CA 95818.

NOTE: Authority cited: Sections 1651 and 1685, Vehicle Code. Reference: Section 1685, Vehicle Code.

HISTORY

1. New section filed 7-5-2002 as an emergency; operative 7-5-2002 (Register 2002, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-4-2002 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 11-4-2002 as an emergency; operative 11-4-2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3-4-2003 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 3-3-2003 as an emergency, including amendment of subsections (a)(6) and (c)(3); operative 3-3-2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-1-2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 3-3-2003 order transmitted to OAL 6-27-2003 and filed 8-11-2003 (Register 2003, No. 33).
5. Amendment of subsections (a)(7), (b)(7) and (c)(4) filed 2-22-2006; operative 3-24-2006 (Register 2006, No. 8).

Article 4. Occupational Licenses

§ 250.00. Occupational License Application Requirements.

Occupational license application:

(a) Shall be submitted to the department at any of its locations.

(b) Shall be on the forms prescribed by the department.

(c) Shall be complete and contain the information required in this article.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11102, 11102.5, 11104, 11501, 11601, 11602, 11701 and 11704, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.00 to section 250.00 and relocation of article heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 250.02. Time Requirements for Submitting Application.

An applicant for an occupational license or a licensee wishing to change an existing license shall submit the required forms to the department at least three (3) business days prior to the desired effective date of such application or change.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11100, 11500, 11600 and 11700, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.01 to section 250.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 252.10. Business License Definition.

A business license is a license issued to any of the following categories: Dealer, lessor-retailer, dismantler, manufacturer, distributor or transporter.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11500, 11600 and 11700, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.10 to section 250.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 252.20. Business License Application Requirements.

An application for a business license issued by the department shall contain, but is not limited to, the following:

(a) Name of the business.

(b) Location of the business including street, address, city, and zip code of the principal place of business and any branch locations. Exception: The location of business requirement is not necessary when the applicant only wishes to determine if the department would grant the applicant a license because of previous business or personal irregularities.

(c) Type of business license requested, i.e., dealer, manufacturer, transporter, etc.

(d) If the application is for a dealer's license, then the applicant must specify the type of vehicles to be sold. Also, if new vehicles are to be sold the applicant must include the name or names of vehicles he is enfranchised to sell and the name or names and address of the manufacturer or distributor who has enfranchised the applicant.

(1) All new motor vehicle dealers, except recreational vehicle dealers, shall submit the form required pursuant to Section 3062 of the Vehicle Code.

(e) The type of ownership, i.e., individual, partnership, or corporation. If the applicant is a partnership, then the names and titles of all partners shall be disclosed. If the applicant is a corporation, then the names and titles of all controlling stockholders, directors, and officers who by reason of the facts and circumstances could be directing, controlling, or managing the vehicle marketing affairs of the licensed entity in this state.

(1) Any person required to be identified in subdivision (e) above shall submit to the department a personal history statement and a set of properly completed fingerprint cards on departmental forms. Exception: A corporation which is an applicant for a manufacturer or distributor license and which has authorized and is permitted to sell stock of the corporation to the general public may not be required, upon investigation by the department, to submit fingerprint cards as part of the application.

(2) The following information, but not limited to, shall be on the personal history statement:

(A) The true name of the applicant.

(B) The applicant's residence address, including zip code.

(C) The applicant's business and home telephone numbers.

(D) The applicant's physical description including gender, color of hair, color of eyes, height, weight and birthdate.

(E) If the applicant holds a valid driver's license, the number and state of issuance of such license.

(F) Any name or names the applicant has been known by or used other than the true name appearing on the application.

(G) The applicant's experience and employment record for the past three years.

(H) The applicant's personal business history with specific reference to previous bankruptcies, previous applications submitted to the department for an Occupational License and if the applicant was the subject of a disciplinary action by the department while an Occupational Licensee.

(I) A statement disclosing whether or not the applicant was either a sole owner, partner, officer, director or stockholder of a firm that had either a civil or criminal judgment rendered against it.

(J) A statement disclosing whether the applicant, has ever been convicted, fined or placed on probation for any crime or offense either felony or misdemeanor, excluding traffic offenses.

(f) The property data for the business location including size, property owner's name and address, and if the property is rented or leased, the owner's or lessor's name and address.

(g) The name, address and telephone number of the bank where the applicant's business account, if any, is carried as well as the name under which the account is carried if not the same name as on the application, and the name of persons authorized to draw funds or issue checks from the account.

(h) If the application is for a manufacturer's or manufacturer's branch license, the names and addresses of all distributors and representatives acting for the applicant in this state and all dealers franchised by said applicant in this state and business addresses of such dealers. Thereafter, all manufacturers or manufacturer's branches shall inform the department within 30 days of any change in the list of representatives or dealers.

(i) If the application is for a distributor's or distributor's branch license, the name of the manufacturer for whom the distributor will act, the names and business addresses of all representatives acting for the applicant in this state and the names and business addresses of all dealers in this state franchised by the applicant. Thereafter, all distributors shall inform the department within 30 days of any change in the list of representatives and dealers.

(j) If the application is for a dealer's or lessor-retailer's license, the bond and certificate of appointment as required in Sections 11710 and 11710.1 of the Vehicle Code. Exception: The bond and certificate of appointment requirement is not necessary when the applicant only wishes to determine if the department would grant the applicant a license because of previous business or personal irregularities.

(k) Appropriate fees.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11501, 11504, 11601, 11602, 11701, 11704 and 11712, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.20 to section 252.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 252.30. Time Requirements for Any Change in License.

Every person holding a business license shall notify the department within 10 days prior to the effective date of any change in the ownership. Except a corporation modifying its corporate structure shall submit the appropriate forms necessary to record the change within 30 days of the effective date.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11704 and 11721(d), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.30 to section 252.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 252.40. Branch Location Application Requirements.

If an occupational licensee wishes to add a branch location, then the licensee shall submit to the department the following:

(a) The location of the branch location, including street, address, city, and zip code.

(b) If new vehicles are to be sold, then the name or names of the new vehicles for which the applicant is enfranchised to sell or exchange at that location and the name or names and address of the manufacturer or distributor enfranchising the applicant.

(1) All new motor vehicle dealers, except recreational vehicle dealers, shall submit the form required pursuant to Section 3062 of the Vehicle Code.

(c) The appropriate fees as required by the California Vehicle Code. NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 3062, 9262, 9550, 11704 and 11712, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.40 to section 252.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 253.02. License Renewal Terms.

(a) The department shall issue a renewal license for a two-year term, pursuant to Vehicle Code Section 1665, to an All Terrain Vehicle Safety Organization, Dealer, Dismantler, Distributor, Driving School Owner, Lessor-Retailer, Manufacturer, Registration Service, Remanufacturer, Traffic Violator School Owner, or Transporter. The first two-year term occupational license shall be issued based on the following criteria:

(1) Licenses issued prior to January 1, 2006, with a date-in-business in an even year, will be issued a two-year renewal term when the license expires in 2006.

(2) Licenses issued prior to January 1, 2006, with a date-in-business in an odd year, will be issued a two-year renewal term when the license expires in 2007.

(3) Licenses issued on or after January 1, 2006, will be issued a two-year renewal term upon the first expiration date of the license.

(b) Any dealer required to provide evidence of successful completion of an educational program pursuant to Vehicle Code Section 11704.5(c)(1), in conjunction with the first two-year term license renewal, shall be exempt from subdivision (a)(1) thru (3).

(c) The fee for a license issued for a two-year term shall be twice the licensing fee established in statute for the specific type of license.

(d) Any authorizing indicia issued in conjunction with the renewal of a license shall be issued for the same term as the license. The fee for the indicia shall be twice the fee established in statute for the specific indicia.

NOTE: Authority cited: Sections 1651, 1665 and 11202(a)(2), Vehicle Code. Reference: Sections 11105, 11105.2, 11105.6, 11204, 11208, 11409, 11410, 11500, 11508, 11601, 11620, 11700 and 11704.5, Vehicle Code.

HISTORY

1. New section filed 12-16-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).

[The next page is 15.]

Article 4.1. Advertising by Occupational Licensee

§ 255.00. "Advertising" Defined.

(a) In the broad context of Vehicle Code Section 11713(a), any statement advertised refers to any statement, representation, act or announcement intentionally communicated to any member of the public by any means whatever, whether orally, in writing or otherwise.

(b) As used elsewhere in the Vehicle Code and in this article, the terms "advertising," "advertisement," or "advertise" refer to a statement, representation, act or announcement intentionally communicated to the public generally for the purpose of arousing a desire to buy or patronize.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Division 5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 402.00 to section 255.00 and adopting new article 4.1 heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 255.01. "Dealer's Cost" Defined.

"Dealer's cost," "factory invoice," or similar terms are defined as the actual cost to the dealer of any vehicle or part thereof delivered to the dealer's place of business. "Dealer's cost" or similar terms do not include expenses incurred by the dealer such as flooring, overhead, commissions, dealer advertising, or other costs.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11713 and 11713.1, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 402.01 to section 255.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 255.02. "Demonstrator" Defined.

A "demonstrator" is a vehicle specifically assigned by a dealer to be regularly used for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type. A vehicle in a dealer's inventory which is only occasionally demonstrated to a prospective purchaser whose interest has focused on a particular vehicle is not a "demonstrator."

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 665 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 402.02 to section 255.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 255.04. Applicability.

Unless otherwise provided, the provisions of Sections 255.00 through 262.09 are intended to govern the advertising of all entities subject to licensure by the Department of Motor Vehicles under Chapters 3.5 and 4 of Division 5 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Division 5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 402.04 to section 255.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.00. Advertisements.

Any advertised statements, representations, or offers made in connection with the sale or attempted sale of any vehicle(s) shall be clearly set forth, and based on facts and shall be subject to these regulations and the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.00 to section 260.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.01. Vehicle Description.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 665, 11614, 11713, 11713.1 and 11713.5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.01 to section 260.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Change without regulatory effect repealing section filed 2-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 8).

§ 260.02. Vehicle History.

(a) Express advertisements of a vehicle's prior use or ownership history must be accurate.

(b) Former taxicabs, rental vehicles, publicly owned vehicles, insurance salvage vehicles and revived salvage vehicles shall be clearly identified as such if the previous status is known to the seller.

(c) If a vehicle is advertised and/or sold as a "demonstrator" and such a vehicle has been previously registered or sold to a retail purchaser, the selling dealer shall clearly disclose to the buyer the fact of such prior registration or sale before obtaining the buyer's signature on a purchase order or sales contract.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.02 to section 260.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.03. Vehicle Condition.

Statements of vehicle condition must accurately reflect the known condition, and pictures of vehicles must accurately depict their overall appearance.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11615 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.03 to section 260.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.04. Vehicle Availability.

(a) No dealer shall advertise a specific vehicle or a class of vehicles for sale, unless such vehicle(s) is in the dealer's possession, or is available to the dealer pursuant to a franchise agreement with the manufacturer or distributor of the vehicle(s). An advertisement of a vehicle not in a dealer's possession must so indicate, and must include a reasonable estimate of the date such vehicle will be available from the franchisor for delivery to a prospective purchaser.

(b) A specific vehicle advertised by a dealer or lessor-retailer shall be in condition to demonstrate and shall be willingly shown and sold at the advertised price and terms while such vehicle remains unsold or unleased, unless the advertisement states that the advertised price and terms are good only for a specific time and such time has elapsed. Advertised vehicles must be sold at or below the advertised price irrespective of whether or not the advertised price has been communicated to the purchaser.

(c) No manufacturer or distributor shall advertise vehicles for sale unless such vehicles are available to franchised dealers within the meaning of subsection (a) of Vehicle Code Section 11713.2, or, if not so available, the advertisement must include the date such vehicles will be available for purchase from retail dealers in the area in which the advertisement is disseminated.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11713, 11713.1 and 11713.3, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.04 to section 260.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.05. Vehicle Equipment.

No specific vehicle shall be advertised as having special equipment or accessories unless such equipment or accessories are installed and operative at the time of the advertisement.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11615 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.05 to section 260.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 260.07. Returned Vehicles.

If a dealer or lessor-retailer advertises that a vehicle may be returned if the purchaser is not satisfied, the advertisement must clearly state the terms and conditions of the offer. In addition, the dealer or lessor-retailer must furnish the buyer with a written copy of the terms and conditions of return before obtaining the purchaser's signature to a purchase order or sales contract.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11613, 11614, 11705 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 403.07 to section 260.07 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 262.00. Dealer Price.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11713 and 11713.1, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.00 to section 262.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer of subsections (c) and (d) filed 3-19-97; operative 4-17-97 (Register 97, No. 12).
3. Change without regulatory effect repealing section filed 2-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 8).

§ 262.01. Manufacturer's or Distributor's Price.

If a manufacturer or distributor advertises the price of a vehicle or class of vehicles, the price quoted shall be the manufacturer's suggested base price.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code; and 15 U.S.C.S. 1231, et. seq.

HISTORY

1. Change without regulatory effect renumbering and amending former section 404.01 to section 262.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment filed 3-19-97; operative 4-17-97 (Register 97, No. 12).

§ 262.03. Dealer Added Charges.

A dealer may not identify a separate charge or charges for services performed on vehicles prior to delivery to the extent the dealer is or will be reimbursed for such expenditures by another party. If a dealer does identify a separate charge or charges for delivery and preparation services performed over and above those delivery and preparation obligations specified by the franchiser and for which the dealer is to be reimbursed by the franchiser, then the services performed and the charges therefore shall be separately itemized. Such added charges must be included in the advertised price.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11713.1, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.03 to section 262.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 262.05. Financing, Down Payment, and Trade-In Allowance.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11705 and 11713, Vehicle Code; and Section 2981, et. seq., Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.05 to section 262.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading and new subsections (d)-(h) filed 3-19-97; operative 4-17-97 (Register 97, No. 12).
3. Change without regulatory effect repealing section filed 2-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 8).

§ 262.06. Down Payment.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.06 to section 262.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Repealer filed 3-19-97; operative 4-17-97 (Register 97, No. 12).

§ 262.07. Trade-In Allowances.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.07 to section 262.07 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer filed 3-19-97; operative 4-17-97 (Register 97, No. 12).

§ 262.08. Identity of Dealer or Lessor-Retailer.

Advertisements by dealers or lessor-retailers shall identify the dealer or lessor-retailer either by the name under which the licensee does business or by such other name as will serve to readily identify the dealer or lessor-retailer both to the public and the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.08 to section 262.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 262.09. Qualifying Statements.

Qualifying statements used in connection with vehicle advertisements, including the qualifying statements required by this article, shall be large enough and displayed for a sufficient period of time to enable the average reader or viewer to comprehend such statements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 404.09 to section 262.09 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.2. Vehicle Dealers

§ 268.04. Dealer Examination Requirements.

(a) All applicants for a vehicle dealer license subject to Vehicle Code Section 11704.5 shall be required to pass a written dealer examination provided and administered by the department with a minimum score of 70%.

(1) When a firm, corporation, association, limited liability company, or a partnership submits a dealer license application which is subject to Vehicle Code Section 11704.5, at least one person who is part of the ownership structure and who is required to submit a Personal History Statement, and who will have primary responsibility for managing the day to day dealership business which is reliant on the subject matter knowledge contained in the dealer examination shall be required to pass the dealer examination as described by Vehicle Code Section 11704.5(a) and this article.

(2) At least one person who has passed the dealer examination required by Vehicle Code Section 11704.5(a) and Section 268.04(a)(1) of these regulations must continuously be part of the ownership structure of all firms, corporations, associations, limited liability companies, or partnerships which are issued vehicle dealer licenses subject to Vehicle Code Section 11704.5.

(b) The dealer examination shall cover the subjects specified in Vehicle Code Section 11704.5(a), and the following subjects:

- (1) Warranties
 - (A) Lemon Law
 - (B) Service Agreements
- (2) Federal Buyers Guide Requirements
- (3) Stolen Vehicle Prevention
 - (A) Indicia Verification
- (4) Vehicle History Disclosure Requirements
- (5) Basic Dealer Licensing Requirements
 - (A) Forms
 - (B) Fees

(C) Bond Requirements

(D) License and Sign Posting Requirements

(E) License Renewal Requirements

(F) Automatic Cancellations per Section 11721, Vehicle Code

(6) DMV Enforcement Actions

(A) Administrative

(B) Criminal

(C) Civil

(c) All applicants shall be required to present a current California driver license (DL) or California identification card (ID) issued by the department as personal identification prior to being allowed to take the dealer examination.

(1) If the personal identifying information on the California DL or ID presented by the applicant does not match the personal identifying information contained on the applicant's dealer educational program completion certificate, the applicant will not be allowed to take the dealer examination.

(d) Any applicant who fails the examination administered by the department will not be eligible to retake the examination for at least one week.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 236, 386, 470 and 11704.5, Vehicle Code.

HISTORY

1. New section filed 3-31-98; operative 3-31-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).
2. Amendment of subsection (a)(2), repealer of subsection (c), subsection relettering, and amendment of NOTE filed 5-14-2001; operative 6-13-2001 (Register 2001, No. 20).

§ 268.06. Dealer Educational Program Requirements.

(a) All applicants for a vehicle dealer license subject to Vehicle Code Section 11704.5 shall provide evidence to the department of having successfully completed an educational program as described by Vehicle Code Section 11704.5(b) and this article.

(1) When a firm, corporation, association, limited liability company, or a partnership submits a dealer license application which is subject to Vehicle Code Section 11704.5, at least one person who is part of the ownership structure and who is required to submit a Personal History Statement, and who will have primary responsibility for managing the day to day dealership business which is reliant on the subject matter knowledge contained in the dealer examination shall be required to provide evidence to the department of having successfully completed an educational program as described by Vehicle Code Section 11704.5(b) and this article.

(b) The educational program completed by dealer license applicants subject to Vehicle Code Section 11704.5 must be a program which is approved and certified by the department.

(c) The educational program completed by dealer license applicants subject to Vehicle Code Section 11704.5 shall adequately cover the subject areas specified in Vehicle Code Section 11704.5(a) and the additional subjects specified in section 268.04(b) of this article.

(d) The lesson plans for all educational programs provided under this section shall be approved by the department as complying with the program requirements described in this article and in Vehicle Code Section 11704.5. All lesson plans approved by the department shall also substantially comply with the department's Lesson Plan Guideline for Used Vehicle Dealer Education Programs, OL 2000 (New. 8/97), which the department hereby incorporates by reference.

(e) All dealer educational program providers shall submit their fully developed lesson plans to the department for approval prior to utilizing them in a program.

(1) All lesson plans submitted for approval shall include a complete table of contents, and the pages of the plan shall be consecutively numbered.

(2) All lesson plans submitted for approval shall include samples of all workbooks, videos, tests, final exams, and other teaching aids used in the program.

(3) All lesson plans submitted for approval shall include a time schedule that specifies the time allotted to cover each subject area, the time allotted for break periods, and the time allotted for administrative activities.

(f) All educational program providers shall be responsible for revising their approved lesson plans as necessary to ensure that all required subject areas presented reflect substantial ongoing changes in relevant statutes, regulations or other requirements.

(1) Any substantial change(s) to the lesson plan of an approved program must be authorized in writing by the department prior to presenting them in an approved program.

(g) All proposed program lesson plans and proposed changes to approved lesson plans submitted by a program provider to the department for approval shall receive a letter of approval or disapproval within 30 working days of receipt by the department of a proposed lesson plan or a proposed lesson plan change.

(1) The department shall provide a written receipt within 10 working days of receiving any proposed lesson plan and proposed change to an approved lesson plan submitted by a program provider for the department's approval.

(A) The receipt provided by the department shall inform the program provider that the proposed lesson plan or lesson plan change is complete and accepted for consideration or is deficient and specify what additional data or materials are necessary.

(2) All programs approved by the department shall receive a written certification containing a unique certification number issued by the department.

(3) An educational program approved by the department shall remain certified only so long as the program continues to meet all program requirements as described in this article and in Vehicle Code Section 11704.5.

(4) Whenever a program fails to meet all program requirements, the department shall notify the program provider in writing of all program deficiencies and shall include specific instructions on how the program can correct the identified deficiencies.

(A) The department will allow the program provider 20 working days from the date of the deficiency notice to implement the required changes in order to correct the identified program deficiencies.

(5) In the event a program provider fails to implement the required program corrections for all identified program deficiencies within the specified period, the department will decertify the program in writing which will specify the effective date of the decertification.

(6) Any program completion certificates issued for any period of instruction during which the issuing program was not certified by the department will not be accepted as evidence of program completion.

(h) All educational programs provided under this section shall contain a comprehensive final examination which tests for knowledge of all subjects which are required to be covered in the program.

(1) A successful passing score of 70% on the final program examination is required of all program participants prior to the issuance of a completion certificate by the program provider.

(i) All persons who wish to be admitted as students to a certified dealer educational program are required to present a current California DL or ID as personal identification.

(1) All certified program providers shall refuse to provide a program completion certificate to any person who has not presented a current California DL or ID which verifies his or her personal identity.

(j) Records of all classes given by a certified program provider shall be compiled and retained by the provider for not less than one (1) year and one (1) month from completion of the class.

(1) Records shall include complete student rosters, course dates and times, and all final examinations and scores.

(2) Records shall be made available to department inspectors and investigators for official purposes relating to inquiries of program sufficiency or program fraud.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 470 and 11704.5, Vehicle Code.

HISTORY

1. New section filed 3-31-98; operative 3-31-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 268.08. Evidence of Dealer Educational Program Completion.

(a) Evidence of program completion shall consist of a completion certificate provided by a certified program provider which shall include the following:

(1) The start and completion date(s) the identified person attended the program.

(2) The total hours of instruction the identified person received in the program.

(3) Full printed name, date of birth, and the number of the California DL or ID of the person who completed the program.

(4) Program provider identifying information including:

(A) Printed name, telephone number, and business address of program provider.

(B) Course curriculum certification number as provided by the department.

(C) Printed name and signature of program instructor or provider.

(D) A unique sequential certificate identifier which includes alpha/numeric symbols.

(5) A statement certifying that the person named on the completion certificate has successfully completed the program.

(b) Completion certificates issued for completion of approved dealer education programs will be valid for submission with original dealer license applications for a period of only one year from the date of program completion.

(c) All dealer educational program providers shall submit a sample of their program completion certificates to the department for approval prior to utilizing them in a program.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11704.5, Vehicle Code.

HISTORY

1. New section filed 3-31-98; operative 3-31-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 14).

§ 268.10. Dealer Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a dealer license, other than a dealer who deals exclusively with motorcycles and/or all-terrain vehicles and a wholesale dealer selling less than 25 vehicles a year, shall submit the bond required by Vehicle Code section 11710 on a Dealer Surety Bond, form OL 25 (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) Every applicant for issuance or renewal of a license for a dealer who deals exclusively in motorcycles and/or all-terrain vehicles shall submit the bond required in Section 268.12 of Title 13, California Code of Regulations.

(c) Every applicant for issuance or renewal of a license for a dealer selling less than 25 vehicles a year on a wholesale basis only shall submit the bond required in Section 268.12 of Title 13, California Code of Regulations.

(d) The true, full name of the dealer, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

(e) The appointment of director as the agent for service of process required by Vehicle Code section 11710(d) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Sections 11710 and 11710.1, Vehicle Code.

HISTORY

1. New section filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 268.12. Surety Bond Requirements for Motorcycle Dealers, Motorcycle Lessor-Retailers, All-Terrain Vehicle Dealers and Wholesale Only Dealers Who Sell Less Than 25 Vehicles Per Year.

(a) The bond required by Vehicle Code sections 11612 and 11710 for a dealer who will deal exclusively in motorcycles or all-terrain vehicles or who sells wholesale less than 25 vehicles a year shall be executed on a Surety Bond of Motorcycle Dealer, Motorcycle Lessor-Retailer, All-Terrain Vehicle Dealer, or Wholesale Only Dealer (Less Than 25 Vehicles Per Year), form OL 25B (REV. 12/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(1) For the purpose of determining whether a dealer sells less than 25 vehicles a year, a year shall be defined as the period beginning on the initial date of licensure and ending on the day before the renewal date.

(2) The name of the Principal on the surety bond shall include any and all "Doing Business As" (DBA) names used by the Principal to conduct business as authorized under the occupational license.

(3) The appointment of director as the agent for service of process required by Vehicle Code section 11710(d) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Sections 11612, 11710 and 11710.1, Vehicle Code.

HISTORY

1. New section filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 270.00. Place of Business.

Before the department can issue any temporary permit or license or allow such license to remain in force, the applicant's principal place of business and each branch location must conform to Vehicle Code Sections 320 and 11709.

The office of the principal place of business and each branch location of the dealership must be established to the extent that its construction is not temporary, transitory or mobile in nature, except that a trailer coach office is acceptable providing it is not a part of the dealer's vehicle inventory not being offered for or subject to sale while being used as an office of the dealership, and otherwise meets the requirements of Vehicle Code Section 320.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11709 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 406.00 to section 270.00 and designating article 4.2 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 270.02. Dealer Branch Location Definition.

Dealer Branch is any location, other than the principal place of business of the dealer, maintained for the sale or exchange of vehicles. A branch location must comply with the requirements of Section 320 and Section 11709 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11709, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.50 to section 270.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 270.04. Change of Location.

Any dealer who changes the site of either the principal or a branch location must comply with all provisions of Vehicle Code Sections 320 and 11709, before the application for change of location may be accepted.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11709 and 11712, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 407.00 to section 270.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 270.06. Signs or Devices.

The signs or devices identifying the dealership at each business location as required pursuant to Vehicle Code Section 11709, shall be of a permanent nature, erected on the exterior of the office or on the display area, and be constructed or painted and maintained so as to withstand reasonable climatic effects and be readable as provided for in Section 11709. A temporary sign or device may suffice when a permanent sign is on order. Evidence of such order shall be submitted to the Department prior to issuance of a temporary permit or license.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11709, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 408.00 to section 270.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 270.08. Display Area.

(a) The display area of the principal place of business of each branch location and additional display areas as permitted by this section shall be of sufficient size to physically accommodate vehicles of a type for which the dealership is licensed to sell. The display area must be clearly for the exclusive use of the dealer for display purposes only. Additional display areas are permitted within a radius of 1,000 feet from the principal place of business and any licensed branch location without being subject to separate licensing. However, such display areas must also meet the signing requirement as identified in Vehicle Code Section 11709(a).

(b) The provisions of Vehicle Code Section 11709(b), which permits a dealer to display vehicles at a fair, exposition, or similar exhibit without securing a branch license extends to public shopping areas, public shopping centers, autoramas and other similar locations or events open to the public and intended to merely bring the dealer's identity and product to the public's attention, provided that:

(1) No sales are offered, attempted, solicited, negotiated or otherwise transacted from such locations or at such public event, including the acceptance of cash deposits, trade-in vehicles or any other considerations from persons for the purpose of inducing or binding a sale.

(2) Such locations are available to all dealers licensed in this state without discrimination as to type of manufacture, make, or year of vehicle displayed.

(3) Every dealer participating at such locations or events shall post a sign on the vehicle or vehicles or in close proximity thereto, printed in letters of not less than three (3) inches in height, which shall show the dealer's name, location and address of his established place of business and the following statement: "No sales permitted, or deposits accepted at this location."

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11705 and 11709, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 409.00 to section 270.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 272.00. Business Records.

(a) Pertinent records of a licensed dealer which must be open to inspection pursuant to Vehicle Code Section 320 are those records maintained in the regular course of business insofar as those records are directly concerned with the purchase, sale, rental or lease of a vehicle.

(b) Unless otherwise specified by statute, all business records relating to vehicle transactions shall be retained by the dealership for a period of not less than three years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 410.00 to section 272.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 272.02. Location of Business Records.

A vehicle dealer may, at his option, maintain the business records of the dealership at the office of the principal place of business; or if the dealer has a branch location(s), records peculiar to that branch may be

maintained either at such branch location or at the principal place of business. Upon approval of the department, the records may be maintained at a business location other than as required in this section, provided a written instrument is filed with the department describing such other location and granting the department authorization to inspect the records thereat.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 410.01 to section 272.02 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 272.04. Disclosure to Low Speed Vehicle Buyer.

(a) A “low speed vehicle” is defined as having a maximum speed of not more than 25 miles per hour which complies with Federal Motor Vehicle Safety Standards.

(b) A vehicle dealer, selling a low speed vehicle, shall provide a disclosure to be signed by the buyer at the time of purchase. The disclosure will include a statement that the vehicle:

- (1) Has a maximum speed of 25 miles per hour.
- (2) May be a hazard on the roadways if it impedes traffic.
- (3) May subject the driver to citations for impeding traffic.

(c) The vehicle dealer shall give a copy of the signed disclosure to the buyer and keep the original with the business records of vehicle transactions.

(d) Prior to the sale of a low speed vehicle, the dealer or manufacturer shall affix a permanent decal to the underside of the roof near the windshield on the driver side.

- (1) The decal shall be approximately 3 inches high by 5 inches wide.

(2) The decal shall contain the disclosure statement information specified in (b).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 1809, 11713 and 21252, Vehicle Code.

HISTORY

1. New section filed 11–30–98 as an emergency; operative 11–30–98 (Register 98, No. 49). A Certificate of Compliance must be transmitted to OAL by 3–30–99 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 99, No. 20).
3. New section filed 5–10–99; operative 5–10–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).
4. Change without regulatory effect amending NOTE filed 10–2–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 40).

Article 4.21. Vehicle Lessor–Retailers

§ 280.12. Lessor–Retailer Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a lessor–retailer license other than a lessor–retailer who deals exclusively with motorcycles shall submit the bond required by Vehicle Code section 11612 on a Lessor–Retailer Surety Bond, form OL 25C (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) Every applicant for issuance or renewal of a license as a lessor–retailer who deals exclusively with motorcycles shall submit the surety bond required in Section 268.12 of Title 13, California Code of Regulations.

(c) The true, full name of the lessor–retailer, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

(d) The appointment of director as the agent for service of process required by Vehicle Code section 11710(d) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Sections 11612 and 11710, Vehicle Code.

HISTORY

1. New article 4.21 (section 280.12) and section filed 2–14–2006; operative 3–16–2006 (Register 2006, No. 7).

Article 4.22. Vehicle Manufacturers and Remanufacturers

§ 285.06. Remanufacturer Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a remanufacturer license shall submit the bond required by Vehicle Code section 11710 on a Remanufacturer Surety Bond, form OL 25A (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The true, full name of the remanufacturer, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

(c) The appointment of director as the agent for service of process required by Vehicle Code section 11710(d) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Section 11710, Vehicle Code.

HISTORY

1. Amendment of article heading and new section filed 2–14–2006; operative 3–16–2006 (Register 2006, No. 7).

§ 290.00. Place of Business.

The applicant for, or holder of a vehicle manufacturer’s license shall maintain a suitable site sufficient in size and furnishings to effect the manufacture, assembly, reconstruction, or reconfiguration in final form for subsequent delivery to the distributorships or to licensed vehicle dealers in this state, vehicles subject to registration by the department.

(a) If no manufacturing site is located in this state, the department may require such supporting documentary proof as it deems necessary to determine the applicant’s status as an actual manufacturer pursuant to Vehicle Code Section 11701, and the applicant’s compliance with Vehicle Code Section 320.

(b) If the mailing address of the licensee is not at the actual manufacturing site, such mailing address shall be reflected in the application, and thereafter remain current with the department.

(c) It is not necessary for a vehicle manufacturer to obtain licenses for branch manufacturing sites located outside of this state, provided the principal site is licensed with the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11701 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 411.00 to section 290.00 and designating article 4.22 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 290.02. Pertinent Books and Records.

Pertinent books and records of a vehicle manufacturer as set forth in Vehicle Code Section 320 include, but are not limited to, invoices, certificates of origin, manufacturer’s suggested retail price lists, vehicle identification number and motor number locations and coding data, and any other record which relates to the identification and history of vehicles subject to registration in this state. The department may require that any pertinent record printed in any language other than the English language be accompanied by a version translated into the English language prior to acceptance by the department as a genuine record of the manufacturer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11701, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 411.01 to section 290.02 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.23. Vehicle Verifiers

§ 292.06. Vehicle Verifier Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a vehicle verifier permit shall submit the bond required by Vehicle Code section 11301 on a Vehicle Verifier Surety Bond, form OL 26 (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The bond shall be conditioned that if the vehicle verifier not cause any loss by the public or the State arising out of the operation under the vehicle verifier permit, then this obligation is to be void; otherwise it is to remain in full force and effect.

(c) The true, full name of the vehicle verifier, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

NOTE: Authority cited: Sections 1651 and 11308, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Section 11301, Vehicle Code.

HISTORY

1. New article 4.23 (section 292.06) and section filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

Article 4.24. Vehicle Transporters

§ 295.00. Place of Business.

The principal place of business for an applicant for, or the holder of, a vehicle transporter's license shall be the location of record with the department.

(a) If the mailing address of the licensee is not at the actual principal place of business, such mailing address shall be reflected in the application along with the address of the principal place of business and thereafter remain current with the department.

(b) It is not necessary for a vehicle transporter to obtain licenses for branch business locations outside of this state, provided the principal place of business is licensed with the department.

(c) If the principal place of business is not located in this state, the department may require such supporting documentary proof as it deems necessary to determine the applicant's status as an actual transporter pursuant to Vehicle Code Section 320.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11701 and 11713, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 412.00 to section 295.00 and designating article 4.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.00. Display of Numbers.

NOTE: Authority cited: Sections 1651 and 9853.2, Vehicle Code. Reference: Sections 9850, 9853.2 and 9857, Vehicle Code; and CFR, Title 33, Sections 173.19, 173.27, 174.13 and 174.14.

HISTORY

1. New article 3.1 (sections 300.00 through 300.03) filed 11-23-70 as an emergency; effective upon filing (Register 70, No. 48).
2. Certificate of Compliance—sec. 11422.1, Gov. Code, filed 3-22-71 (Register 71, No. 13).
3. Repealer of sections 300.00-300.03 and new sections 300.00-300.20 filed 12-9-74; effective thirtieth day thereafter (Register 74, No. 50).
4. Amendment of subsection (c) filed 6-4-81; effective thirtieth day thereafter (Register 81, No. 23).
5. Amendment of NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
6. Change without regulatory effect renumbering former section 300.00 to section 190.00 and amending article heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.01. Registration Stickers.

NOTE: Authority cited: Sections 1651 and 9853.4, Vehicle Code. Reference: Section 9853.4, Vehicle Code; and CFR, Title 33, Section 174.15.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).

2. Change without regulatory effect renumbering former section 300.01 to section 190.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.02. Proof of Ownership.

NOTE: Authority cited: Sections 1651 and 9852, Vehicle Code. Reference: Section 9852, Vehicle Code; and CFR, Title 33, Section 174.31.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.02 to section 190.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.03. Department Agents' Authorization.

NOTE: Authority cited: Sections 1651 and 9858, Vehicle Code. Reference: Sections 9858 and 9859, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.03 to section 190.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.04. Definition of a Livery Boat.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.04 to section 190.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.05. Definition of a Vessel Carrying Passengers for Hire.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9840 and 9850, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.05 to section 190.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.06. Definition of a Boat Manufacturer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9840, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.06 to section 190.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.07. Definition of a Boat Dealer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9856 and 9912, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.07 to section 190.07 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.08. Certificates of Number for Dealer, Manufacturer, Livery Vessel and Vessel Carrying Passengers for Hire.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9850, 9853, 9853.1-9853.3, Vehicle Code; CFR, Title 33, Sections 173.27 and 174.19; and CFR, Title 46, Section 67.01-11.

HISTORY

1. New subsection (c) filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment of NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
3. Change without regulatory effect renumbering former section 300.08 to section 190.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.09. Terms and Conditions for Vessel Registration and Numbering.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852, 9853.1, 9853.4, 9855 and 9858, Vehicle Code; and CFR, Title 33, Section 174.31.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).

2. Change without regulatory effect renumbering former section 300.09 to section 190.09 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.10. Contents of Applications for Certificate of Ownership and Certificate of Number.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9852 and 9853, Vehicle Code; and CFR, Title 33, Section 174.17.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment filed 4-18-85; effective thirtieth day thereafter (Register 85, No. 16).
3. Change without regulatory effect renumbering former section 300.10 to section 190.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.11. Contents of Certificate of Number.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853 and 9853.1, Vehicle Code; and CFR, Title 33, Section 174.19.

HISTORY

1. Amendment filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.11 to section 190.11 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.12. Validity of Certificate of Number.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.1, 9855, 9858, 9864, 9874 and 9915, Vehicle Code; and CFR, Title 33, Section 173.77.

HISTORY

1. Amendment of subsection (c) filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
2. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
3. Change without regulatory effect renumbering former section 300.12 to section 190.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.13. Removal of Stickers.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9853.4 and 9874, Vehicle Code; and CFR, Title 33, Section 173.33.

HISTORY

1. Amendment filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
2. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
3. Change without regulatory effect renumbering former section 300.13 to section 190.13 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.14. Temporary Certificate of Number.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9858; and CFR, Title 33, Sections 173.75 and 174.29.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.14 to section 190.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.15. Hull Identification Numbers.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9871 and 9871.5, Vehicle Code; and CFR, Title 33, Sections 181.23, 181.25, 181.27 and 181.29.

HISTORY

1. Amendment filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.15 to section 190.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.16. Fee-Exempt Boats.

NOTE: Authority cited: Section 9851, Vehicle Code. Reference: Section 9851, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect amending section filed 12-16-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 10).

3. Change without regulatory effect renumbering former section 300.16 to section 190.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.17. Recreational-Type Public Vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9851, Vehicle Code; and CFR, Title 33, Section 173.11.

HISTORY

1. Amendment filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.17 to section 190.17 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.18. Fee-Exempt Annual Renewal.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9850, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.18 to section 190.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.19. Racing Vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9854 and 9873, Vehicle Code.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.19 to section 190.19 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.20. Livery Vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9853.3, Vehicle Code; and CFR, Title 33, Section 173.21.

HISTORY

1. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Change without regulatory effect renumbering former section 300.20 to section 190.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.21. Notification to the Department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864, 9865 and 9911, Vehicle Code; and CFR, Title 33, Section 173.29.

HISTORY

1. New section filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
2. Amendment filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
3. Change without regulatory effect renumbering former section 300.21 to section 190.21 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 300.22. Surrender of Certificate of Number.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 9864 and 9900, Vehicle Code; and CFR, Title 33, Section 173.31.

HISTORY

1. New section filed 9-23-75; effective thirtieth day thereafter (Register 75, No. 39).
2. New NOTE filed 7-7-82; effective thirtieth day thereafter (Register 82, No. 28).
3. Change without regulatory effect renumbering former section 300.22 to section 190.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 301.00. Non-Motorized Surfboard-Like Vessels

Exempted Under Vehicle Code Section 9873(e).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9873, Vehicle Code.

HISTORY

1. New section filed 4-5-71; effective thirtieth day thereafter (Register 71, No. 15).
2. Change without regulatory effect renumbering former section 301.00 to section 191.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 302.00. Proof Documents Re Lien Sale Vessels.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 9915, Vehicle Code.

HISTORY

1. New section filed 4-5-71; effective thirtieth day thereafter (Register 71, No. 15).

2. Change without regulatory effect renumbering former section 302.00 to section 192.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.26. Vehicle Dismantlers

§ 304.00. Place of Business.

Before the department can issue any temporary permit or license or allow such license to remain in force, the applicant's principal place of business and each branch location must conform to Vehicle Code Sections 320 and 11513.

(a) The office of the principal place of business and each branch location of the firm must be established to the extent that its construction is not temporary, transitory or mobile in nature, except that a trailer coach office is acceptable providing it is not a part of the dismantling inventory, and otherwise meets the requirements of Vehicle Code Section 320.

(b) Office in Private Residence. In considering any application for a vehicle dismantler's license wherein the established place of business is a part of any single or multiple-unit dwelling house, the department may require additional proof of the applicant's status as an actual dismantler pursuant to Vehicle Code Section 11514 in the form of confirmation from the local zoning authority in the city, county, or city and county, that the property is properly zoned for the conduct of such business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11513 and 11514, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.01 to section 304.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.02. Dismantler Branch Location Definition.

Dismantler Branch is any location, other than the principal place of business of the dismantler, maintained for the purpose(s) identified in Section 220 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 220 and 320, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 414.60 to section 304.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.04. Signs and Devices.

The signs or devices identifying the firm at each business location as required pursuant to Vehicle Code Section 11514 shall be of a permanent nature, erected on the exterior of the office or the dismantling area, and constructed or painted so as to withstand reasonable climatic effects. A temporary sign or device may suffice during the period of time required to obtain a permanent sign or device, providing the order for construction, purchase or painting has in fact been placed at time of submitting the application to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11514, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.02 to section 304.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.06. Dismantling Area.

The dismantling area shall be in such proximity to the office of the dismantler to avoid confusion and uncertainty as to its relationship to the business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11501 and 11509, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.03 to section 304.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.08. Dismantler Report Forms.

Books and forms furnished licensed vehicle dismantlers by the department pursuant to Vehicle Code Section 11505 shall be known as dismantler's books of notice of acquisition and report of vehicle to be dismantled,

and shall be submitted pursuant to the provisions of Vehicle Code Section 11520.

(a) Dismantler's notice of acquisition shall be prepared in quadruplicate for disposition as follows:

(1) The original shall be submitted to the Department of Motor Vehicles, Division of Registration, P.O. Box 1319, Sacramento, CA 95806.

(2) The first carbon copy shall be submitted to the Department of Justice, Bureau of Identification, P.O. Box 13417, Sacramento, CA 95813.

(3) The second carbon copy shall be submitted to the appropriate local law enforcement agency, if required.

(4) The third carbon copy shall remain with the firm's business records.

(b) Dismantler's report of vehicle to be dismantled shall be prepared in triplicate for disposition as follows:

(1) The original and triplicate copy shall be submitted to the department, either at a local field office or to Department of Motor Vehicles, Division of Registration, P.O. Box 1319, Sacramento, CA 95806.

(2) The quadruplicate copy shall remain with the firm's business records.

(3) The duplicate copy is blank, and requires no disposition.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11505 and 11520, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.05 to section 304.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.10. Acquisition of Cleared Vehicles.

It shall not be necessary for a licensed vehicle dismantler to submit a notice of acquisition for, or to clear, any vehicle acquired from another person if such person has already notified, and cleared the vehicle with the department for dismantling provided a bill of sale has been executed to the dismantler which properly identifies such vehicle and evidence of clearance by the department such as a dismantling report number, temporary receipt number, or other proof of previous compliance with Vehicle Code Section 11520.

Any person other than a licensed dismantler who is engaged in the business of acquiring and disposing of vehicles in conjunction with metal scrap processing, shredding, salvage or other large-scale disposal operations which include vehicles acquired from licensed vehicle dismantler sources that have already cleared such vehicles for dismantling in compliance with Vehicle Code Section 11520 need not repeat clearance process if he is in possession of evidence attesting to proof of compliance pursuant to Vehicle Code Section 221(a)(4).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 221 and 11520, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.06 to section 304.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.12. Business Records.

Business records of a vehicle dismantler, which the department may inspect and copy pursuant to its authority under Vehicle Code Section 320, include but are not limited to departmental books and forms, inventory journals, documents prepared by a public entity for the ordering of towing, storing or disposal of vehicles, bills of sale, and all other documents normally executed or maintained in transactions relating to the acquisition and disposing of vehicles and parts or scrap therefrom in the conduct of the vehicle dismantling business.

(a) Business records shall be maintained for any part, component or system which has been temporarily removed from any vehicle acquired for dismantling and prior to clearance for dismantling, provided such part, component or system was removed for the sole purpose of safekeeping and the record is attached thereto which properly identifies the vehicle from which such part, component or system has been removed.

(b) Unless otherwise specified by statute, all business records relating to vehicle transactions shall be retained by the firm for a period of not less than three years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11520, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.07 to section 304.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 304.14. Location of Business Records.

A vehicle dismantler may, at his option, maintain the business records of the firm at the office of the principal place of business, or if the dismantler has a branch location(s), records peculiar to that branch may be maintained either at such branch location or at the principal place of business.

(a) Upon approval of the department, the records may be maintained at a business location other than as required in this section, provided a written instrument is filed with the department describing such other location and granting authorization to inspect the records thereat.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 413.08 to section 304.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 310.00. General Procedures When Fees Not Paid.

NOTE: Authority cited for Article 3.2: Section 1651, Vehicle Code. Reference: Section 9801, Vehicle Code.

HISTORY

1. New Article 3.2 (§§ 310.00 through 310.04) filed 8-4-71; effective thirtieth day thereafter (Register 71, No. 32).
2. Repealer filed 6-25-85; effective thirtieth day thereafter (Register 85, No. 26).

§ 310.01. Procedures When Fees Paid by Check Which Is Dishonored.

HISTORY

1. Repealer filed 6-25-85; effective thirtieth day thereafter (Register 85, No. 26).

§ 310.02. Procedures for Jeopardy Seizure.

HISTORY

1. Repealer filed 6-25-85; effective thirtieth day thereafter (Register 85, No. 26).

§ 310.03. Notice After Jeopardy Seizure.

HISTORY

1. Order of Repeal filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 310.04. Conduct of the Hearing.

NOTE: Authority cited: Section 1651, Vehicle Code; and Sections 11180, 11181 and 11182, Government Code. Reference: Section 9801, Vehicle Code.

HISTORY

1. Amendment of subsection (i) filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Editorial correction (Register 81, No. 1).
3. Amendment filed 6-25-85; effective thirtieth day thereafter (Register 85, No. 26).
4. Editorial correction of NOTE filed 6-26-85 (Register 85, No. 26).
5. Change without regulatory effect renumbering former section 310.04 to section 212.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.3. Administrative Remedies

§ 314.00. Monetary Penalties.

(a) Dealer, Distributor, Manufacturer, Transporter, Salesperson. Payment of the following monetary penalties may be required of an occupational licensee pursuant to an agreement between the Director and the licensee entered into under the authority of Vehicle Code Section 11707:

(1) A minimum of \$15 and a maximum of \$300 for each violation of the following provisions of Vehicle Code Sections: 3064(a), 3065, 4000, 4161(a), 4456(a), 5202, 5204(a), 5350.3, 5604, 5901, 8802, 11705(a)(6), 11705(a)(7), 11705(a)(8), 11705(a)(11), 11705(a)(12), 11709, 11712.5, 11713(c), 11713(k), 11713.1(a), 11713.1(b), 11713.1(c), 11713.1(d), 11715(f), 38200(a); any other provision not set forth in this section which

establishes an administrative cause of action against an occupational licensee.

(2) A minimum of \$50 and a maximum of \$750 for each violation of the following provisions of Vehicle Code Sections: 20, 8803, 11705(a)(1), 11705(a)(2), 11705(a)(3), 11705(a)(10), 11705(a)(15), 11705.4, 11712, 11713(a), 11713(b), 11713(e), 11713(f), 11713(g), 11713(h), 11713(i), 11713(j), 11713(l), 11713.1(e), 11713.2, 11713.3, 11713.4, 11713.5(a), 11713.5(b), 11713.5(c), 11725, 11800, 11812, 11819, 11900, 24007(a).

(3) A minimum of \$100 and a maximum of \$1000 for each violation of the following provisions of Vehicle Code Sections: 4463, 5753, 11705(a)(4), 11705(a)(5), 11705(a)(9), 11705(a)(13), 11705(a)(14), 11705(a)(15), 11713(d), 11713(m), 11713(n), 11714(c).

(b) Dismantlers. Payment of the following monetary penalties may be required of a dismantler licensee pursuant to an agreement between the director and the licensee entered into under the authority of Vehicle Code Section 11509.1.

(1) A minimum of \$15 and a maximum of \$50 for each violation of the following provisions of Vehicle Code Sections: 4000, 4161(a), 5202, 5204, 5900(c), 8802, 11509(a)(3), 11509(a)(4), 11509(a)(7), 11509(a)(10), 11514(a), 11516, 11519, 11520(a); any other provision not set forth in this section which establishes an administrative cause of action against a dismantler licensee.

(2) A minimum of \$25 and a maximum of \$100 for each violation of the following provisions of Vehicle Code Sections: 20, 8803, 11509(a)(1), 11509(a)(2), 11509(a)(6), 11513, 11725.

(3) A minimum of \$50 and a maximum of \$150 for each violation of the following provisions of Vehicle Code Sections: 11509(a)(5), 11509(a)(11), 11509(a)(12).

NOTE: Authority cited: Sections 1651, 11509.1 and 11707, Vehicle Code. Reference Sections 11509.1 and 11707, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 420.00 to section 314.00 and designating article 4.3 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment filed 5-14-2001; operative 6-13-2001 (Register 2001, No. 20).

§ 316.00. Notices of Suspension.

If an occupational license is actually suspended as a consequence of fraud, intentional or deliberate illegal activity which results in actual loss or damage to a consumer, or other intentional or deliberate misrepresentation and if the disciplinary order also places the license on probation, the order may include as a term or condition of probation that departmental employees be allowed to post two notices of suspension in places conspicuous to the public on each licensed location, main or branch, of the licensee during the period of suspension. Said notices shall be 24 inches wide by 14 inches high and shall be in substantially the following form:

DEPARTMENT OF MOTOR VEHICLES
NOTICE OF SUSPENSION
THE DEALER'S LICENSE ISSUED FOR THESE
PREMISES HAS BEEN SUSPENDED FROM

THROUGH _____
BY ORDER OF THE DEPARTMENT OF
MOTOR VEHICLES FOR VIOLATION OF THE
VEHICLE DEALER'S LICENSING LAWS

Removal of this notice prior to termination of suspension or any representation to the effect that vehicle sales or purchases have been suspended for any reason other than by order of the Department shall be deemed a violation of the conditions of probation.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference Sections 11105, 11506, 11606 and 11718, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 421.00 to section 316.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.00. Vehicle Registration Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Division 3, Vehicle Code.

HISTORY

1. New article 3 (sections 320.00–320.13) filed 12–30–77 as an emergency; designated effective 1–1–78 (Register 77, No. 53).
2. Certificate of Compliance filed 3–22–78 (Register 78, No. 12).
3. Repealer filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).
4. Amendment of Article 3.5, heading filed 4–24–91; operative 5–24–91 (Register 91, No. 25).

§ 320.01. Vessel Numbering and Registration Records.

HISTORY

1. Repealer filed 4–24–91; operative 5–24–91 (Register 91, No. 25).

§ 320.02. Definitions.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 470, 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798, Civil Code.

HISTORY

1. Amendment filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).
2. Amendment filed 4–24–91; operative 5–24–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.02 to section 350.02 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.03. Address Elements.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Repealer filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. New section filed 4–24–91; operative 5–25–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.03 to section 350.03 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.04. Information Access.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Repealer filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. New section filed 4–24–91; operative 5–25–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.04 to section 350.04 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.05. Requester Code.

NOTE: Authority cited: Section 1798.26, Civil Code. Reference: Section 1798.26, Civil Code; and Section 1810, Vehicle Code.

HISTORY

1. Amendment filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. Repealer filed 4–24–91; operative 5–24–91 (Register 91, No. 25).

§ 320.06. Governmental Entity's Application for a Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.47, 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Renumbering and amendment of former section 320.06 to section 320.36 and new section 320.06 filed 4–24–91; operative 5–24–91 (Register 91, No. 25). For prior history, see Register 79, No. 34.
2. Change without regulatory effect renumbering former section 320.06 to section 350.06 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.07. Certification of Requests.

HISTORY

1. Repealer filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).

§ 320.08. Assignment of Requester Codes, and Personal Identification Numbers to Governmental Entities.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Renumbering and amendment of former section 320.08 to section 320.38 and new section 320.08 filed 4–24–91; operative 5–24–91 (Register 91, No. 25). For prior history, see Register 79, No. 34.
2. Change without regulatory effect renumbering former section 320.08 to section 350.08 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.09. Withholding Information.

HISTORY

1. Repealer filed 4–24–91; operative 5–25–91 (Register 91, No. 25).

§ 320.10. Governmental Entity's Request for Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Amendment filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. Repealer and new section filed 4–24–91; operative 5–25–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.10 to section 350.10 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.11. Retention of Request for Information.

NOTE: Authority cited: Section 1798.26, Civil Code. Reference: Section 1798.26, Civil Code; and Section 1810, Vehicle Code.

HISTORY

1. Amendment filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. Renumbering and amendment of former section 320.11 to section 320.48 filed 4–24–91; operative 5–24–91 (Register 91, No. 25).

§ 320.12. Priority for Processing Governmental Requests.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Order of repeal filed 6–3–85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
2. New section filed 4–24–91; operative 5–25–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.12 to section 350.12 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.13. Preliminary Investigation.

HISTORY

1. Repealer filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).

§ 320.14. Release of Information to Governmental Entity.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code; Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 8–21–79; effective thirtieth day thereafter (Register 79, No. 34).
2. Repealer and new section filed 4–24–91; operative 5–24–91 (Register 91, No. 25).
3. Change without regulatory effect renumbering former section 320.14 to section 350.14 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.16. Information Required on a Nongovernmental Application for a Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4–24–91; operative 5–24–91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.16 to section 350.16 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.18. Additional Requirements for a Nongovernmental Application for a Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4–24–91; operative 5–25–91 (Register 91, No. 25).

2. Change without regulatory effect renumbering former section 320.18 to section 350.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.20. Certifications Required with Nongovernmental Applications for Access to Residence Address Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1811, and 16053, Vehicle Code. Sections 1798.24 and 1798.26, Civil Code; and Cal Jur 3d 109.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.20 to section 350.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.22. Fees Required with an Application for a Nongovernmental Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.22 to section 350.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.24. Bond Requirements with an Application for a Nongovernmental Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-24-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.24 to section 350.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.26. Assignment of Commercial Requester Accounts, Requester Codes, and Personnel Identification Numbers to Nongovernmental Entities.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.26 to section 350.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.28. Nongovernmental Requester Code Holder's Request for Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.28 to section 350.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.30. Priority for Processing Nongovernmental Requests.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.30 to section 350.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.32. Release of Information to Commercial Requester Account Holder.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.32 to section 350.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.34. Additional Security Requirements for On-Line Access.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.34 to section 350.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.36. Nonpreapproved Requests for Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1798.26, Civil Code; Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Renumbering and amendment of former section 320.06 to section 320.36 filed 4-24-91; operative 5-25-91 (Register 91, No. 25). For prior history, see Register 79, No. 34.
2. Change without regulatory effect renumbering former section 320.36 to section 350.36 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.38. Identification of Nonpreapproved Requesters.

NOTE: Authority cited: Section 1798.26, Civil Code; Section 1651, Vehicle Code. Reference: Section 1798.26, Civil Code; Sections 1808.21, 1801.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Renumbering and amendment of former section 320.08 to section 320.38 filed 4-24-91; operative 5-24-91 (Register 91, No. 25). For prior history, see Register 79, No. 34.
2. Change without regulatory effect renumbering former section 320.38 to section 350.38 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.40. Release of Information to Nonpreapproved Requester.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.47, 1810, 1810.7, 1811, 1808.22 and 1808.23, Vehicle Code; Section 1798.26, Civil Code; Section 6255, Government Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.40 to section 350.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.42. Use of Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.7 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.42 to section 350.42 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.44. Cost of Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1811 and 1812, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.44 to section 350.44 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.46. Payment for Information.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-25-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.46 to section 350.46 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.48. Retention of Records.

NOTE: Authority cited: Section 1798.26, Civil Code; Sections 1651 and 1810, Vehicle Code. Reference: Section 1798.26, Civil Code; Sections 1808.46, 1810 and 1811, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 320.11 to section 320.48 filed 4-24-91; operative 5-24-91 (Register 91, No. 25). For prior history, see Register 79, No. 34.
2. Change without regulatory effect renumbering former section 320.48 to section 350.48 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.50. Inspection of Records.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.46, 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-14-91; operative 5-24-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.50 to section 350.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.52. Refusal, Suspension or Revocation of Requester Codes.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-14-91; operative 5-24-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.52 to section 350.52 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.53. Surrender of Records.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.2 and 1810.7, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. New section filed 4-24-91; operative 5-24-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.53 to section 350.53 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 320.54. Temporary Suspension of a Requester Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. New section filed 4-24-91; operative 5-24-91 (Register 91, No. 25).
2. Change without regulatory effect renumbering former section 320.54 to section 350.54 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.5. Registration Services**§ 330.00. Definitions.**

As used in this Article, the following definitions shall apply:

(a) Branch Office. Any business location where the books and records pertinent to the type of business are kept, other than the principal place of business, designated as a branch office by the holder of or an applicant for a registration service license.

(b) Client. Any person compensating a registration service for department work performed or to be performed.

(c) Mobile Office. A motor vehicle designated as the principal place of business or a branch office by the holder of or an applicant for a registration service license. A vehicle used solely to transport an employee or work materials to or from a work site is not a mobile office.

(d) Principal Place of Business. The business location where the books and records pertinent to the type of business are kept designated as the principal place of business by the holder of or applicant for a registration service license.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11401, 11405 and 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.00 to section 330.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.02. Information Required on a Registration Service Application for an Original License.

(a) A complete original application for a registration service occupational license shall be submitted to any departmental Occupational Licensing Inspections Office with the fee required by Section 11409 of the Vehicle Code and any surcharge assessed by the department pursuant to Section 11350.6(n) of the Welfare and Institutions Code.

(b) The application shall be submitted on an Application for Original Occupational License for Registration Service (Part A), Form OL 601 (11/00), provided by the department. Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section. The application shall include the following information:

(1) The full business name under which the registration service will do business.

(2) When a corporation, the true full name of the corporation.

(3) Whether the business is a sole proprietorship, partnership or corporation.

(A) When a corporation, the corporation shall have been authorized by the California Secretary of State to transact business in California.

(4) The true full name and title of the individual owner or each partner (except limited partners) or each stockholder with 10% or more interest in the business, and each director or officer participating in the direction, control or management of the business. This information shall be completed on a Corporate Declaration, Form OL 107 (REV 4/02). If the stockholder disclosed is a corporation, each stockholder with 10% or more interest in the business must be disclosed.

(5) The address and business telephone number for the principal place of business.

(A) The address shall be a street address and shall not be a post office box.

(B) Licensees located outside California must designate a California location as the principal place of business.

(6) The name, address and telephone number for the property owner of the principal place of business.

(7) Whether the principal place of business:

(A) Is a mobile office.

(B) Is located in a residence.

(C) Meets all city and county zoning requirements.

(D) Maintains records electronically.

(8) The address and business telephone number for each branch office.

(A) The address shall be a street address and shall not be a post office box.

(9) The name, address and telephone number for the property owner of each branch office.

(10) Whether each branch office:

(A) Is a mobile office.

(B) Is located in a residence.

(C) Meets all city and county zoning requirements.

(D) Maintains records electronically.

(11) A list of all persons employed or otherwise engaged by a registration service to perform registration work which shall include:

(A) The true full name and residence address.

(B) The birth date, sex, hair color, eye color, height and weight.

(C) The driver license or identification card number and the issuing state.

(D) The date employed.

(E) The owner shall designate those employees authorized to sign a transaction form in lieu of the owner or management.

(F) A statement signed under penalty of perjury under the laws of the State of California that the list contains all persons employed and that the owner accepts full responsibility for the actions of all employees listed.

(12) A statement signed and dated by the individual owner, all partners or a corporate officer, which certifies under penalty of perjury under the laws of the State of California that all the statements made on the application and all attachments to the application are true and that the applicant agrees to notify the department in writing, pursuant to Article 4.5 in Title 13 of the California Code of Regulations, of any change in location, ownership or legal structure of the business.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11350.6, Welfare and Institutions Code. Reference: Sections 11400 and 11401, Vehicle Code; and Section 11350.6, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.02 to section 330.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a), (b), (b)(11)(E) and NOTE filed 3-23-95; operative 4-24-95 (Register 95, No. 12).
3. Amendment of subsections (a)-(b), (b)(4) and (b)(11)(A)-(F) filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.04. Additional Requirements for a Registration Service Application for an Original License.

(a) An Application for Occupational License (Part B) Personal History Questionnaire, Form OL 29 (9/94), provided by the department shall be completed and submitted by each person listed in Section 330.02(b)(4) with the application for an original license required by Section 330.02.

(1) Another department-approved version of this form with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section.

(b) The personal history questionnaire shall contain the following information:

- (1) The true full name of the applicant.
- (2) The residence address of the applicant.
- (3) The business and home telephone numbers of the applicant.
- (4) The physical description of the applicant including sex, color of hair, color of eyes, height, weight and birthdate.
- (5) Whether or not the applicant holds a valid California driver license.

(A) When the applicant is a holder of a valid California driver license the license number shall be provided.

(6) Any name or names the applicant has been known by or used other than the name provided in subsection (b)(1).

(7) The experience and employment record of the applicant for the past three years prior to the date the personal history questionnaire is signed and dated by the applicant.

(8) Whether or not the applicant has previously been or is currently licensed in California as a registration service; vehicle salesperson, representative, distributor, dealer, dismantler, manufacturer, remanufacturer, transporter, verifier, lessor-retailer; driving school owner, operator or instructor; traffic violator school owner, operator or instructor; or all-terrain vehicle safety training organization or instructor.

(A) When the applicant has previously been or is currently licensed as described in subsection (b)(8), each current or previous occupational license number issued to the applicant shall be provided.

(9) Whether or not the applicant has ever had a business or occupational license issued by the department or an application for such license refused, revoked, suspended, or subjected to other disciplinary action or was a partner, managerial employee, officer, director, or stockholder in a firm licensed by the department, and the license was revoked, suspended or subject to other disciplinary action.

(A) When the applicant answers yes to subsection (b)(9), the occupational license number, the type of license, the action and the date of the action taken by the department shall be provided.

(10) Whether or not the applicant has ever had a civil judgment rendered against him/her and whether or not the judgment was a result of activity of the applicant's firm licensed by the department.

(A) When the applicant answers that the judgment was a result of activity of the applicant's firm licensed by the department, the amount of the judgment and whether the judgment is paid or unpaid shall be provided.

(11) Whether the applicant was ever a partner, managerial employee, officer, director, or stockholder in a firm that had a civil judgment rendered against it and whether or not the judgment was a result of the activity of the firm licensed by the department.

(A) When the applicant indicates he/she was a partner, managerial employee, officer, director, or stockholder in a firm that had a civil judgment rendered against it and the judgment was a result of the activity of the firm licensed by the department, the amount of the judgment and whether the judgment is paid or unpaid shall be provided.

(12) Whether or not the applicant has ever declared bankruptcy or was a partner, managerial employee, officer, director, or stockholder in a firm that declared bankruptcy.

(A) When the applicant indicates he/she has declared bankruptcy or was a partner, managerial employee, officer, director, or stockholder in a firm that declared bankruptcy, the date the bankruptcy was filed and the name and location of the court of jurisdiction shall be provided.

(13) Whether or not the applicant has ever been convicted, placed on probation, or released from incarceration following conviction for any crime or offense, either felony or misdemeanor, excluding traffic offenses, within the last ten years.

(A) When the applicant indicates he/she was convicted, placed on probation, or released from incarceration following conviction for any crime or offense, either felony or misdemeanor, excluding traffic offenses, within the last ten years, each offense shall be listed with the conviction date, the court of jurisdiction and the disposition.

(14) A statement, signed and dated by the applicant which certifies under the penalty of perjury all the answers and the information contained in the personal history questionnaire are true and correct, and includes the city and state where the document was executed.

(15) The social security number of the applicant.

(c) The applicant shall submit with the personal history questionnaire a certified copy of the arresting agency report and a certified copy of the court documents for each conviction listed pursuant to subsection (b)(13)(A).

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11350.6, Welfare and Institutions Code. Reference: 42 United States Code 405(c)(2)(C); 42 United States Code 651, et seq.; Section 11401, Vehicle Code; and Section 11350.6, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.04 to section 330.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a), new subsections (a)(1) and (b)(15), and amendment of NOTE filed 3-23-95; operative 4-24-95 (Register 95, No. 12).

§ 330.06. Fingerprints.

(a) Fingerprints shall be submitted by each person listed in Section 330.02(b)(4) to a Live Scan facility. A carbonized copy of the Request For Live Scan Service, Form DMV 8016 (NEW 11/99), shall be submitted with the application for an original license as required by Section 330.02.

(b) The Request for Live Scan Service application shall contain the following:

- (1) The typed or printed name of the person fingerprinted.
- (2) Any aliases used by the person fingerprinted.
- (3) The birth date of the person fingerprinted.
- (4) The birthplace of the person fingerprinted.

(5) The sex, height, weight, eye color and hair color of the person fingerprinted.

(6) The driver license or identification card number of the person fingerprinted and state of issue.

(7) The social security number of the person fingerprinted.

(8) The date the fingerprints are taken.

(9) The signature of the person taking the fingerprints.

(10) A statement that the Request for Live Scan Service, Form DMV 8016, is for the purpose of applying for a registration service license.

(11) The home address and telephone number of the person fingerprinted.

(c) Fingerprints are not required when the applicant is currently an occupational licensee of the department or the applicant is a prior occupational licensee of the department whose license has not lapsed more than three years from the date of expiration.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code; and Section 17520(d), Family Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.06 to section 330.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and NOTE filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.08. Registration Service Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a registration service license shall submit the bond required by Vehicle Code sections 11401 and 11402 on a Registration Service Surety Bond, form OL 605 (REV. 12/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The name of the Principal on the surety bond shall include any and all "Doing Business As" (DBA) names used by the Principal to conduct business as authorized under the occupational license.

(c) The appointment of director as the agent for service of process as required by Vehicle Code section 11403 shall be executed on an Appointment of Director as Agent for Service of Process, form ADM 9050 (Rev. 9/2006), which is hereby incorporated by reference.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1185 and 1189(a), Civil Code; Section 995.010, Code of Civil Procedure; and Sections 19, 11401, 11402 and 11403, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.08 to section 330.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading, section and NOTE filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).
3. Amendment of subsection (c) and amendment of form ADM 9050 (incorporated by reference) filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 330.10. Certification Required with an Application for an Original Registration Service License.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11403, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.10 to section 330.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 330.12. Temporary Permit and License Issuance and Posting.

(a) A temporary permit may be issued to a registration service while the department is completing its investigation and determination of all facts relative to the licensing of a registration service when the department receives all the items specified in Sections 330.02 through 330.10, and after inspection and approval by the department of the principal place of business and any branch offices included in the original application.

(1) A temporary permit may be issued for each business location provided there is no apparent reason for refusal of the license.

(2) Each temporary permit shall be signed by a person described in Section 330.02(b)(4).

(3) Each business location receiving clients shall post the temporary permit in a location visible to the public.

(A) When business is conducted at other than the principal place of business or a branch location, any registration service employee shall provide upon request the original or a copy of the temporary permit.

(b) A registration service occupational license shall be issued to a registration service after the department reviews the application and the Department of Justice report, provided that the department determines all the licensing requirements of Chapter 2.5 of Division 5 of the Vehicle Code are met.

(1) A license for each business location shall be sent to the principal place of business.

(2) Each license shall be signed by a person described in Section 330.02(b)(4).

(3) Each business location receiving clients shall post the original license in a location visible to the public.

(A) When business is conducted at other than the principal place of business or a branch location, any registration service employee shall provide upon request the original or a copy of the license.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11400 and 11404, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.12 to section 330.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a) and (a)(1) filed 10-2-96; operative 11-1-96 (Register 96, No. 40).

§ 330.14. Renewal of a Registration Service License.

(a) Every application for the renewal of a registration service license made by the licensee pursuant to the requirements of Section 11410(b) and (c) of the Vehicle Code shall be submitted to the department with the fee required by Section 11409 of the Vehicle Code and any surcharge assessed by the department pursuant to Section 11350.6(n) of the Welfare and Institutions Code.

(b) The renewal shall be submitted on a Registration Services License Renewal Billing Notice, Form OL 603 (2/92), or an Application for Renewal, Form OL 45 (9/94) provided by the department. Another department-approved version of either of these forms with a different revision date shall be acceptable if the content of the form is in substantial compliance with the requirements of this section. The renewal form shall include the following information:

(1) A designation as to whether the type of ownership structure is individual owner, partnership or corporation.

(2) The names and social security numbers of all owners, including individual owners, partners or corporate officers.

(3) A current business telephone number.

(4) A certification signed under the penalty of perjury by the individual owner, a partner or any corporate officer that the information is true and correct.

(c) When the application for the renewal of a registration service license is not postmarked or received at the department by midnight of the 30th day following the expiration date of the license, the licensee shall comply with all the original licensing requirements as specified in this Article.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11350.6, Welfare and Institutions Code. Reference: 42 United States Code 405(c)(2)(C); 42 United States Code 651, et seq.; Sections 11409 and 11410, Vehicle Code; and Section 11350.6, Welfare and Institutions Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.14 to section 330.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a), (b), (b)(2) and NOTE filed 3-23-95; operative 4-24-95 (Register 95, No. 12).

§ 330.16. Change of Business or Corporate Name.

(a) Prior to changing the business or corporate name of a registration service, a request for change shall be submitted to the department for approval.

(b) The request shall be submitted on an Application for Changes to an Occupational License for Registration Service, Form OL 600 (8/91), provided by the department and shall include the following information:

- (1) When the business name is changing, the full prior business name.
- (2) The occupational license number.
- (3) When the corporate name is changing, the full prior corporate name.

(4) An indicator checked which discloses that the business or corporate name is being changed.

(5) The new business or corporate name.

(6) A statement, signed under penalty of perjury by the individual owner, any partner or a corporate officer, certifying that the information entered on the application is true and correct.

(c) The request shall be submitted with the following items:

- (1) The fee specified in Section 11409 of the Vehicle Code.
- (2) A copy of the meeting minutes authorizing the name change, when a corporate name is changing.

(3) A rider to the registration service's bond filed pursuant to Section 11402 of the Vehicle Code, reflecting the new business or corporate name.

(A) The rider shall be completed by the surety that issued the bond currently in effect.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11402 and 1409, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.16 to section 330.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.18. Addition of a Branch Office or Change of Address.

(a) Prior to adding a branch office or changing the location of the principal place of business or any branch office, a registration service shall submit a request to the department for approval.

(b) The request shall be submitted on an Application for Changes to an Occupational License for Registration Service, Form OL 600 (8/91), provided by the department and shall include the following information:

- (1) The full business name.
- (2) The occupational license number.
- (3) When a corporation, the full corporate name.
- (4) When a branch office is being added, the indicator checked which discloses that a branch is being added, the address and telephone number of the added branch and the name, address and telephone number of the property owner.

(5) When an address is being changed, an indicator checked which discloses whether the address change is for the principal place of business or a branch office, the new street address and telephone number, the prior street address and telephone number and the name, address and telephone number of the property owner.

(6) Whether the added branch or the new branch location of the principal place of business or branch office:

- (A) Is a mobile office.
- (B) Is located in a residence.
- (C) Meets all city and county zoning requirements.
- (D) Maintains records electronically.

(7) A statement, signed under penalty of perjury by the individual owner, any partner or a corporate officer, certifying that the information entered on the application is true and correct.

(c) The request shall be submitted with the fee required by Section 11409 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11409, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.18 to section

330.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.20. Employee Changes.

(a) A registration service shall notify the department not later than ten days after there is a deletion to the list of employees employed to perform registration work. When adding an employee the department shall be notified prior to the submission of any registration work by the employee. The notification shall be submitted to an Occupational Licensing Inspections Office with receipt acknowledged by a licensing inspector.

(b) The notification shall be submitted on the Registration Service Application for Employee Changes, Form OL 630 (NEW 3/26/03), and the Field Office Registration Service Employee Listing Form, OL 607A (NEW 3/26/03). The Registration Service Application for Employee Changes, Form OL 630 (NEW 3/26/03) provided by the department, shall include the following information:

- (1) The full firm name.
- (2) The occupational license number.
- (3) When a corporation, the true full name under which the firm does business.
- (4) The business address and telephone number.
- (5) The department offices to which the licensee has been assigned.
- (6) When adding an employee, the date added.
- (7) When deleting an employee, the date deleted.
- (8) The true full name and residence address for each employee added or deleted.
- (9) The driver license or identification card number and the issuing state for each employee added or deleted.
- (10) The birth date, sex, hair color, eye color, height and weight for each employee added or deleted.

(11) The owner shall designate if the employee added is authorized to sign a transaction form for the owner or management.

(12) A statement, signed under penalty of perjury under the laws of the State of California that the owner accepts full responsibility for the actions of all employees added and the employees added are employees of the business and certifying the information given is true and correct.

(c) The Field Office Registration Service Employee Listing, Form OL 607 A (NEW 3/26/2003), provided by the department, shall include the following:

- (1) The full firm name.
- (2) The occupational license number.
- (3) The business address and telephone number.
- (4) A new and complete listing of all employees authorized to submit registration work including:
 - (A) The true full name.
 - (B) Date of birth.
 - (C) Driver license or identification card number.
 - (D) State of issuance of driver license or identification card.
 - (E) Whether or not the employee listed is authorized to sign for the owner or management of the business.

(5) A statement, signed under penalty of perjury under the laws of the State of California, that the owner, partner, or officer of the corporation or limited liability corporation member accepts full responsibility for the actions of all employees listed as well as those employees given authority to sign for the owner or management and certifying the information is true and correct.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.20 to section 330.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.21. Change of Ownership.

(a) A change of registration service ownership occurs when any person designated as a licensee has changed, other than a corporate officer change as described in Section 330.22.

(1) The existing licensee of a registration service shall notify the department within 10 days prior to the effective date of a change of ownership.

(b) Any person holding a registration service license shall notify the department within 10 days prior to the effective date of a change of ownership.

(1) The notification shall be in writing and shall specify the effective date of the change of ownership.

(c) When a change of registration service ownership occurs, the documents and fees required by Section 11409 of the Vehicle Code and Sections 330.02, 330.04, 330.06, 330.08, and 330.10 shall be submitted to the department to apply for a new license.

(d) The provision of Sections 330.52(b) and 330.58(b), (c) and (d) for a registration service which voluntarily goes out of business shall also apply to a registration service when a change of ownership occurs.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11490, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.20 to section 330.21 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.22. Change in Corporate Officer Structure.

(a) A registration service shall notify the department of a change in the corporate structure not later than 10 days after the effective date of the change.

(b) The notification shall be made by submitting to the department a copy of the corporate minutes affixed with the corporate seal reflecting the change or an Application for Changes to an Occupational License for Registration Service, form OL 600 (8/91), provided by the department containing the following information:

(1) The name of the corporation.

(2) The occupational license number.

(3) The true full name and title of each controlling stockholder, officer or director of the corporation added or deleted with the date of the addition or deletion.

(4) A statement, signed under penalty of perjury by a corporate officer, certifying that the information entered on the application is true and correct.

(c) The notification shall be submitted with the following items:

(1) The fee required by Section 11409 of the Vehicle Code.

(2) A completed personal history questionnaire as specified in Section 330.04, for each controlling stockholder, officer or director added to the corporate structure.

(3) A completed fingerprint card as specified in Section 330.06, for each controlling stockholder, officer or director added to the corporate structure.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11401 and 11409, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.22 to section 330.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.24. Signs.

(a) Each registration service shall display a sign that includes the full name of the service as shown in departmental records at the principal place of business or any branch office receiving clients.

(b) Each registration service shall display a sign, pursuant to subsection (a), on the office door and the on the building directory, when there is such a directory, at the principal place of business or any branch office receiving clients which is located in a building housing more than one business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.24 to section 330.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.26. Advertising.

(a) Each registration service shall provide in all media of advertising and telephone listings, the following information:

(1) The business name of a registration service as shown in department records and the address of the principal place of business or a branch office, or

(2) The business name of a registration service as shown in department records and the registration services' occupational license number issued by the department.

(b) No registration service advertisement or statement shall indicate in any way that a registration service can issue or guarantee the issuance of any department documents, or imply in any way that the registration service can influence the services of the department, affect the client's obligations to the state or obtain any preferential or advantageous treatment from the department.

(c) No registration service shall state or imply that the service can obtain reduced departmental fees.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 25 and 11405, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.26 to section 330.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Repealer of subsection (c) and subsection relettering filed 3-23-95; operative 4-24-95 (Register 95, No. 12).

3. Repealer of subsection (c) and subsection relettering filed 10-2-96; operative 11-1-96 (Register 96, No. 40).

§ 330.28. Additional Services Provided.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11400, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.28 to section 330.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Repealer filed 10-29-97; operative 11-28-97 (Register 97, No. 44).

§ 330.30. Compensation Received by a Registration Service.

(a) A list of the costs for work performed by a registration service for each type of transaction shall be conspicuously posted in a place visible to the public at each business location receiving clients.

(1) When alternative methods are used to determine costs, the list of costs shall also contain a description of the alternative methods.

(b) When clients are not received at a business location, a copy of the list of costs shall be provided by the registration service to each client prior to accepting a transaction or any compensation.

(c) The list of the costs shall not include any fees due to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.30 to section 330.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.32. Submitting Fees and Documents to the Department.

(a) The submission to a registration service by a client of fees due to the department does not constitute receipt of the fees by the department.

(b) Whenever a registration service receives any fees due to the department for a registration transaction, the registration service shall submit the fees with any documents available for the registration transaction to the department within seven departmental business days of the receipt of the fees.

(1) Notwithstanding subsection (b) above, no registration service shall delay submitting the fees with any documents available for the registration transaction to the department when such a delay would cause the fees to be subject to penalty by the department, except when specifically authorized by the client to delay submission, and provided that the authorized delay does not cause the submission to exceed seven departmental business days from the receipt of the fees.

(A) The registration service shall maintain in their records documentation of a client's authorization to delay submission of fees or documents.

(2) Fees and documents submitted by the service through the mail shall be considered received by the department by midnight of the postmark date.

(3) Fees and documents submitted in person during the business hours of the department shall be considered received the same day.

(4) Fees and documents left at a departmental office after the close of business and found upon start of business the next business day shall be considered received by the department by midnight of the previous business day.

(c) All transactions submitted to the department shall be submitted on the transaction authorization agreement form as described in Title 13, Section 330.42, California Code of Regulations, unless exempted as described in subsection (j), (k), (l), or (m) of Section 330.32.

(d) A registration service shall submit registration work only to an office the registration service has been assigned to by the department.

(e) Registration service employees shall present their state issued driver licenses and/or identification cards when requested by a department employee. The department employee shall verify, using the list provided by the registration service identified in Section 330.02, that the individual has been identified by the licensee as an employee of the registration service. A department office shall not process transactions submitted by an individual not specified by the licensee as an employee of the registration service or an individual who refuses to provide identification to a department employee as described in this section.

(f) A client check made payable directly to the department shall be submitted by the registration service to the department solely for the transaction(s) for which the check was written.

(g) Documents submitted with missing or incomplete information shall be returned to the registration service for completion.

(h) Except as provided under subdivision (c) of Vehicle Code Section 4466, a registration service shall not submit an application for substitute or duplicate license plates unless the transaction is processed for a dealer and contains a vehicle report of sale; or is submitted for a member of the International Registration Plan (IRP) or Permanent Fleet Registration (PFR).

(i) All transactions must be submitted on a transaction authorization agreement as described in Section 330.42, and completed and signed by the client and the owner or employee authorized to sign for the owner or management identified on the employee listing described in Section 330.02(b)(11)(E) and/or Section 330.20(b)(11). A registration service that is a participant in the Business Partner Automation Program and only submits registration transactions electronically to the department is excluded from this requirement. A registration service submitting a transaction for a vehicle registered in the International Registration Plan (IRP), Permanent Fleet Registration Program (PFR), or Permanent Trailer Identification Program, or a vehicle registered as special equipment is excluded from this requirement.

(j) An information request submitted on a Registration Information Request for Lien Sale, form INF 1126 (REV 1/99), is excluded from the requirements in subdivision (i) of this section.

(k) A request for authorization to conduct a lien sale submitted on an Application for Lien Sale Authorization and Lienholder's Certification, form REG 656 (REV 1/99), is excluded from the requirements in subdivision (i) of this section.

(l) A registration service who enters into a contractual agreement with a dealer or dismantler, vessel agent, or lessor-retailer using the Registration Transaction Authorization Agreement, Occupational Licensee/Vessel Agent, Form REG 600A (New 3/26/03), is excluded from the requirement identified in subdivision (i) of this section, provided the agreement is maintained in the records of the principle place of business and the transactions are submitted on the approved listing sheet as described in Title 13, Section 330.44, California Code of Regulations.

(m) Registration transaction of an identical transaction type submitted for an individual registered owner and/or transactions submitted for a fi-

ancial institution identified as the legal owner on the certificate of title of the vehicle may be submitted on the Transmittal of Registration Applications, Form FO 247 (REV 5/97), provided each transmittal is accompanied by a completed Transaction Authorization Agreement, Form REG 600 (New 3/26/2003).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 4466 and 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.32 to section 330.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (b)(1), (b)(4), (c) and (d) and new subsections (e)-(m) filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).
3. Change without regulatory effect amending subsection (h) and NOTE filed 2-8-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 6).

§ 330.34. Subcontracting and Responsibility.

(a) No person other than an owner or an employee of a registration service shall perform work on a registration service transaction.

(b) The registration service initially accepting the compensation paid by the client is responsible for all the work performed on each registration service transaction submitted to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.34 to section 330.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a), repealer of subsection (b), subsection relettering, and repealer of subsection (d) filed 10-2-96; operative 11-1-96 (Register 96, No. 40).

§ 330.38. Withholding Documents or Operating Authority.

A registration service shall not claim ownership or withhold from any client anything issued to the client by the department through the efforts of the registration service.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11405, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.38 to section 330.38 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.40. Release of Information.

A registration service shall keep confidential pursuant to Sections 1808.21, 1808.45, 1808.46 and 1808.47 of the Vehicle Code any name and address information obtained from departmental documents or records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.40 to section 330.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.42. Information for Clients.

(a) In addition to the requirements of Vehicle Code Section 11406, for every transaction a registration service shall complete a Registration Transaction Authorization Agreement, Form REG 600 (New 3/26/03), provided by the department.

(b) The authorization agreement shall include the following information:

(1) A statement that "THIS IS NOT AN OPERATING PERMIT" shall appear in capital letters.

(2) A unique preprinted number assigned by the department.

(3) The name and occupational license number of the registration service.

(4) The identity of each vehicle by the vehicle identification number, year, make, type, and license plate number.

(5) The type of registration transaction.

(6) The true full name and signature of the client.

(7) The residence address and daytime telephone number of the client.

(8) The driver license or identification card number and state of issue of the client.

(9) The signature of the registration service employee verifying the identity of the client.

(10) The estimated department fees collected.

(11) The service charge (fee), total DMV fees, and date collected by the registration service.

(12) The method of payment by the client.

(13) The printed name of the registration service employee who prepared the documents included in the transaction.

(14) The name, business address, business telephone number, and signature of the registration service owner or employee authorized to sign for the owner or management as described in Section 330.02(b)(11)(E) and 330.20(b)(9).

(15) The true full name and signature of the authorized registration service employee.

(16) A final statement of fees collected including: prior department fees collected, additional department fees collected, total department fees, department fees refunded, reason for refund (including dates for each), total service fee collected, and method of payment.

(c) The authorization agreement shall be used exclusively, in numerical sequence, by the registration service to whom it was issued. It shall not be transferred to another registration service.

(d) The agreement form shall be used by the registration service to record all transactions except those excluded by Title 13, Section 330.32, California Code of Regulations.

(e) The authorization agreement shall be prepared in triplicate for distribution as follows:

(1) The original shall be submitted with the registration documents to the assigned department office.

(2) The duplicate copy shall be provided to the client prior to submission of the original to the department.

(3) The triplicate copy shall remain with the firm's business records at the principal place of business.

(f) The registration service shall maintain a record in numerical order of each Registration Transaction Authorization Agreement, Form REG 600 (NEW 3/26/2003), issued, voided, or lost. For each agreement voided, the record shall indicate the date voided. For each agreement or group of agreements lost, the record shall indicate the date lost, and the series numbers of the agreement(s). The registration service shall notify the department in writing within 2 business days from the date of the discovery of the loss. A copy of the report of loss shall be retained with the record.

(g) Authorization agreements shall not be duplicated or reproduced for any purpose.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.42 to section 330.42 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer and new subsection (a), repealer of subsection (b), subsection relettering, and amendment of newly designated subsections (a)(1), (b) and (c) filed 10-2-96; operative 11-1-96 (Register 96, No. 40).
3. Amendment filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.44. Listing Sheet for Transmitting Registration Documents.

(a) Pursuant to Section 11406(b) of the Vehicle Code, the listing sheet approved by the department shall be the Transmittal of Registration Applications, Form FO 247 (REV 5/97) provided by the department.

(b) The listing sheet shall include the following information:

(1) The full business name of the principal place of business or the branch office of the dealer or dismantler for whom the transactions are submitted.

(2) The mailing address of the principal place of business or the branch office of the dealer or dismantler for whom the transactions are submitted.

(3) The occupational license number of the dealer or dismantler for whom the transactions are submitted.

(4) The occupational license number of the registration service.

(5) The printed name of the registration service representative submitting the transactions.

(6) The telephone number of the dealer or dismantler for whom the transactions are submitted.

(7) The telephone number of the registration service.

(8) Whether the department will prepare a refund check or a credit receipt for any overpayment.

(9) Whether, after processing by the department, the listing sheet and documents will be mailed to the address in subsection (b)(2) or will be picked up by the registration service.

(10) A list of all transactions submitted with the listing sheet which shall be grouped by new and used vehicles and shall include for each transaction:

(A) The vehicle identification number or the California license plate number.

(B) The last name followed by the first initial of each buyer.

(C) The dealer report of sale number or the dismantler acquisition number.

(D) Whether the transaction is for a new or used vehicle.

(E) The date of the sale.

(F) The amount of departmental fees collected by the dealer or registration service.

(G) The receipt number and the amount of the receipt when a credit receipt was issued by the department for fees previously submitted for a vehicle.

(H) The amount of cash or check submitted.

(I) The total amount of credit, cash or check submitted.

(J) The amount of the refund when a check is due.

(11) The signature of the registration service representative submitting the transactions.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11406 and 11407, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.44 to section 330.44 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a) and NOTE filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.46. Incomplete Transactions.

(a) Prior to returning any incomplete transaction to a client, a registration service shall send a written request to the client for any documents, compensation or departmental fees necessary to complete the transaction.

(1) Each registration service shall retain in their business records a copy of the written request with the date the request was sent to the client.

(2) The registration service shall allow the client a minimum of 45 days to respond from the date the request was sent.

(A) The registration service shall indicate on the request the date by which the client must respond.

(b) When the client fails to contact the registration service or to submit the documents, compensation or departmental fees requested pursuant to subsection (a) by the designated date, the registration service shall return the incomplete transaction, including all receipts for departmental fees paid, to the client.

(1) Each transaction shall be returned to the last known address of the client by registered mail no later than 60 days following the date the request was sent to the client.

(2) The registration service shall retain in their business records the date the transaction was mailed to the client.

(c) When the registered mail sent pursuant to subsection (b) is returned unclaimed to the registration service, the transaction shall be forwarded with the unclaimed envelope to the department's Registration Processing Unit, PO Box 942869, Sacramento, CA 94269-0001, within 10 days of the date the mail was returned unclaimed to the registration service.

(1) The incomplete transaction shall be forwarded with the registration service's name, address, and occupational license number, the reason(s) the transaction could not be completed by the registration service, and the date of any attempt to contact the client.

(2) The registration service shall retain in their business records the date the transaction was returned unclaimed to the registration service and the date the transaction was forwarded to the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406.5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.46 to section 330.46 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a), (a)(2)-(b)(1) and NOTE filed 3-23-95; operative 4-24-95 (Register 95, No. 12).
3. Amendment of subsection (a)(1) filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.48. Maintenance and Inspection of Business Records.

(a) A registration service shall maintain the business records required to be retained by Section 11406 of the Vehicle Code and Sections 330.32, 330.42 and 330.46 for four years from the date the transaction, any departmental fees, or any compensation was last received from the client, whichever is the latest date.

(b) A registration service shall maintain the business records required to be retained by Section 11406 of the Vehicle Code and Sections 330.32, 330.42 and 330.46 at the principal place of business, except when the service has branch locations, records peculiar to each branch shall be maintained at the appropriate branch location.

(c) Upon approval by the department, records retained pursuant to subsection (a) may be maintained at a business location other than as required in subsection (b), provided that:

(1) The records are over 12 months old from the date the transaction, any departmental fees, or any compensation was last received from the client, whichever is the latest date; and

(2) A written request is submitted to the department specifying the location where the business records shall be maintained and granting the department authorization to inspect the records at the specified location.

(d) All business records maintained pursuant to this section shall be available for inspection by departmental employees at any business location specified by the department upon one business day's notice by the department, except as provided in Section 330.50(c)(1).

(e) The business records shall be maintained or retrievable by the unique identifying number on each department approved transaction authorization agreement form except as specified in Title 13, Section 330.32(g) and provided the listing sheet as described in Title 13, Section 330.44, California Code of Regulations, is maintained.

(f) The registration service shall ensure business records are stored and secured in such a manner that the confidentiality of client information is maintained.

(g) Business records that are maintained by the approved listing sheet shall be kept in date order.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11406 and 11407, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.48 to section 330.48 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. New subsections (e)-(g) filed 7-18-2003; operative 8-17-2003 (Register 2003, No. 29).

§ 330.50. Electronic Maintenance of Records.

(a) When a registration service electronically maintains any of the records required to be retained by Section 11406 of the Vehicle Code and Sections 330.32, 330.42 and 330.46, it shall be indicated on the original application required by Section 330.02.

(b) When a registration service, subsequent to the submission of the original application to the department, initiates electronic maintenance for any of the records required to be retained by Section 11406 of the Ve-

hicle Code and Sections 330.32, 330.42 and 330.46, the registration service shall notify the department in writing not later than 10 days after beginning electronic maintenance.

(1) The notification shall include the address of the principal place of business or any branch office initiating electronic maintenance with the effective date of the maintenance.

(c) Any registration service electronically maintaining records required to be retained by Section 11406 of the Vehicle Code and Sections 330.32, 330.42 and 330.46, shall provide to the department at no charge a paper copy of the business records at any business location specified by the department.

(1) The paper copy shall be provided upon seven business days notice by the department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11406 and 11407, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.50 to section 330.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.52. Registration Service Voluntarily Out of Business.

(a) When a registration service voluntarily goes out of business, the service shall notify the department's local Division of Investigations and Occupational Licensing office not later than the first departmental business day after the closing date.

(1) The notification shall include the date of the last day of business for the registration service.

(b) When a registration service voluntarily goes out of business, the registration service shall be responsible for completing all pending transactions prior to the closure of the business.

(1) When a registration service fails to complete any pending transactions, the service shall notify in writing not later than the third departmental business day after the closing date all clients whose transactions were not completed prior to closure of the business.

(A) The client notification shall include the date of the last day of business for the registration service, a statement that all transactions pending with the registration service are required to be delivered to the department's local Division of Investigations and Occupational Licensing office not later than the third departmental business day following the service's last day of business, and the address and phone number of the local office.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11407, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.52 to section 330.52 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.54. Refusal to Issue, Suspension, Revocation or Cancellation of a License.

(a) In addition to the conditions specified in Sections 11405 and 11408 of the Vehicle Code, the department may suspend, revoke, or refuse to issue a license to act as a registration service for any of the following reasons:

(1) The registration service wrote a check to the department that was thereafter dishonored when presented for payment.

(2) The registration service violated any of the provisions contained in this Article.

(b) A registration service license may be canceled by the department when the license was issued through error.

NOTE: Authority cited: Sections 1651, Vehicle Code. Reference: Section 11405 and 11408, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.54 to section 330.54 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.56. Notices of Suspension.

(a) When a registration service license is suspended pursuant to Vehicle Code Sections 11405 and 11408 or Section 330.54, it may be a condition of suspension that departmental employees be allowed to post two

notices of suspension in places conspicuous to the public on each licensed location where clients are received.

(1) The notices shall remain posted until the termination of suspension.

(2) The notices shall contain the following information:

DEPARTMENT OF MOTOR VEHICLES
NOTICE OF SUSPENSION
THE REGISTRATION SERVICE LICENSE
ISSUED FOR THESE PREMISES
HAS BEEN SUSPENDED FROM
(date) THROUGH (date)
BY ORDER OF THE DEPARTMENT OF MOTOR VEHICLES
FOR VIOLATION OF THE REGISTRATION SERVICES
LICENSING LAWS

Removal of this notice prior to termination of suspension or any representation to the effect that registration services have been suspended for any reason other than by order of the department shall be deemed grounds for further action.

FOR FURTHER INFORMATION CALL
(telephone number of the local investigation office).

(b) In addition to posting the notices as specified in subsection (a) and in lieu of posting notices at those registration service locations not receiving clients, it may be a condition of suspension that the department publish a notice of suspension in any newspaper to be selected by the department.

(1) The published notices shall contain the following information:

NOTICE OF SUSPENSION

The registration service license issued for (name of business) located at (address of business) is suspended from (date) through (date) by order of the Department of Motor Vehicles for violation of the registration service licensing laws.

For further information call (telephone number of the appropriate district investigation office).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11408, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.56 to section 330.56 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a) and (b) filed 10-2-96; operative 11-1-96 (Register 96, No. 40).

§ 330.58. Surrender of Records.

(a) When the license of a registration service is suspended or revoked pursuant to Sections 11405 or 11408 of the Vehicle Code or Section 330.54, all records retained pursuant to Section 11406 of the Vehicle Code and Sections 330.32, 330.42 and 330.46, any pending client transactions or fees, and all department issued licenses and supplies shall be surrendered to the department.

(1) These items shall be surrendered to the department's local Division of Investigations and Occupational Licensing office not later than the end of the day on which the suspension or revocation takes effect.

(b) When a registration service voluntarily goes out of business, all records retained pursuant to Section 11406 of the Vehicle Code and Sections 330.32, 330.42, and 330.46, any pending client transactions or fees, and all department issued licenses and supplies shall be surrendered to the department.

(1) These items shall be delivered to the department's local Division of Investigations and Occupational Licensing office not later than the end of the third business day following the last day of business for the service.

(c) The department shall provide a no fee copy of the surrendered records to the registration service not later than 30 days from the date of surrender, provided the registration service submits a written request to the department at the time of surrender.

(d) When any incomplete transactions which were returned to the client pursuant to Section 330.46(b) are returned unclaimed to a registration

service after the other records have been surrendered, the procedures in Section 330.46(c) and (c)(1) shall apply.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11405 and 11408, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 450.58 to section 330.58 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 330.60. Certificate of Convenience.

(a) The department may issue a certificate of convenience upon the death of an individual owner, or a partner, or all the corporate officers of a registration service which will allow the business of the registration service to continue until the estate is settled providing that a certified copy of the death certificate is filed with the department.

(b) The certificate of convenience shall be issued to the executor, executrix, administrator, administratrix, surviving spouse or other heir entitled to conduct the business of the deceased.

(c) When the estate is settled, any owner of the business shall comply with the original licensing requirements specified in this Article.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 450.60 to section 330.60 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.6. Driving Schools and Instructors

§ 340.00. Licenses.

(a) A license to own or operate a driving school shall not include the right to give driving instructions.

(b) A license to give driving instruction for driving schools will be limited to giving such instruction while in the employ of the driving school named in the application. The instructor's license must be readily available in the office for each school he may represent and surrendered to the department by the driving school when the instructor becomes inactive, transfers to another school or when the license is expired, canceled, suspended or revoked.

(c) An identification card will be issued with all driving instructor licenses which shall be in the possession of the licensee at all times while accompanying a student. When an instructor becomes inactive, transfers to another school, or the license is expired, cancelled, suspended or revoked, he/she shall immediately surrender to his/her employing driving school his/her instructor's identification card. The employing driving school is then responsible for surrendering the ID card to the department within 30 days after such event. If an instructor fails or refuses to surrender the ID card, the employing driving school may so notify the department, in writing, in lieu of satisfaction of the requirement that the school surrender the ID card itself.

(d) A licensed instructor may transfer from one driving school to another upon filing of the proper application with the department, payment of the required fee, and surrender of his/her instructor's identification card, as required in (c), above. Application for such transfer must be on file with the department on or before the effective date of the transfer.

(e) An instructor may be licensed to more than one school provided that a written statement from each employing school operator is submitted to the department acknowledging such employment.

(f) The license to own or operate a driving school shall be prominently displayed in the place of business of the driving school.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1651, 11100, 11104, 11105 and 11105.5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.00 to section 340.00 and amendment of article heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.10. Applications.

All applications for licenses under Chapter 1, Division 5 (commencing with Section 11100) of the Vehicle Code shall be made on forms fur-

nished by the department. All applications for original licenses shall be accompanied by two clear sets of fingerprints on standard fingerprint cards. All applications for renewal of instructor licenses shall be accompanied by a medical examination report at least every three years. Evidence of possession of a valid Medical Examiner's Certificate may be accepted in lieu of the medical examination report.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652, 11100, 11102, 11102.5, 11104, 11105, 11105.1 and 11105.5, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.10 to section 340.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.13. Driving School Owner or All-Terrain Vehicle Safety Training Organization Principal Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a driving school owner or all-terrain vehicle safety training organization principal occupational license shall submit the bond required by Vehicle Code section 11102 on a Driving School Owner or All-Terrain Vehicle Safety Training Organization Principal Surety Bond, form OL 218 (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The true, full name of the driving school owner or all-terrain vehicle safety training organization principal, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

(c) The appointment of director as the agent for service of process required by Vehicle Code section 11102(a)(5) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Section 11102, Vehicle Code.

HISTORY

1. New section filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 340.15. Insurance Requirements.

The certificate of insurance required by Vehicle Code Section 11103 shall be on a form prescribed by the department. A new insurance certificate must be on file with the department before the expiration of a prior one. An insurance certificate will not be required of those schools that offer classroom instruction only.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652 and 11103, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.15 to section 340.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.20. Place of Business.

(a) Each applicant for licensing as a driving school owner shall designate his/her place of business or branch location(s). Upon inspection and approval by the department, separate locations used by the school exclusively as classrooms will be granted an exemption from licensing as separate places of business.

(b) A driving school branch location is any location, other than the principal place of business, maintained to provide driving school services. A branch location must comply with the requirements of Sections 320 and 11102(a)(3) of the California Vehicle Code. Upon approval of the department, the records may be maintained at another business location, provided a written instrument is filed with the department describing such other location.

(c) A driving school's established place of business and branch location(s) shall have erected or posted thereon outdoor and/or indoor signs or devices providing information stating the school's name, address, and office hours. Every such sign erected or posted on an established place of business or branch location(s) shall have an area of not less than two square feet per side displayed unless size is restricted by building lease

agreement or local ordinance, and shall contain lettering of sufficient size to enable the sign or device to be read from a distance of at least 50 feet for an outdoor sign or 10 feet for an indoor sign.

(d) In the absence of the operator, the person left in charge of the office during the posted office hours shall be fully qualified and authorized to give pertinent information to the public concerning lessons and accounts and to give information to any representative of the department concerning the operation of the school.

(e) At least twenty-four hours notice must be given the department before any change in posted office hours.

(f) Each school shall file an application with the department accompanied by the required fees for any change of address of a driving school ten days before opening for business at any new location.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 320, 1651, 11102, 11105.2 and 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.20 to section 340.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.25. Driver Education Courses for Minors.

(a) Any driver education course to be conducted for minors by a licensed driving school must be specifically approved by the department prior to the commencement of the course.

(b) Approval for conducting driver education courses shall be contingent upon the school meeting and maintaining the following requirements:

1. All driver education instruction shall be conducted in a classroom approved by the department.
2. All classroom instruction shall be taught by a licensed instructor.
3. Lesson plans must be approved by the department.
4. Each student may receive a maximum of seven (7) hours of instruction per day.
5. The schedule of classes including dates and times shall be filed with the department before any course begins.
6. Provide a minimum of 16 sq. ft. of floor space per student.
7. Provide adequate seating and writing facilities such as desks and chairs or tables and chairs.
8. Provide adequate lighting.
9. Have available in good working condition at least one of the following: 1) video recorder, 2) motion picture projector, 3) slide projector, or, 4) film strip projector. The school must also have a chalk board or a magnetic board.
10. Use at least five (5) motion picture films, video tapes, film strips, or slide presentations or any combination thereof approved by the department. The total presentation(s) must provide at least 100 minutes of actual viewing time.
11. Use textbooks approved by the department and provide one book per student participating.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Section 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.25 to section 340.25 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.27. Certificates of Completion for Minors.

(a) Each driving school shall be held accountable for any Certificate of Completion, forms OL 237, OL 238 and OL 239, issued to the school. Form OL 214 used for such accounting shall be furnished by the department. Each certificate issued shall be recorded in numerical sequence giving the number of the certificate, the full name of the student, and the date the certificate was issued. Whenever the school goes out of business all such records of certificates issued shall be surrendered to the department along with any unused certificates.

(b) Certificates of Completion shall not be issued for any minor who does not complete the training required by Section 12814.6(a)(4)(B) of the Vehicle Code. Upon request of a minor student withdrawing from a course of instruction prior to completion of such course, the school shall

issue the student a certified copy or transcript of his instructional record which shall show the amount and type of training given.

(c) Any driving school providing the required training course to students described in paragraph (b) of this section shall retain a copy or transcript of each student's record as evidence of the total hours of training he/she has received. A Certificate of Completion may then be issued by the driving school for each student completing the required course of instruction.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 1652, 11108, 11113 and 12814.6, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.27 to section 340.27 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Change without regulatory effect amending subsections (b) and (c) and NOTE filed 2-25-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 9).

§ 340.30. Equipment.

(a) Passenger Vehicles. A certificate stating that each training vehicle has been inspected and is in safe mechanical condition shall be submitted to the department by each driving school operator before a driving school license may be issued or renewed. Exception: Upon renewal, a new certificate may not be required if the vehicle(s) was inspected within 120 days of renewal and such certification is on file with the department. The inspection and certificate must be completed by a person licensed to repair automobiles by the Bureau of Automotive Repair or by an employee of a repair facility licensed by the Bureau of Automotive Repair. The certificate must bear the signature and business address of the person making the inspection. A separate certificate must be submitted for each vehicle. Forms for this purpose shall be furnished by the department. Vehicle inspection certificates will be required on all replacement or added vehicles before they may be used in driver training.

(b) Commercial Power Units—Tractors. A certificate (CHP form 407B Rev. 1-81) stating that each training vehicle has had a critical item truck inspection and is in safe mechanical condition shall be submitted to the department by each driving school operator before driving school license may be issued or renewed. Further, the inspection and certificate must be completed every ninety days by a member of the California Highway Patrol certified to perform critical item truck inspections. A separate certificate must be submitted for each vehicle. Critical item truck inspection certificates will be required on all replacement or added vehicles before they may be used in driving training.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11102 and 11109, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.30 to section 340.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.40. Advertising.

(a) The full official name of a driving school and the address of its established place of business or branch location(s) as shown in department records, or the school's occupational license number shall be used in all media of advertising and telephone anchor listings. Where a display advertisement appears in the yellow pages of the telephone directory, the address of the driving school's established place of business may be omitted from the display advertisement provided that,

- (1) the school's address is listed in the directory's anchor listing; and
- (2) the driving school's occupational license number is prominently displayed in the advertisement in lieu of the address.

(b) No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license or imply that the school can in any way influence the department in the issuance of a driver's license or imply that preferential or advantageous treatment from the department can be obtained.

(c) No licensed school shall advertise that it is approved by the department.

(d) The length of each lesson or course shall be clearly stated whenever the cost for such lessons or course is quoted or advertised.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11110, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.40 to section 340.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 340.45. Instruction.

(a) No licensee may conduct or permit any employee to conduct behind-the-wheel driving lessons in excess of two (2) hours per day for any person seeking to satisfy the requirements of Vehicle Code Section 12814.6. Advanced driver training of over two (2) hours per day may be given to any such person who has completed a minimum of six (6) hours of driver training except that no such previously unlicensed persons shall be given more than four (4) hours of behind-the-wheel training in any one day. Exceptions to this limitation may be granted under special circumstances with prior approval by the department.

(b) No licensee may conduct or permit any employee to conduct behind-the-wheel instruction upon a highway for any person who does not have in his immediate possession a valid instruction permit (Student License, DL Form 118) or driver license.

(c) No licensee may conduct or permit any employee to conduct behind-the-wheel instruction on a specific drive test route of any departmental office.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11113 and 12814.6, Vehicle Code; and Section 51220, Education Code.

HISTORY

1. Change without regulatory effect renumbering former section 400.45 to section 340.45 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Change without regulatory effect amending subsections (a) and (b) and NOTE filed 2-25-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 9).

§ 342.00. Subject Matter of Driving Instructor Training Course.

The curriculum of any course of driving instructor training which will receive departmental approval must include the following subject matter.

Qualifications of a Professional Driving Instructor.

First Aid Relating to Vehicle Accidents.

Teaching Techniques for Training Drivers.

The Driving Privilege, Licensing and Controls.

Rules of the Road and Civil Liability Relating to Owning and Operating Motor Vehicles.

Motor Vehicles, Equipment and Maintenance.

Physical and Mental Capabilities of Drivers.

Physical Laws Affecting the Operation of Vehicles.

Student Orientation to Motor Vehicle Features and Controls.

Teaching Driving Skills.

Teaching Defensive Driving.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11102.5, 11104 and 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.00 to section 342.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 342.02. Departmental Approval of Instructor Training Course.

All textbooks, visual aids, course curriculum and lesson plans used in instruction shall be approved by the department.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Section 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.02 to section 342.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 342.03. Course Monitoring by Department.

Schools shall submit to the department their schedule of driving instructor training courses. Department personnel may monitor all courses offered at any time.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 1651 and 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.03 to section 342.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 342.04. Proof of Satisfactory Completion.

Each student who successfully completes a driving instructor training course shall be furnished with a certificate evidencing such successful completion bearing the date on which the course was completed and the type of training received.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11104 and 11113, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.04 to section 342.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 342.05. Continuing Professional Education.

In lieu of a renewal examination every three-year period as provided in Sections 11105(b)(2) and 11105.1(b)(2) of the Vehicle Code, the department will accept evidence of completion within two (2) years of a college level course equivalent to two (2) semester units. The department will accept participation in appropriate courses and seminars as evidence of continuing professional education. To be acceptable, such participation must consist of a minimum of eighteen (18) hours within the preceding three (3) years.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11105 and 11105.1, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.05 to section 342.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

DELEGATED TESTING PILOT PROGRAM**§ 343.00. Delegated Testing Pilot Program.**

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Section 12507.1, Vehicle Code.

HISTORY

1. New subheading and section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. New subheading and section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-18-96 order transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
4. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

§ 343.02. Requirements for Driving Schools Participating in the Delegated Testing Pilot Program.

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Sections 11110, 11104 and 12507.1, Vehicle Code.

HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of printing error in subsection (a)(10) (Register 96, No. 20).
3. New section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
4. Editorial correction of subsection (a)(8) (Register 96, No. 42).
5. Certificate of Compliance as to 1-18-96 order, including amendment of subsections (a)(1)-(2), new subsection (a)(9) and subsection renumbering, and amendment of newly designated subsections (a)(10), (a)(11) and (a)(15), transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).

6. Editorial correction of subsections (a)(4) and (a)(12) (Register 96, No. 50).

7. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

§ 343.03. Record Keeping and Reporting Requirements for Participating Driving Schools.

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Sections 11110, 11104 and 12507.1, Vehicle Code.

HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of subsections (a)(2) and (a)(4) (Register 96, No. 42).
4. Certificate of Compliance as to 1-18-96 order, including amendment of subsection (a)(4), transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
5. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

§ 343.04. Inspections, Examinations and Audits by the Department.

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Section 12507.1, Vehicle Code.

HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-18-96 order transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
4. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

§ 343.05. Advertising the Delegated Testing Pilot Program.

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Section 12507.1, Vehicle Code.

HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-18-96 order transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
3. Certificate of Compliance as to 1-18-96 order, including amendment of subsections (a)(8), (b), (c), (c)(2) and (c)(3), transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
4. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

§ 343.06. Participant/Applicant Requirements.

NOTE: Authority cited: Sections 1651 and 12507.1, Vehicle Code. Reference: Sections 12507, 12507.1 and 12814.6, Vehicle Code.

HISTORY

1. New section filed 1-18-96 as an emergency; operative 1-18-96 (Register 96, No. 3). A Certificate of Compliance must be transmitted to OAL by 5-17-96 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5-17-96 as an emergency; operative 5-17-96 (Register 96, No. 20). A Certificate of Compliance must be transmitted to OAL by 9-16-96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1-18-96 order, including amendment of subsections (a)(8), (b), (c), (c)(2) and (c)(3), transmitted to OAL 9-11-96 and filed 10-18-96 (Register 96, No. 42).
4. Editorial correction of subsections (a) and (b) (Register 96, No. 50).
5. Change without regulatory effect repealing section filed 3-5-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).

STUDENT LICENSES

§ 344.10. Definition.

A student license permits the operation of a class C motor vehicle by the licensee under the conditions set forth in Section 344.14 and may be issued by a driving school authorized by the department.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12660, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.10 to section 344.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.12. Driving School Authorizations.

(a) A driving school currently licensed by the department and not on probation with the department may apply to the department at its headquarters in Sacramento for authorization to issue student licenses.

(1) The application for authorization shall be submitted on the Application for Authorization to Issue Student Licenses, Form OL 804 (4/89), provided by the department and shall contain the following information:

(A) The driving school name, occupational license number and the address of the principal place of business.

(B) A list of the names, corresponding signatures and, when applicable, the occupational license number of all driving school employees designated to issue student licenses.

(C) A statement that the driving school possesses at least one device to test the distance vision of each applicant for a student license and a description of the device.

(D) A statement that at least one employee is trained to conduct a vision test using the device described in subdivision (a)(1)(C) in order to determine that the distance vision of each applicant for a student license meets the vision criteria stated in Section 344.20(a)(2)(A).

(E) The signature of the driving school owner or the driving school operator, the date of the signature, and a certification that the information contained in the application is true to the best of their knowledge.

(b) If the department approves the application for authorization, a letter of approval shall be sent to the driving school owner by the department containing an authorization statement and an acknowledgment of the persons designated in the application to issue student licenses. If the department disapproves the request for authorization, a notice stating any reason for the disapproval shall be sent to the driving school owner.

(c) A driving school authorized to issue student licenses shall maintain with the department a current listing of the names and the corresponding signatures of all driving school employees designated to issue student licenses.

(1) Whenever an authorized driving school makes any change to its list of employees designated to issue student licenses, the driving school shall complete Part B of the Application for Authorization to Issue Student Licenses, Form OL 804 (4/89), and forward the updated listing to the department at its headquarters in Sacramento within 5 working days of the change excluding Saturdays, Sundays and legal holidays. An employee shall not be authorized to issue student licenses pursuant to Section 344.24 until the updated listing is forwarded by the driving school to the department.

(2) The department shall return to the authorized driving school an acknowledgment of the receipt of the updated listing.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12660, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 401.12 to section 344.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.14. Description of Limitations.

(a) A student license shall permit the limited operation of a class C motor vehicle by the licensee to such times as the licensee is receiving driver training instruction at the direction and under the supervision of a licensed instructor in the employ of the authorized driving school which issued the student license.

(1) The student license shall be maintained by the authorized driving school which issued the license except at such times as the student licensee is receiving driver training instruction. At such times, the student license shall be maintained in the immediate possession of the student licensee.

(b) A student license shall be valid for not more than one year from the date of issuance indicated on the student license.

(c) A student license shall not be transferable from one authorized driving school to another authorized driving school.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.14 to section 344.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.16. Applications.

Any person 15 years of age or older may apply to an authorized driving school for a student license. Every applicant shall complete an application for a student license.

(a) The student license application shall be the Application for Student License Issued by Authorized Driving Schools, Form OL 801 (10/88), provided by the department to the authorized driving school and shall contain all of the following information:

(1) The applicant's true full name, birthdate, mailing address, residence address and telephone number.

(2) A brief physical description of the applicant.

(3) Whether the applicant, within the last three years, has experience, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(4) Whether the applicant is rendered incapable of safely operating a motor vehicle because of alcoholism, excessive and chronic use of alcoholic beverages, or addiction to, or habitual use of, any drug.

(5) Whether the applicant has had his/her driving privilege or a driver license suspended or revoked within the last 7 years.

(6) Any other information necessary to enable the authorized driving school to determine whether the applicant is entitled to a student license.

[The next page is 28.7.]

(7) The applicant's certification that all information contained in the application is true to the best of their knowledge and a declaration that any false statement made on the application may result in the cancellation of any student license issued.

(8) The applicant's signature and the date of the signature.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.16 to section 344.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of first paragraph and subsection (a)(5) filed 11-4-94; operative 12-5-94 (Register 94, No. 44).

§ 344.18. Verification of Name and Birthdate.

(a) Upon application for a student license the driving school shall require the applicant to produce identification to ensure the name stated in the application is the true name of the applicant, and the birthday stated in the application is the true birthdate of the applicant.

(1) Identification to establish the true name and the true birthdate of the applicant shall include one of the documents specified in Section 15.00 of Title 13 of the California Code of Regulations.

(b) The driving school employee verifying the true name and birthdate of the applicant for a student license shall record upon the student license application the type of document used for verification.

NOTE: Authority cited: Sections 1651, 12660, 12661 and 12801.5, Vehicle Code. Reference: Sections 12661, 12800, 12801.5 and 12805, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.18 to section 344.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (a)(1)(A) and (a)(1)(F) and repealer and new subsections (a)(1)(B)-(C), (a)(1)(G) and (a)(1)(J) filed 11-4-94; operative 12-5-94 (Register 94, No. 44).
3. Amendment of subsection (a)(1), repealer of subsections (a)(1)(A)-(K), and amendment of NOTE filed 3-6-97; operative 4-5-97 (Register 97, No. 10).

§ 344.20. Examinations.

(a) Upon application for a student license the authorized driving school shall require the following examinations of the applicant:

(1) A test of the applicant's knowledge and understanding of traffic signs and signals.

(A) The knowledge test shall be the Student License Knowledge Test, Form OL 802 (10/88), provided by the department and shall be administered by a licensed driving school instructor employed by the authorized driving school. The knowledge test shall provide to the instructor information concerning the applicant's knowledge of basic signs and signals and rules of the road. The knowledge test shall be administered to non-English speaking or illiterate applicants in such a manner as to provide to the instructor the applicant's knowledge of basic signs and signals and rules of the road.

(2) A test of the vision of the applicant.

(A) The vision test shall be administered by an employee of the authorized driving school trained to conduct a test of the distance vision of the applicant for a student license on the distance vision testing device in possession of the authorized driving school. The vision test shall determine if the applicant has distance vision of at least 20/40 in both eyes combined, with at least 20/40 in the better eye and no less than 20/67 in the weaker eye, with or without corrective lenses.

(3) A test of the hearing of the applicant.

(A) The hearing test shall be administered by an employee of the authorized driving school. The hearing test shall demonstrate to the employee the applicant's ability to hear ordinary conversation with or without the use of a hearing device.

(b) The results of each examination shall be noted on the student license application by the person administering the test.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.20 to section 344.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.22. Grounds Requiring Refusal.

(a) An authorized driving school shall not issue a student license to any person:

(1) Who is not 15 years of age or older.

(2) Who is unable, as shown by examination, to understand traffic signs or signals, or who is unable to read and understand simple English used in highway traffic and directional signs.

(3) Who does not, as shown by examination, have distance vision of at least 20/40 in both eyes combined, with at least 20/40 in the better eye and no less than 20/67 in the weaker eye, with or without corrective lenses.

(4) Who does not, as shown by examination, have the ability to hear ordinary conversation, with or without the use of a hearing device.

(5) Who does not have the complete and unrestricted use of all limbs without the assistance of any device.

(6) Who is rendered incapable of safely operating a motor vehicle because of alcoholism, excessive and chronic use of alcoholic beverages, or addiction to, or habitual use of, any drug.

(7) Who has a disorder characterized by lapses of consciousness or who has experienced, within the last three years, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or who has any physical or mental disability, disease, or disorder which could affect the safe operation of a motor vehicle.

(8) Who has evidence of a condition which may affect the ability of the applicant to safely operate a motor vehicle.

(9) Who has had their driving privilege or a driver license suspended or revoked within the last 7 years.

(10) Who has failed to furnish the authorized driving school the information required in the student license application.

(11) Who is under 17 years and six months of age and does not provide proof of completion of driver education, or is not simultaneously enrolled in driver education and training.

(12) Who is under 18 years of age and does not provide a statement signed by the parents or guardian giving permission for issuance of the student license.

(b) Any student license applicant refused a student license for reasons described in subdivision (a)(3) through (9) shall be referred to the department by the authorized driving school employee refusing the student license. When an applicant is referred to the department the driving school shall forward the student license application completed by the applicant refused the student license to the department within 10 working days excluding Saturdays, Sundays and legal holidays of the date of application.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.22 to section 344.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a)(1) and new subsections (a)(11) and (a)(12) filed 11-4-94; operative 12-5-94 (Register 94, No. 44).

§ 344.24. Issuance, Content and Disposition.

(a) When the authorized driving school determines that the applicant is lawfully entitled to a student license, a designated employee whose name and signature appears in the listing required by Section 344.12(c) shall issue the Driving School Student License, Form OL 800 (10/88).

(1) The student license shall contain the following information:

(A) A unique preprinted number.

(B) A written description of the limitations of the student license in terms of duration and use as specified in Section 344.14.

(C) The issuance date and the expiration date of the student license.

(D) The licensee's full name, birthdate and residence address.

(E) The signature of the licensee.

(F) The name and occupational license number of the authorized driving school issuing the student license.

(G) The name and the signature of the authorized driving school employee issuing the student license.

(b) Upon issuing the student license the authorized driving school employee shall verbally advise the applicant of the limitations of the student license in terms of duration and use as specified in Section 344.14.

(c) The student license shall be prepared in quadruplicate for disposition as follows:

(1) The original shall be the Student License and shall remain in the possession of the authorized driving school issuing the license except as noted in Section 344.14(a)(1).

(2) The first copy shall be the Driving School Copy and shall remain with the business records of the authorized driving school.

(3) The second copy shall be the DMV Copy and shall be forwarded to the department at its headquarters in Sacramento within 10 working days excluding Saturdays, Sundays and legal holidays of the issuance date.

(4) The third copy shall be the Receipt for Applicant and shall be issued to the student licensee.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 401.24 to section 344.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.26. Cancellations.

(a) A student license may be cancelled by the driving school that issued the license or by the department whenever, in the opinion of either, the safety of the student licensee or other persons requires the action. A student license may also be cancelled by the department or by the authorized driving school that issued the license when a license has been issued through error or when the student license applicant has provided false information on the application for a student license.

(b) When an authorized driving school cancels the student license, the reason for the cancellation, the date of the cancellation and the name of the authorized driving school employee cancelling the student license shall be recorded on the application for a student license. The date of the cancellation and the name of the authorized driving school employee cancelling the student license shall also be recorded on the original student license. Both documents shall be forwarded together to the department at its headquarters in Sacramento within 10 working days excluding Saturdays, Sundays and legal holidays of the date of cancellation.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.26 to section 344.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.28. Fees and Purchasing.

(a) The department shall charge an authorized driving school a fee of two dollars (\$2) per student license. An authorized driving school shall not charge an applicant more than two dollars (\$2) for a student license.

(b) Student licenses may be purchased by authorized driving schools in selected department field offices in multiples of 25.

(c) Student licenses shall only be purchased by an authorized driving school owner, operator, or employee presenting the original or a copy of the letter of approval to issue student licenses sent to the driving school owner by the department as specified in Section 344.12(b).

(1) An authorized driving school employee who is not the owner or operator shall also present a statement of permission to purchase student licenses on the letterhead stationery of the authorized driving school. The statement of permission shall be signed by the driving school owner and dated within 30 days of the current date.

(d) Student licenses purchased by an authorized driving school from the department shall be used exclusively by the purchasing school and shall not be sold or transferred to another school or any other entity.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12660 and 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 401.28 to section 344.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.30. Forms and Accountability.

(a) All driving schools authorized to issue student licenses shall be subject to the following provisions:

(1) Each authorized driving school shall account for any student license issued by the school on the Student License Issuance Log, Form OL 803 (4/89) provided by the department.

(A) Each student license issued shall be recorded on the log in numerical sequence listing the number of the student license, the full name of the licensee and the date the license was issued.

(B) Any voided student license shall be noted on the log in numerical sequence with the notation "void." The voided license including all copies and the receipt shall be forwarded to the department at its headquarters in Sacramento within 10 working days excluding Saturdays, Sundays, and legal holidays of the date the license was voided.

(C) Any lost or stolen student license shall be noted on the log in numerical sequence with the notation "lost" or "stolen." An authorized driving school shall forward a report to the department of any lost or stolen student license no later than the close of business of the next working day following the discovery of the loss or theft. The report shall contain the number of the lost or stolen student license and the reason the license is missing.

(b) Whenever an authorized driving school goes out of business all student license records and any unused student licenses shall be surrendered to the department.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.30 to section 344.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.32. Records Maintenance and Confidentiality.

(a) Every owner of a driving school authorized to issue student licenses shall maintain at the driving school's principal place of business the following records:

(1) Every Application for Student License Issued by Authorized Driving Schools which does not result in a referral to the department as specified in Section 344.22(b).

(2) The Driving School copy of each Driving School Student License issued.

(3) Every Student License Issuance Log used to account for the student licenses issued, lost, stolen or voided.

(b) The records shall be available for inspection at the principal place of business within 10 working days of the issuance date of the student license excluding Saturdays, Sundays and legal holidays.

(c) The records shall be retained for a minimum of three years from the issuance date of the student license and shall be open to the inspection of the department during business hours and at all other reasonable times.

(d) All records of the authorized driving school relating to the physical or mental condition of any student license applicant or student licensee are for the confidential use of the authorized driving school maintaining the records or the department and are not open to public inspection.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 401.32 to section 344.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 344.34. Notice and Hearing.

(a) Every driving school disapproved by the department to issue student licenses shall be entitled to a hearing upon demand in writing submitted to the department within 60 days after notice of disapproval.

(b) Every driving school authorized by the department to issue student licenses is entitled to a notice and hearing prior to removal from the student license program by the department.

(1) The department may, pending a hearing, temporarily remove the authorization of any driving school to issue student licenses for a period not to exceed 30 days if the director of the department finds that the action is required in the public interest.

(c) The notice and hearing shall be pursuant to and governed by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12660 and 12661, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 401.34 to section 344.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 4.7. Schools for Traffic Violators

LICENSES AND APPROVALS REQUIRED

§ 345.02. Traffic Violator School Owner.

(a) A traffic violator school owner shall be licensed by the department before engaging and/or continuing to engage in any traffic violator school classroom instructional activities. To obtain an owner license an applicant shall:

- (1) Meet all of the requirements of Vehicle Code Section 11202.
- (2) Meet all of the application requirements pursuant to this section.

(b) A traffic violator school owner shall be licensed as a traffic violator school operator before performing any of the operator duties described in Section 345.04(d), except under the emergency provisions described in Section 345.05.

(c) A traffic violator school owner shall be licensed as a traffic violator school instructor before performing any of the classroom instructional services described in Section 345.06(d).

(d) Any individual, partnership, corporation, public school, or other public agency may apply to the department to be licensed as a traffic violator school by submitting a completed application to the department. A completed application shall be submitted in two parts. Part I shall be submitted to the headquarters office of the department with payment of a nonrefundable application fee of \$150 and shall contain the following:

(1) Form OL 760 (Rev 4/94), Application For Traffic Violator School (TVS) Owner License: Part I. The application form shall contain the following information:

(A) Information as to the type of entity making the application: corporation; partnership; sole proprietorship; public adult school, community college; or other public agency.

(B) The proposed business name(s) under which the school will do business, DBA (doing business as). The department shall not approve a name which exceeds 35 spaces; which is so similar to an existing school names so as to cause confusion to the public, courts or the department; which includes punctuation marks, symbols or letters which are not used in accordance with standard accepted practices of English; or which is configured in such a manner as to give an obvious unfair business advantage on a traffic violator school classroom listing. The department shall not approve more than two names for any traffic violator school. The de-

partment shall reserve the proposed name(s), as approved, for a period of one year from the application date.

(C) The proposed business address and telephone number, if known, at the time of application.

(D) Information specific to the type of business entity. If a corporation, the corporate name if different from the DBA name, the California corporation number and the name, driver license number and residence address of each principal officer, board member and any stockholders who are active in the management, direction or control of the corporation. If a partnership, the partnership name if different from the DBA name, and the name, driver license number and residence address of each general partner. If a sole proprietorship, the name, driver license number, residence address and residence telephone number of the sole owner. If a public school or other public educational institution, the name of the school district, the name of the school if different from the DBA name, and the name, driver license number and residence address of the administrator who will be in charge of the traffic violator school operation. If another public agency, the name of the public agency, if different from the DBA name, and the name and telephone number of the administrator for the public agency who will be in charge of the traffic violator school operation.

(E) The names and addresses of any other traffic violator, driving, or mature driver schools owned or operated by any individual, partnership, or corporation applying for ownership on the application.

(F) A statement by the applicant, signed under penalty of perjury, that all statements made in Part I of the application and all attachments to the application are true and correct.

(2) Form OL 29 (Rev 3/94), Application For Occupational License (Part B) Personal History Questionnaire, completed pursuant to Section 345.68 by each individual applying for ownership or as an administrator on the application. For partnerships, this requirement extends to all general partners. For corporations, this requirement extends to all principal officers, board members and stockholders active in the management, direction or control of the corporation. Also for corporations, form OL 754 (Rev 8/91), Certificate For All Individuals Listed On Corporate Structure, shall accompany the Personal History Questionnaire and shall contain: the corporation name; the business name (DBA) of the traffic violator school; information that the individual is a corporate officer, a board member, or principal stockholder; and the individual's signature and the date of signature.

(3) One fingerprint card, completed pursuant to Section 345.72, for each individual who completed a Personal History Questionnaire.

(4) Payment of a fingerprint processing fee, as described in Vehicle Code Section 1668(b), for each applicant.

(5) A lesson plan, pursuant to Sections 345.30 and 345.34, for approval by the department. Part I of the application shall not be considered complete until the submitted lesson plan has been approved by the department as specified in Section 345.34, Lesson Plan Requirements. If the department determines after evaluation that a proposed course curriculum does not meet department standards for approval, the applicant shall be notified of the reasons the course curriculum was not approved.

(A) The applicant may submit a revised course curriculum two times for further evaluation. If, after the second revision is evaluated, the curriculum is not approved, the entire application shall be disapproved.

(B) Any applicant whose application is disapproved as the result of disapproval of the curriculum may reapply at any time by filing a new original application and fee for owner license.

(e) The department shall notify the applicant when Part I of the application is complete and shall provide the forms required to complete Part II of the application. Part II of the application shall be submitted to any department field investigation district office and contain the following:

(1) Form OL 713 (Rev 3/92), Application for Traffic Violator School (TVS) Owner License: Part II, which shall contain the following information:

(A) Name of individual, partnership, corporation, public school, or public agency.

(B) School name (DBA) and telephone number.

(C) Business office address.

(D) Mailing address of school, if different from the business address.

A mailing address different from the school's primary business address will only be recognized and used by the department if certification from the post office that mail can not be delivered to the business address is submitted with the application.

(E) Office hours and days office will be open.

(F) The date by which the office will be operational.

(G) Whether a classroom will be operated at the business-office site and, if yes, the judicial district in which the classroom is located.

(H) If the business site is leased or rented, the property owner's name, address and telephone number and a copy of the lease or rental agreement.

(I) The name, address and telephone number of the bank where the business account is carried, the name(s) of persons authorized to draw funds or issue checks from the account and, if the account is not carried under the school's DBA name, the name(s) under which the account is carried.

(J) A statement, signed under penalty of perjury, certifying to the ownership structure of the business, signed by each individual named in Part I of the application, except that, for a corporation, it shall be signed and the corporate seal affixed by a corporate officer authorized to sign for the corporation.

(K) A certification statement by the applicant, signed under penalty of perjury, that all information provided in Part II of the application and all attachments to the application are true and correct.

(2) A surety bond or alternate security as specified in Sections 345.65 or 345.66, except as provided in Vehicle Code Section 11202(c), regarding public schools or other public agencies.

(3) Form OL751 (Rev 7/93), Application For Traffic Violator School (TVS) Operator License, completed pursuant to Section 345.04, or form OL 755 (Rev 9/06), Application for Change: TVS Operator License, completed pursuant to Section 345.22(b). An owner's license shall not be issued until the department determines that the applicant for operator meets the requirements for licensure.

(4) Form OL 712 (Rev 3/94), Traffic Violator School Branch Business Office/Classroom Application, pursuant to Section 345.15, for each proposed branch business office and each proposed classroom and payment of a \$70.00 nonrefundable fee for each branch business office and for each classroom which is located at a site other than that of the proposed principal business office or proposed branch business office.

(5) For any classroom which is located in a facility not owned by the applicant, a copy of the lease or rental agreement specific to the applicant school, but DBA, shall accompany the application.

(6) A completed application for at least one instructor filed in accordance with Section 345.06, 345.13, or 345.26(b), whichever is applicable, or at least one completed Certification/Deletion of Public School Instructor, OL 609 (Rev 6/93), pursuant to Section 345.29, if the school is operated by a public school. A owner's license shall not be issued until the department determines that at least one applicant for instructor meets the requirements for licensure or until the department determines that one instructor for a public school meets the requirements of Section 345.29.

(7) Form(s) OL 612 (Rev 8/92), Request For Court Approval Of Traffic Violator School (TVS) Name For Addition To TVS Classroom Location List or form(s) OL 611 (Rev 8/92), Request For Court Approval Of Substitute Traffic Violator School Name, for each judicial district in which the school will be holding classes. The school shall be listed on the TVS Classroom Location List only in those judicial districts for which the school name has been court approved. Each form, either OL 612 or OL 611, shall contain the following information:

(A) School name, license number (if known), judicial district, school owner's name, school business address, school daytime telephone number, the owner's signature and the date the owner signed the form.

(B) The court's approval for use of the school name in the judicial district and the name of the judicial district, the county in which the judicial

district is located, the court code for the judicial district, the signature of the judge/court administrator who formalizes the approval and the date the approval is signed.

(C) The OL 611 shall also contain the school name previously disapproved by the court.

(8) A Certificate of Appointment, Form OL 602 (Rev 4/91), completed pursuant to Section 345.67.

(f) Part II of the application shall not be considered complete until the primary business site and at least one classroom site have been approved by the department as specified in Section 345.74.

(g) Upon completion of Parts I and II of the application, the department may issue a temporary operating permit pursuant to Vehicle Code Section 11210, pending completion of the department's evaluation of the background and qualifications of the applicant, provided there is no apparent reason for refusal of the license.

(h) When the department determines that the applicant meets all qualifications for issuance of a license, it shall issue initial owner and operator licenses each valid for one year from the date the temporary operating permit was issued, if issued, or one year from the date of issuance, if no temporary operating permit was issued.

(i) If the department determines that the applicant is not qualified pursuant to any applicable statute or code, the department shall notify the applicant in writing that the license is refused. The notice of refusal shall include:

(1) The reason or basis for refusal.

(2) Information regarding the applicant's right to a hearing pursuant to Vehicle Code Section 11211(b).

(3) If a temporary permit has been issued, notification that the temporary permit is canceled, upon receipt of the notice.

(j) An original traffic violator school owner license shall be valid for a period of one year. A renewal license may be issued for a period of up to two years, as described in Section 345.16(a), unless canceled, suspended or revoked by the department.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 626, 626.2, 626.4, 626.6, 626.8, 1668(b), 1671, 11200, 11202, 11202.5, 11204, 11206, 11208, 11210 and 11211, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. Amendment of subsection (e)(3) filed 3-7-2008; operative 4-6-2008 (Register 2008, No. 10).

§ 345.04. Traffic Violator School Operator.

(a) A traffic violator school operator shall meet the requirements of Vehicle Code Section 11202.5 and be licensed by the department before engaging in the administration or other business activities of a traffic violator school, except as provided in Vehicle Code Section 11202(d), relating to public schools. As used in Vehicle Code Section 11202.5(a)(4), the term "bona fide labor organization" means an association, corporation, partnership, federation, or other organization of any kind, or an agency or employee representation committee or plan:

(1) in which employees of an employer participate or have the right to participate;

(2) which is concerned with workplace grievances, labor disputes, wages, benefits, rates of pay, hours of employment, or conditions of work;

(3) which exists in whole or in part to accomplish any or all of such purposes through employee representation or collective bargaining; and

(4) which is, or is affiliated with, a local, state, or national organization or federation recognized by any local, state, or federal governmental agency to accomplish any or all of such purposes.

(b) A traffic violator school operator license authorizes the licensee to perform operator services only for the specific school named on the license.

(c) A traffic violator school operator may perform operator services for more than one school; however, the operator shall possess a valid license for each school and all of the affected schools shall be fully aware of the multiple school arrangement, as described in Section 345.11.

(d) A traffic violator school operator shall play a major role in the operation of the school. An operator's duties shall include, but not be limited to: hiring, training and performance appraisal of instructors; scheduling classes; ensuring that all classes conducted are consistent with the school's approved curriculum; maintenance of the school's business records; and general operations of the traffic violator school.

(e) A traffic violator school operator shall be licensed as a traffic violator school instructor before performing any of the classroom instructional services described in 345.06(d).

(f) Any individual who qualifies as an operator pursuant to Vehicle Code Section 11202.5 may apply to be licensed by the department as an operator by filing a completed application with the department at any field investigation district office.

(g) An original operator license shall be issued to expire in conjunction with the school owner's license. It shall be termed so that the expiration date of the operator license shall be the same date and month as the owner license and so that the expiration date shall not be more than 24 months from the date of application.

(h) A completed application shall contain:

(1) A nonrefundable application fee which is based on the number of months for which the license will be issued, as follows:

(A) If the license will be valid for 12 months, the application fee is \$100.00.

(B) If the license will be valid for 13 to 15 months, the application fee is \$112.50.

(C) If the license will be valid for 16 to 18 months, the application fee is \$125.00.

(D) If the license will be valid for 19 to 21 months, the application fee is \$137.50.

(E) If the license will be valid for 22 to 24 months, the application fee is \$150.00.

(F) If the operator application is part of an original owner's application, the fee shall be \$100.00. The expiration date shall be the same as the first expiration date of the owner's license.

(2) An Application for Traffic Violator School (TVS) Operator License, form OL 751 (Rev 7/93). This application shall contain the following information:

(A) The name, residence address, and daytime telephone number of the applicant.

(B) The employing school's name, address, telephone number and office hours.

(C) The name of the school owner.

(D) A statement, signed by the applicant under penalty of perjury, certifying to age and completion of teaching experience pursuant to Vehicle Code Section 11202.5(a)(3) and (4) and that all of the information contained on the application is true and correct.

(E) A statement, signed by the owner, certifying that the school intends to employ the applicant as school operator when the applicant is licensed.

(3) A Personal History Questionnaire completed by the applicant pursuant to Section 345.68.

(4) One set of fingerprints pursuant to Section 345.72 and payment of a fingerprint processing fee, as described in Vehicle Code Section 1668(b).

(5) Evidence from an investigation field office that the written examination was passed pursuant to Vehicle Code Section 11202.5(a)(2) within three attempts. However, for any application for an additional operator license the examination requirements shall be waived if the applicant has passed the examination within twenty-four (24) months of submission of the application.

(A) The operator examination shall be administered by the department at any field investigation district office of the department. The operator examination shall consist of 35 questions. A score of 30 or more correct answers shall be passing.

(B) Any applicant who fails to pass the written examination shall be required to wait at least one week before another examination is administered.

(C) An applicant shall be provided the opportunity to review the written examination taken after it has been corrected, but the review shall be in the presence of a department employee, and the applicant shall not copy or otherwise reproduce the examination form or any of the questions on the examination form in any manner.

(i) When the application is complete, the department shall issue a temporary permit valid for a maximum of 120 days, pending department evaluation of the applicant provided that:

(1) There is no apparent reason for the application to be refused or disapproved.

(2) The employing school is currently licensed. If the employing school has not yet been licensed, the operator's application shall not be considered complete until the owner's permit or license is issued and the operator's temporary permit or license shall not be issued until the owner's permit or license is issued.

(j) If the department determines that the applicant is not qualified pursuant to any applicable code or statute, the department shall notify the applicant in writing that the license shall be refused. The notice of refusal shall include:

(1) The reason or basis for the refusal to issue.

(2) Information regarding the applicant's right to a hearing upon demand, pursuant to Vehicle Code Section 11211(b).

(3) If a temporary permit has been issued, notification that the temporary permit is canceled, upon receipt of the notice.

(k) Following the final review of the application, a permanent license and identification card shall be issued to all applicants who meet the requirements for licensure. The operator license shall be maintained at the school business office; the identification card shall be used for identification purposes by the operator. A traffic violator school operator license, when issued, is valid for up to two years, as described in Section 345.04(g), unless suspended or revoked by the department.

NOTE: Authority cited: Sections 1651, 1665 and 11202(a)(2), Vehicle Code. Reference: Sections 626.6, 11200, 11202.5, 11204, 11206, 11208, 11210 and 11211, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Amendment of subsection (a) and new subsections (a)(1)-(4) filed 3-25-2002; operative 4-24-2002 (Register 2002, No. 13).

§ 345.05. Replacement of a School Operator.

A traffic violator school shall have only one operator licensed at any one time. If a traffic violator school's operator ceases to be licensed, or employment as the school operator is otherwise terminated, the school shall have thirty (30) days to comply with Vehicle Code Section 11202.5 by licensing a new operator. The department may authorize the owner to act as the school's operator for a period not to exceed 30 days. A traffic violator school shall change operators by:

(a) Notifying the headquarters office of the department in writing, within one business day following the occurrence of the vacancy, specifying the effective date of the vacancy.

(b) Surrendering the operator license of the former operator.

(c) Having a proposed new operator file an application, pursuant to Section 345.04, 345.11 or 345.22, and receive a temporary permit.

NOTE: Authority cited: Sections 1651 and 11202(a)(2), Vehicle Code. Reference: Sections 626.6, 11202.5 and 11208, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

§ 345.06. Traffic Violator School Instructor.

(a) A traffic violator school instructor shall meet the requirements of Vehicle Code Section 11206 and be licensed by the department before engaging in traffic violator school instruction, except as provided in Section 11206(c) of the Vehicle Code.

(b) A traffic violator school instructor license authorizes the licensee to perform instructional services only for the specific school named on the license.

(c) A traffic violator school instructor may perform instructional services for more than one school; however, all of the affected schools, in-

cluding public schools or agencies, shall be fully aware of each school employing the instructor and the instructor shall possess a valid license for each school, except as provided in Section 11206(c) of the Vehicle Code.

(d) In addition to instructional services, a traffic violator school instructor, including public school instructors, shall perform the following:

(1) Ensure that the classroom standards described in Section 345.38 are maintained at all times during the entire course.

(2) Post all signs required by the department (Section 345.39(g) and (i), and Section 11202(e) of the Vehicle Code) in each classroom prior to commencing instruction.

(3) Maintain evidence of licensure at all times while performing instructional services. Possession of the instructor identification card, described in Section 345.06(g), shall be sufficient to meet this requirement.

(4) Follow the school's departmental approved lesson plan at all times while conducting the class.

(e) Any individual who qualifies as an instructor pursuant to Vehicle Code Section 11206 may apply to be licensed by the department as an instructor by filing a completed application with the department at any designated field office of the department. A list of designated offices can be obtained from the headquarters office of the department. A completed application shall contain:

(1) A nonrefundable application fee of \$30 and a \$1 Family Support Program fee under California Family Code Section 17520 for a total of \$31.

(2) An Application for Instructor's License Traffic Violator School (TVS), form OL 710 (Rev. 9/06). This application shall contain the following information:

(A) The type of application, whether the application is for an Original, Additional or Reinstatement license.

(B) The true full name, mailing address and residence address of the applicant. If the applicant is requesting an additional license, the current Traffic Violator School instructor license number shall be provided.

(C) The employing school's name (DBA), address, and school license number.

(D) For Original and Reinstatement applications, a statement dated and signed under penalty of perjury under the laws of the State of California certifying that the person signing the form is the owner, operator, or designated representative of the Traffic Violator School pursuant to Title 13, Section 345.54 that will be employing the licensee named in the form, and that the licensee named in the form has been administered and successfully passed a written examination in accordance with Section 345.07 of Title 13 of the California Code of Regulations and Vehicle Code section 11206.

(E) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the owner or operator and an indication of whether the signature is of the owner or operator.

(F) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the applicant.

(3) A Personal History Questionnaire completed by the applicant pursuant to Section 345.68, of Title 13 of the California Code of Regulations.

(4) One fingerprint card completed by the applicant pursuant to Section 345.72 and payment of a fingerprint-processing fee, as described in Vehicle Code Section 1668(b), for each applicant.

(f) Applications must be completed in its entirety and properly signed pursuant to subdivision (e) of these regulations. Incomplete applications will not be processed and will be returned to the applicant within 10 business days with the reason why the application is incomplete.

(g) When the application is complete, the department shall issue a temporary permit pursuant to Vehicle Code Section 11210, pending final review of the application, provided that:

(1) There is no apparent reason for the application to be refused or disapproved.

(2) The employing school is currently licensed. If the employing school has not yet been licensed, the instructor's temporary permit or license shall be issued when the owner's permit or license is issued.

(h) Following the final review of the application, a license and an identification card shall be issued to all applicants who meet the requirements for licensure. An instructor license shall be maintained at the school business office and the identification card shall be in the possession of the instructor at all times while conducting classes. A traffic violator school instructor license, when issued, is valid for a period of three years from the date of issuance of the temporary permit or, if no permit is issued, from the date of issuance of the license, unless suspended or revoked by the department.

(i) If the department determines that the applicant is not qualified, pursuant to any applicable statute or code, the department shall notify the applicant in writing that the license is refused. The notice of refusal shall include:

(1) The reason or basis for the refusal.

(2) Information regarding the applicant's right to a hearing, pursuant to Vehicle Code Section 11211(b).

(3) If a temporary permit has been issued, notification that the temporary permit is canceled upon receipt of the notice.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code; and Section 17520, Family Code. Reference: Sections 626.4, 1652, 11200, 11206, 11206.5, 11207, 11208, 11210 and 11211, Vehicle Code; Section 17520, Family Code; and Section 2015.5, Code of Civil Procedure.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. Amendment of subsections (e)(1)-(2), new subsection (e)(2)(A), subsection relettering, amendment of newly designated subsections (e)(2)(B) and (e)(2)(E)-(G), new subsection (e)(2)(H), amendment of subsections (e)(3)-(4) and repealer of subsections (e)(5)-(e)(5)(C) filed 5-2-2006; operative 6-1-2006 (Register 2006, No. 18).

3. Amendment of subsection (e)(2), repealer of subsections (e)(2)(C)-(D), subsection relettering, amendment of newly designated subsections (e)(2)(E)-(F), repealer of subsections (f)-(h)(3), new subsections (f)-(i)(3) and amendment of NOTE filed 3-7-2008; operative 4-6-2008 (Register 2008, No. 10).

§ 345.07. Traffic Violator School Instructor Examination Requirements.

(a) The instructor examination shall be administered by the employing Traffic Violator School owner, operator or designated representative pursuant to Section 345.54 of these regulations.

(b) The instructor examination shall consist of 50 questions provided by the department. To pass the examination, the applicant must have 40 or more correct answers.

(c) An applicant who fails the examination shall be provided the opportunity to review the written examination, with the examiner, after it has been corrected. Another examination may be administered the same day or on another day.

(d) The Traffic Violator School owner, operator or designated representative shall retain the examination taken by the student for 3 years.

(e) The Traffic Violator School owner, operator or designated representative shall take steps to secure the examination questions and shall not allow the questions to be copied or otherwise reproduced in any manner except as required to administer the examination.

(f) The examination questions are for use solely by the Traffic Violator School for the administration of the instructor examination and shall not be distributed or shared with any other person.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11206, Vehicle Code.

HISTORY

1. New section filed 5-2-2006; operative 6-1-2006 (Register 2006, No. 18).

§ 345.08. Traffic Violator School Business Office and Branch Business Office.

A traffic violator school business office, referred to as the primary business office if a school has one or more branch business offices, does not require separate licensure; however, issuance of a traffic violator school owner license is dependent upon the business office meeting the following requirements:

(a) The primary business office shall meet the requirements of Vehicle Code Sections 1671(a), 11202(a)(1) and 11202(e); Section 345.50 of these regulations; all other applicable provisions of the Vehicle Code;

and all other applicable federal, state and local laws, ordinances and rules.

(b) Each branch business office shall meet the same requirements as the primary business office, except that the school's business records, as described in Section 345.56, shall be maintained at the primary business office. Branch records shall be transferred to the primary business office no later than thirty (30) days following the creation of the records.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 320, 1671(a), 11202(a)(2), 11208(a)(2), 11212(b), 11213(b) and 11214, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.09. Traffic Violator School Classroom.

(a) A traffic violator classroom shall meet the minimum requirements of Section 345.38 and shall be approved by the department before being used for traffic violator school instruction.

(b) Approval for using a classroom shall be withdrawn if the minimum requirements of Section 345.38 are not maintained.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 626.2, 11202(a)(4) and 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.10. Authorized Signatures.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Section 11213, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.10 to section 345.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Renumbering of former section 345.10 to new section 345.54 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

ADDITIONAL LICENSE APPLICATIONS

§ 345.11. Additional Operator License.

An operator shall be licensed separately for each school by which he/she is employed in the capacity of operator. To be licensed for an additional school, the operator shall meet all requirements for an original license pursuant to Section 345.04, except for submission of a fingerprint card. In addition to meeting the requirements for an original license pursuant to Section 345.04, the applicant shall submit:

(a) A letter of acknowledgment from each of the affected schools with the application. A letter of acknowledgment shall be signed by the owner and shall contain the following information:

- (1) The school name and license number.
- (2) The operator's name.
- (3) The name(s) of the other school(s) which will employ the operator.
- (4) A statement acknowledging that the operator will be licensed and employed as an operator for the school(s) listed.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219 Vehicle Code. Reference: Sections 11202.5 and 11208, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.13. Additional Instructor License.

An instructor shall be licensed separately for each school by which he is employed in the capacity of instructor, except as provided for in Section 11206(c) of the Vehicle Code. To be licensed for an additional school, the instructor shall meet all the requirements for an original license pursuant to Section 345.06, except for submission of a fingerprint card. In addition to meeting the requirements of Section 345.06, the applicant shall:

(a) Submit a letter of acknowledgment from each of the affected schools with the application. A letter of acknowledgment shall be signed by the owner, operator, administrator for a public school or agency, or other designated representative and shall contain:

- (1) The school name and license number.
- (2) The instructor's name.
- (3) The names of the other school(s) which will employ the instructor.

(4) A statement acknowledging that the instructor will be employed as an instructor for the school(s) listed.

(b) Pass a written examination pursuant to Section 345.06(e)(5). This requirement may be waived, provided that the applicant has passed the examination in the previous three years, or has submitted evidence of department approved continuing education pursuant to Section 345.24 in the previous three years.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11206, 11207 and 11208, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.15. Additional Branch Offices and Classroom Locations.

(a) A traffic violator school owner may apply to the department at any field investigation district office to add branch business offices or classroom locations by submitting the following for each location:

(1) Traffic Violator School Branch Business Office/Classroom Application, form OL 712 (Rev 10/94), which shall contain the following information:

(A) Traffic violator school name, license number, address and business phone number.

(B) New classroom address or new branch business office and, if a new classroom, the telephone number to be shown on the department's classroom listing. The telephone number shall be operational at the time of application.

(C) Name of county or judicial district in which the new classroom or branch office is located and, if the judicial district is one in which the school does not now operate, the court's approval for use of the school name in the new judicial district, on form OL 612 (Rev 8/92), Request For Court Approval Of Traffic Violator School (TVS) Name For Addition to TVS Classroom Location List, or on form OL 611 (Rev 8/92), Request For Court Approval Of Substitute Traffic Violator School Name, as described in Section 345.02(e)(7).

(D) If location is rented or leased: the property owner's name, address and daytime telephone number; the type of facility; and a contact person's name at the facility and the contact person's daytime telephone number.

(E) The proposed date for starting classes.

(F) Self certification information for a new classroom regarding: exclusive use, lighting, seating and writing facilities, square footage, maximum occupancy, maximum seating capacity, accessibility to students of disability, accessibility of restrooms, accessibility of parking or public transportation, consumption or advertising of alcohol on the premises, and distance from a court.

(G) City and state in which the form is executed and date of execution.

(H) A statement signed under penalty of perjury by the owner, operator or authorized representative that the facility meets all safety regulations and requirements of state law and local ordinances.

(2) A copy of a lease or rental agreement.

(3) A nonrefundable application fee of \$70.

(b) The department shall notify the owner of the approval or disapproval of the application subsequent to the inspection of the location pursuant to Section 345.74.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 626.2, 11208 and 11213, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

LICENSE RENEWALS, DUPLICATES AND CHANGES

§ 345.16. Renewal of Owner License.

(a) An original traffic violator school owner license shall expire one year from the date of issuance.

(b) Branch business office and classroom licenses for each school expire at the same time as the owner license, regardless of the application dates for the branch and classrooms. These licenses shall be renewed in conjunction with renewal of the owner's license.

(c) An owner shall apply to the department at its headquarters office before the expiration date of the current license to renew the owner license by submitting the following:

(1) An Application for Renewal of Traffic Violator School (TVS) Owner License, form OL 701 (Rev 2/94). This application shall contain the following information:

(A) A designation as to whether the type of ownership structure is sole proprietor, partnership, corporation, public school or other public agency.

(B) The names, social security numbers, titles, and residence address of all owners, partners, principle corporate officers, board members, and stockholders active in the management, direction or control of the corporation and public school or public agency administrators.

(C) Whether any individual listed as an owner pursuant to Section 345.02 has been convicted of any crime, misdemeanor or felony, since the expiring license was issued by the department.

(D) A statement, signed under penalty of perjury by the owner or administrator if a public school or agency, certifying that the information on the application is true and correct.

(2) An Application for Renewal of Traffic Violator School (TVS) Branch/Classroom Locations, form OL 737 (Rev 2/94). This application shall contain the following:

(A) The traffic violator school's name and license number.

(B) The traffic violator school's business office address and telephone number.

(C) Whether classroom instruction is given at the business address.

(D) The street address and judicial district for each branch business office and for each classroom location to be renewed.

(E) A statement, signed under penalty of perjury, by the owner or the administrator if a public school or agency, certifying that the classroom/branch locations shown are true and correct.

(d) Renewal applications submitted on or after the expiration date of the owner's license shall not be accepted or processed. An owner whose license has expired shall comply with all original licensing requirements prior to being relicensed by the department.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2) and 11219, Vehicle Code. Reference: 42 U.S.C. 405; Section 11350.6, Welfare and Institutions Code; and Sections 626.8, 11204 and 11209, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Amendment of subsection (a), repealer of subsections (a)(1)-(a)(2)(D) and amendment of NOTE filed 12-16-2005; operative 1-1-2006 pursuant to Government Code section 11343.4 (Register 2005, No. 50).
3. Change without regulatory effect amending subsections (c)(1) and (c)(2) and repealing subsections (c)(3)-(c)(3)(B) filed 6-29-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 26).

§ 345.17. Duplicate Owner License.

To replace a lost, stolen, or mutilated owner license, or identification card, the owner shall submit to the department a nonrefundable fee of \$15 and an Application For Traffic Violator School Change of DBA, Additional DBA, Change of Business Address or Duplicate License, form OL 736 (Rev 2/94), completed to contain the following information:

(a) The owner's name.

(b) The school's current DBA name, TVS license number and business telephone number.

(c) The date the license or identification card was lost, stolen or mutilated.

(d) Whether the license or identification card was lost, stolen or mutilated.

(e) Whether the lost, stolen or mutilated document was the license, the identification card, or both.

(f) A statement, signed under penalty of perjury by the applicant, that the information on the application is true and correct.

NOTE: Authority cited: Sections 1651, 11202(a)(2), 11208(a)(4) and 11219, Vehicle Code. Reference: Sections 11208(a)(4), Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.18. Changes to Owner License.

(a) A traffic violator school may apply to change its business name (DBA) or add a DBA as follows:

(1) Submit, to the headquarters office of the department, a written request for name approval. A business name is subject to department approval pursuant to Section 345.02(d)(1)(B).

(2) If the proposed name is approved by the department, the department shall notify the school within ten (10) days following approval or disapproval of the proposed name. The department shall reserve the proposed name as approved for the school for a period of one year from the date of request for approval.

(3) After receipt of department approval of the proposed name, the traffic violator school shall submit, to the headquarters office of the department, the following:

(A) An Application For Traffic Violator School Change of DBA, Additional DBA or Change of Business Address, form OL 736 (Rev 2/94), which shall contain the owner's name(s), the proposed business name and judicial districts for which the name will be used, the telephone number of the school's primary business office, and the traffic violator school license number. The application shall also contain a statement, signed under penalty of perjury by the owner or administrator if a public school or agency certifying that the information contained on the application is true and correct.

(B) A rider to the traffic violator school's bond filed pursuant to Vehicle Code Section 11202(a)(3), reflecting the new or additional business name.

(C) A nonrefundable application fee of \$70, except that there shall be no fee to change a school business name for a licensed school if evidence is submitted with the application that the existing name was disapproved by a court pursuant to Vehicle Code Section 11205(d).

(D) Form(s) OL 612 (Rev 8/92) or form(s) OL 611 (Rev 8/92) pursuant to Section 345.02(e)(7).

(4) The school shall continue to do business under its current name until notified in writing by the department that the application has been approved and until the license reflecting the new name is received from the department.

(5) If a change of DBA is approved by the department, the revised license shall not be sent to the school unless the new TVS Classroom Location List reflecting the new DBA is sent to the courts. If the school is adding a DBA, the revised license will be sent to the school when the application is complete and approved.

(6) Within 30 days of receipt of the new owner license, the school operator and all licensed instructors employed by the school shall apply to the department to change the school name on their licenses to reflect the new school name, pursuant to Sections 345.22(a) and 345.26(a).

(7) Any operator or instructor who fails to make application in the new school name within the prescribed thirty (30) day period will be considered to be unlicensed and unable to perform operator or instructor duties until a new license is obtained.

(b) A traffic violator school may apply to change its primary business location as follows:

(1) Submit, to any field investigation district office of the department, a nonrefundable fee of \$70 and an Application For Traffic Violator School Change of DBA, Additional DBA or Change of Business Address, form OL 736 (Rev 2/94), which shall contain the following information:

(A) The owner's name(s).

(B) The school name.

(C) Telephone number of the school's primary business office.

(D) The traffic violator school's license number.

(E) The new street address of the business office.

(F) The new mailing address of the business office if different from the street address. A mailing address different from the school's primary business address shall only be recognized and used by the department if certification from the post office that mail can not be delivered to the business address is included with the application.

(G) Former business address.

(H) If the school does not own the property, the name and telephone number of the property owner.

(I) Whether classroom instruction will be offered at this location.

(J) The date that the location will be operationally complete and ready for inspection pursuant to Section 345.74.

(K) Copy of lease or rental agreement.

(L) A certification, signed under penalty of perjury, by the owner or other authorized individual, that the information contained on the application is true and correct to the best of his or her knowledge.

(2) The department shall notify the applicant in writing when the location is approved for use or disapproved pursuant to Section 345.74.

(c) A traffic violator school shall notify the department within 10 days of any change in corporate officer structure by submitting, to the headquarters office of the department, a \$70 nonrefundable application fee, a personal history questionnaire for each officer and/or director being added to the corporate structure pursuant to Section 345.68, one set of fingerprints for each officer and/or director being added to the corporate structure pursuant to Section 345.72, and payment of a fingerprint processing fee as described in Vehicle Code Section 1668(b), for each applicant, and either:

(1) A certified copy of the corporate minutes reflecting the change or

(2) A Certification of Corporate Officers and/or Directors of Lieu of Corporate Minutes, form OL 15 (Rev 5/94), which shall contain the following information:

(A) The name of the corporation's secretary, the name of the corporation and the state in which incorporated.

(B) A list of all officers and/or directors being deleted from the corporate structure.

(C) A list of all officers and/or directors being added to the corporate structure.

(D) A current list of the officer and/or directors in the corporate structure.

(E) The effective date of the change(s).

(F) The business telephone number.

(G) A certification that the information contained on the OL 15 is true and correct, signed and dated by the secretary for the corporation.

(d) A traffic violator school shall notify the department in writing at its headquarters of any other changes to the information contained on the Application for Traffic Violator School (TVS) Owner License or of any change of telephone numbers within 10 days of the change.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11204, 11208 and 11213, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.20. Renewal of Operator License.

(a) The term of a renewal license shall be two (2) years and the renewal fee shall be \$100.00, unless the department notifies the operator at least sixty (60) days prior to renewal that the renewal license shall be issued for a term of less than two (2) years to align the expiration dates of the owner and operator licenses. The nonrefundable fee for renewal for any period less than two (2) years is as follows:

(1) \$50.00 if the license is termed to expire in 12 months.

(2) \$62.50 if the license is termed to expire 13 to 15 months.

(3) \$75.00 if the license is termed to expire 16 to 18 months.

(4) \$87.50 if the license is termed to expire 19 to 21 months.

(5) \$100.00 if the license is termed to expire 22 to 24 months.

(b) An operator shall renew the operator license by submitting, to any field investigations office of the department, appropriate fees and an Application for Renewal of Traffic Violator School Operator License, form OL 756 (Rev 2/94). This application shall contain the following information:

(1) The name, address, driver license number, social security number, and daytime telephone number of the applicant.

(2) The employing school's name and license number.

(3) Whether the applicant has been convicted, fined, or placed on probation for any crime, misdemeanor or felony, since issuance of the last license.

(4) A statement, signed under penalty of perjury by the applicant, certifying that the information contained on the application is true and correct.

(5) A statement, signed under penalty of perjury by the school owner, certifying that the applicant shall be employed by the school as operator.

(6) Evidence from an investigation filed office that the written examination was passed as required by Section 11202.5(a)(2) of the Vehicle Code, unless the operator has passed the written examination within the past 24 months.

(c) Renewal applications submitted on or after the expiration date of the operator license shall not be accepted or processed. An operator whose license has expired shall comply with all original licensing requirements as described in Section 345.04 prior to being relicensed by the department.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2) and 11219, Vehicle Code. Reference: 42 U.S.C. 405; Section 11350.6, Welfare and Institutions Code; and Sections 626.6, 11202.5, 11204 and 11208, Vehicle Code.

HISTORY

1. Renumbering of former section 345.20 to section 345.38 and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

§ 345.21. Duplicate Operator License.

To replace a lost, stolen, or mutilated operator license, or identification card, the operator shall submit to the department a nonrefundable fee of \$15 and an Application For Change: TVS Operator License, form OL 755 (Rev 9/06), completed to contain the following information:

(a) The name, residence address, and daytime telephone number of the operator.

(b) The operator's driver license number.

(c) The operator's license number and expiration date of the license.

(d) The date the license or identification card was lost, stolen or mutilated.

(e) The license number of the traffic violator school for which the license was issued.

(f) Whether the license or identification card was lost, stolen or mutilated.

(g) Whether the lost, stolen or mutilated document was the license, the identification card, or both.

(h) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the applicant.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202.5 and 11208, Vehicle Code; and Section 2015.5, Code of Civil Procedure.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. Amendment of first paragraph, repealer and new subsection (h) and amendment of NOTE filed 3-7-2008; operative 4-6-2008 (Register 2008, No. 10).

§ 345.22. Changes to Operator License.

A request for change to an operator license shall be submitted to an investigation field office of the department, as follows:

(a) When a traffic violator school changes its name, or adds a DBA, or changes the school address, the school operator's license shall also be changed to reflect the new school name or address. To change the school name or address on an operator license, the operator shall submit the current operator license and an Application For Change: TVS Operator License, form OL 755 (Rev 9/06) along with a nonrefundable fee of \$15, except that there shall be no fee if the existing name was disapproved by a court pursuant to Section 11205(h) of the Vehicle Code. For a change of school name or address, the application shall contain the following information:

(1) The name, residence address and daytime telephone number of the operator.

(2) The operator's driver license number.

(3) The operator's license number and expiration date of the license.

(4) The new school name.

(5) The school's license number and current address.

(6) The former school name or address.

(7) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the applicant.

(b) An operator may transfer an operator license to another school by submitting to the department:

(1) The current identification card.

(2) An Application For Change: TVS Operator License, form OL 755 (Rev 9/06), which shall contain the following information:

(A) The name, residence address, and telephone number of the operator.

(B) The operator's driver license number.

(C) The operator's license number and expiration date of the license.

(D) The name, license number, and address of the new school.

(E) The name and license number of the former school.

(F) A statement, signed by the owner of the new school, requesting the department to issue the operator a license for the new school.

(G) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the applicant.

(3) A nonrefundable transfer fee based on the expiration date of the new license. The expiration date of a transferred operator license shall be changed to coincide with the new school's owner license expiration. In the event that this change would extend the expiration date of the existing operator license more than 12 months, or results in an expiration date more than 24 months from the issuance of the original or renewal license; the operator shall be required to renew the license in addition to the transfer. The transfer fee in such cases shall be \$15.00 plus a fee pursuant to Section 345.20 for renewal. The fee for transfer of an operator license shall be \$15.00 if the new license shall expire less than 30 days after the expiration date of the license being surrendered for transfer or if the new license shall expire before the license being surrendered. If the new license issued expires 30 days or more after the prior expiration date, the fee for transfer shall be \$15.00 plus a fee based on the number of months the term of the license is extended, as follows:

(A) If the new expiration date extends the term of the license for 30 days to 3 months, the additional fee shall be \$12.50.

(B) If the new expiration date extends the term of the license for 4 months to 6 months, the additional fee shall be \$25.00.

(C) If the new expiration date extends the term of the license for 7 months to 9 months, the additional fee shall be \$37.50.

(D) If the new expiration date extends the term of the license for 10 months to 12 months, the additional fee shall be \$50.00.

(c) If an operator changes his or her name, the department shall issue an operator license in the new name. The operator shall submit an Application For Change: TVS Operator License, form OL 755 (Rev 9/06), and a nonrefundable \$15 application fee to the department. The OL 755 shall contain the following information:

(1) The new name, residence address, and telephone number of the operator.

(2) The operator's driver license number.

(3) The operator's license number and expiration date of the license.

(4) The operator's former name.

(5) A perjury statement pursuant to Civil Code of Procedure section 2015.5 dated and signed by the applicant.

NOTE: Authority cited: Sections 1651, 1665, 11202(a)(2), and 11219, Vehicle Code; Reference: Sections 1652, 1665, 11202.5, 11208 and 11213, Vehicle Code; and Section 2015.5, Code of Civil Procedure.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. Amendment of section and NOTE filed 3-7-2008; operative 4-6-2008 (Register 2008, No. 10).

§ 345.23. Renewal of Instructor License.

(a) An instructor shall renew the instructor license by submitting a completed application to any specifically designated department field office before the expiration date of the current license. A list of designated

offices is available at the department's headquarters office. A completed application shall consist of:

(1) A nonrefundable \$30.00 application fee.

(2) An Application for Renewal of Traffic Violator School Instructor License, form OL 740 (Rev 2/94). This application shall contain the following information:

(A) The name, address, driver license number, driver license expiration date, social security number, and daytime telephone number of the applicant.

(B) The employing school's name and license number.

(C) Whether the applicant has been convicted, fined, or placed on probation for any crime, misdemeanor or felony, in the past three years.

(D) A statement, signed by the applicant under penalty of perjury, certifying that the information contained on the application is true and correct.

(E) A statement, signed by the school owner, operator or administrator under penalty of perjury, certifying that the applicant shall be employed by the school as an instructor.

(3) Evidence from a field office that a written examination was passed within three attempts pursuant to Vehicle Code Section 11206(a)(2), or evidence of continuing education pursuant to Section 345.24 or a statement that the applicant has passed a written examination within the past three years. Such statement shall be verified by the field office by calling the headquarters office of the department.

(b) Renewal applications submitted on or after the expiration date of the instructor license shall not be accepted or processed. An instructor whose license has expired shall comply with all original licensing requirements, as described in Section 345.06, prior to being licensed by the department.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: 42 U.S.C. 405; Section 11350.6, Welfare and Institutions Code; and Sections 11206, 11207 and 11208, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.24. Continuing Professional Education.

(a) In lieu of a renewal examination every three-year period as provided in Section 11207(c)(2) of the Vehicle Code, the department shall accept either evidence of completion of a college level course in traffic safety, equivalent to two (2) semester units, or evidence of participation in traffic safety seminars, consisting of a minimum of eighteen hours, within the preceding three (3) years, as evidence of continuing professional education.

(b) In order to qualify a college level course for substitution for the written examination, the applicant shall submit the following directly to the department at its headquarters office no later than 60 days prior to the license expiration date:

(1) A copy of the college transcript or training certificate showing completion of the course to be qualified.

(2) A synopsis of the content of the course.

(3) The department shall advise the applicant in writing of either acceptance or rejection of the course within 15 days of receipt of the required documentation. If approved, the applicant shall submit the approval letter with the completed renewal application to any designated field office in accordance with Section 345.23(a)(3).

(c) In order for a course provider to qualify a traffic safety course or seminar for continuing education credits, the provider shall submit a request for approval in writing to the department at its headquarters office a minimum of 60 days prior to conducting the course. The request shall include the following:

(1) A description of the subject matter of the traffic safety course or seminar, by segment or class.

(2) The actual dates and times of each traffic safety course or seminar, including the duration of each segment, break and lunch period. Traffic safety courses or seminars shall be approved for credit towards the required 18 hours at the rate of one hour of credit per hour of actual traffic

safety related instruction. No credit shall be allowed for instruction time spent on unrelated subject matter.

(3) The department will advise the provider in writing of the acceptance, partial acceptance or rejection of the course or seminar within 15 days of receipt of the required documentation.

(4) Upon completion of a qualifying course or seminar, a roster identifying the attendees shall be submitted to the department at its headquarters office by the course provider no later than the 10th day following the course completion date. The roster shall include a statement to be signed by the provider certifying under penalty of perjury that all attendees satisfactorily completed the designated number of hours of training.

(5) The provider of the training course shall also provide a document to each attendee which certifies that the individual completed an approved traffic safety related course which specifies the actual hours completed, the date(s) of the course, and names the specific segment(s) or class(es) completed. The applicant shall submit the completion certificate issued by the provider with the completed instructor renewal application to any designated field office in accordance with Section 345.23(a)(3).

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11207(c)(2), Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.25 to new section 345.24 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.25. Duplicate Instructor License.

To replace a lost, stolen, or mutilated instructor license or identification card, the instructor shall submit to the department a nonrefundable fee of \$15 and an Application For Change: TVS Instructor License, form OL 711 (Rev 6/93), completed to contain the following information:

- (a) The name, residence address, and telephone number of the instructor.
- (b) The instructor's driver license number and expiration date.
- (c) The instructor's license number and expiration date of the license.
- (d) The date the license or identification card was lost, stolen or mutilated.
- (e) The license number of the traffic violator school for which the license was issued.
- (f) Whether the license or identification card was lost, stolen or mutilated.
- (g) Whether the lost, stolen, or mutilated document was the wall license, identification card or both.
- (h) A statement, signed under penalty of perjury by the applicant, that the information on the application is true and correct.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11200, 11206, 11207 and 11208, Vehicle Code.

HISTORY

1. Renumbering of former section 345.25 to section 345.24 and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

§ 345.26. Changes to Instructor Licenses.

Any request for change to an instructor license shall be submitted to the headquarters office of the department as follows:

(a) When a traffic violator school changes its business name, or adds a DBA, the school's instructor licenses shall also be changed to reflect the new business name. To change the school name on an instructor license, the instructor shall submit to the department the current identification card, an Application For Change: TVS Instructor License, form OL 711 (Rev 6/93), and a nonrefundable fee of \$15, except that there shall be no fee if the existing name was disapproved by a court pursuant to Section 11205(h) of the Vehicle Code. For a change of school name, the application shall contain the following information:

- (1) The name, residence address and daytime telephone number of the instructor.
- (2) The instructor's driver license number and expiration date.
- (3) The instructor's license number and expiration date of the license.
- (4) The new school name.

(5) The school's license number and current address.

(6) The former school name.

(7) A statement, signed by the applicant under penalty of perjury, that the information on the application is true and correct.

(b) An instructor may transfer his instructor license to another school for the remainder of the license term by submitting to the department a nonrefundable application fee of \$15 along with the current identification card and an Application For Change: TVS Instructor License, form OL 711 (Rev 6/93), which contains the following:

(1) The name, residence address, and telephone number of the instructor.

(2) The instructor's driver license number and expiration date.

(3) The instructor's license number and expiration date of the license.

(4) The name, license number, and address of the new school.

(5) The name and license number of the former school.

(6) A statement, signed under penalty of perjury by the owner or other designated representative of the new school, requesting the department to issue the instructor a license for the new school.

(7) A statement, signed by the applicant under penalty of perjury, that the information on the application is correct.

(c) If an instructor changes his or her name, the department shall issue an instructor license in the new name. The instructor shall submit the current identification card, an Application For Change: TVS Instructor License, form OL 711 (Rev 6/93), and a nonrefundable \$15 application fee to the department. The OL 711 shall contain the following information:

(1) The new name, residence address, and telephone number of the instructor.

(2) The instructor's driver license number and expiration date.

(3) The instructor's license number and expiration date of the license.

(4) The instructor's former name.

(5) A statement, signed by the applicant under penalty of perjury, that the information on the application is true and correct.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11200, 11206, 11207 and 11208, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

PUBLIC SCHOOLS/PUBLIC AGENCIES

§ 345.27. Seasonal Closure of Public Schools.

A public school that offers traffic violator school classes shall not be required to comply with Section 345.40(b) regarding monthly submission of schedules, Section 340(e) regarding scheduling and offering a minimum of one class per location in a judicial district, or Section 345.50(a)(1) or (2) regarding minimum office hours, during the time that the entire public school is closed to the public provided that:

(a) the school offers classes only at the public school facility

(b) the school notifies the department of the closure 60 days in advance

(c) the school closure does not exceed two months in any twelve month period.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11213, 11215.5 and 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.28. Change of Administrator—Public Schools/Agencies.

When the administrator of a public school, other public educational institution or other public agency traffic violator school program changes, the school/agency shall report the change to the headquarters office of the department within five (5) business days of the change. The school/agency shall be allowed thirty (30) days to select a new administrator and have that administrator file an Application For Traffic Violator (TVS) Administrator Change, form OL 757 (Rev 12/91); pay a nonrefundable fee of \$70.00; supply one set of the new administrator's fingerprints, pursuant to Section 345.72, and payment of a fingerprint processing fee, as described in Vehicle Code Section 1668(b); and submit a Personal History

Questionnaire, form OL 29 (Rev 3/94), pursuant to Section 345.68. The application shall contain the following information:

- (a) The name of the school/agency and the DBA name, if different from the school/agency name.
- (b) The business address and telephone number of the school/agency and the mailing address, if different from the business address.
- (c) The name of the new administrator.
- (d) The name of the former administrator.
- (e) The effective date of the administrator change.
- (f) The driver license number, the residence address and the business telephone number of the new administrator.
- (g) A statement, signed by the new administrator under penalty of perjury, that he/she is the administrator and that all information on the application is true and correct.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11204, 11208 and 11213, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.29. Certification and Deletion of Instructors.

(a) An instructor conducting classes for a public school or other public educational institution shall not be required to be licensed pursuant to Section 11206(c) of the Vehicle Code, provided that the department determines that the instructor has a valid teaching credential and sufficient background or training in traffic safety. The public school shall provide the department with the information necessary for this determination by submitting a Certification/Deletion of Public School Instructor, form OL 609 (Rev 6/93), for each instructor at least 15 days prior to the instructor conducting a traffic violator school course. The OL 609 shall be completed to include the following information:

- (1) The name of the public provider and the DBA name, if different from the name of the public school or other public educational institution.
- (2) The address of the public provider and its traffic violator school license number.
- (3) The name and residence address of the added instructor.
- (4) The instructor's driver license number and expiration date.
- (5) The effective date of employment.
- (6) Evidence that the instructor has a valid teaching credential. Evidence shall be a copy of the credential attached to form OL 609 (Rev 6/93).
- (7) Whether the instructor is employed at any other traffic violator school(s) and, if so, identification of the other school(s). A letter of acknowledgment from each of the affected schools shall be attached to the Certification/Deletion of Public School Instructor. A letter of acknowledgment shall be signed by the owner, operator, administrator if a public school or agency, or other designated representative and shall contain:
 - (A) The school name and license number.
 - (B) The instructor's name.
 - (C) The names of the other school(s) which will employ the instructor.
 - (D) A statement acknowledging that the instructor will be employed as an instructor for the school(s) listed.
- (8) A description of the traffic safety background of the instructor which indicates how and when the instructor obtained traffic safety experience.
- (9) A statement, signed under penalty of perjury by the instructor, that the information provided on or attached to the form is true and correct.
- (10) A statement, signed under penalty of perjury by the traffic violator school administrator, that the information provided on or attached to the form is true and correct.

(b) If the department determines, based upon the information submitted on or attached to the OL 609, that the instructor is not qualified to instruct traffic violator school courses pursuant to Vehicle Code Section 11206(c), the department shall notify the public provider of the disapproval within 10 days of receipt of the OL 609, specifying the reason(s) for the disapproval.

(c) Whenever an instructor for a traffic violator school operated by a public school or other public educational institution ceases to be a traffic school instructor, the public provider shall notify the headquarters office of the department within ten (10) days following cessation by submitting a Certification/Deletion of Public School Instructor, form OL 609 (Rev 6/93) completed to include the following information:

- (1) The name of the public provider and the DBA name, if different from the name of the public school or other public educational institution.
- (2) The address of the public provider and its traffic violator school license number.
- (3) The name of the deleted instructor and the instructor's driver license number.
- (4) The date the instructor ceased to instruct traffic school classes.
- (5) A statement, signed under penalty of perjury by the traffic violator school administrator, that the information provided on or attached to the form is true and correct.

(d) For any instructor conducting classes for a public school or other public education institution prior to the effective date of this section, the public school shall be required, not later than 90 days after the effective date, to submit an OL 609 to the department completed to include the information required by subdivision (a)(1) through (5) and (a)(9) and (10). No other verification shall be required.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11206(c), Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

CURRICULUM AND LESSON PLANS

§ 345.30. Curriculum Content.

(a) A traffic violator school shall provide a minimum of 400 minutes of traffic safety related classroom education, exclusive of class registration, lunch, rest breaks, issuance of completion certificates and subjects not related to traffic safety. The following traffic safety subjects shall be included in each 400 minute course offered by a traffic violator school:

- (1) The common sense of driving.
- (2) Use and Maintenance of required safety equipment.
- (3) Defensive driving.
- (4) Established speed laws.
- (5) Proper lane use.
- (6) Backing up safely.
- (7) Interacting at intersections.
- (8) Passing.
- (9) Demands of city driving.
- (10) Demands of freeway driving.
- (11) Demands of driving on a open highway.
- (12) Hazardous conditions.
- (13) Alcohol and other drugs.
- (14) Driver Responsibility.
- (15) Traffic signs, signals and pavement markings.
- (16) Licensing control measures.

(b) For purposes of this section, subjects not related to traffic safety include, but are not limited to:

- (1) Courtroom procedures.
- (2) Beating traffic tickets.
- (3) Police jurisdictions.

(c) The 400 minute curriculum of a traffic violator school shall include the following:

(1) Visual aids including, but not limited to, slide presentations, video cassettes or movies, graphs, magnetic boards, charts, or pictorial representations shall at a minimum be used to visually demonstrate concepts presented for the subject areas described in subdivision (a)(3), (a)(5) to (8), (a)(12) and (a)(15). Audio visual aids (video cassettes or movies) shall comprise not more than 80 minutes of the 400 minute curriculum. All visual aids shall be applicable to the course purpose and subject area.

(2) Student participation. Participation includes, but is not limited to: questions and answers; pre- and post- knowledge tests; and group dis-

cussions. Student participation shall comprise not less than 40 minutes of the 400 minute curriculum. All student participation shall be applicable to the course purpose and subject area.

(3) A post-knowledge test to be administered at the end of the class. The test shall be designed to include questions related to at least ten of the subject areas in subdivision (a), and shall include at least one question on each of the following subjects: defensive driving, alcohol and drugs, and driver responsibility. The test shall be graded and each student's score will be recorded on the class roster or student enrollment card, unless the school retains the tests for three years from the date of the class. If the tests are retained, each test shall indicate the date of the class and the student's name and driver license number.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202 and 11219, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.30 to section 345.72 and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

§ 345.34. Lesson Plan Requirements.

(a) A lesson plan shall be submitted by each applicant for a traffic violator school license. The lesson plan shall meet the following requirements:

(1) The lesson plan shall contain a table of contents and the pages of the plan shall be consecutively numbered.

(2) Each line of the lesson plan shall be consecutively numbered on each standard 8 1/2" by 11" page, beginning with the number one on each page.

(3) The lesson plan shall cover all topics listed in Section 345.30 in sufficient detail to enable the department to evaluate the specific information to be presented and to determine the accuracy of the information to be presented.

(4) The lesson plan shall cover all subjects outlined in the department's Course Core Topics And Requirements For State Of California, Department of Motor Vehicles Approved Traffic Violator School 8-Hour Curriculum, form OL 613 (Rev 3/94).

(5) The lesson plan shall reflect where visual aids and student participation will be used to supplement lecture material. It shall explain the purpose of each visual aid and student participation activity and describe how the instructor will generate the intended student participation. It shall include a brief synopsis of the information presented in any movie or video presentation, sufficient to allow the department to determine what specific information is presented by the movie or video.

(6) The lesson plan shall include a time schedule. The schedule shall contain:

(A) The time allotted for lunch and rest break periods. A lunch break of at least 30 minutes shall be provided if the 400 minute course is conducted in one session. A rest break of at least 10 minutes shall be provided during any session conducted for a period of 200 minutes or more.

(B) The approximate time allotted for each audio visual aid to be used.

(C) The approximate time allotted for each major subject area.

(D) The approximate time allotted for each student participation activity.

(E) The approximate time allotted for completion, correction and discussion of any tests used and the method of correction to be used.

(7) If the course provides for an evaluation by the students, completion of the evaluation shall not exceed 5 minutes. A sample of the evaluation form shall be submitted with the lesson plan.

(8) Samples of any handout materials, workbooks, games or tests, including the post-knowledge test required pursuant to Section 345.30(c)(3), used during the course shall be submitted for approval, as part of the lesson plan.

(b) The department shall give written approval or disapproval within 30 days of receipt.

(c) In lieu of filing its own unique lesson plan, an applicant may meet the lesson plan requirement by submitting a letter of authorization from the owner of an approved traffic violator school lesson plan. The letter

of authorization shall be signed and dated by the owner of the previously approved lesson plan and shall specify that it authorizes use of the lesson plan by the applicant and identifies the applicant by name and DBA as they appear on the application. The department shall approve the use of a previously approved lesson plan only if the lesson plan has been evaluated and approved for use within the preceding 12 months.

(d) No traffic violator school which was licensed prior to the effective date of this section, and which license remains in good standing, is required to meet the provisions of this section, until the department has requested a revised lesson plan in accordance with Section 345.36(b).

(e) A traffic violator school shall not provide instructional services unless its lesson plan has been approved by the department.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202 and 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.35. Completion Certificates.

NOTE: Authority cited: Sections 1651 and 11202(a)(3), Vehicle Code. Reference: Section 11208(c), Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.35 to section 345.35 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

2. Renumbering of former section 345.35 to section 345.44 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.36. Lesson Plan Revisions.

(a) A traffic violator school owner is responsible for revising the approved lesson plan as necessary to ensure that approved topics reflect changes in laws or other information to be presented in the course. Any proposed changes or alterations to an approved lesson plan shall be submitted to the department for approval prior to the changes being made to the course.

(b) The department shall reevaluate approved lesson plans, as needed, to ensure that approved courses reflect current laws and other information and otherwise continue to meet department standards.

(1) The department shall notify any traffic violator school of any deficiencies in any lesson plan and require revisions to the plan.

(2) A traffic violator school which receives notification to revise its lesson plan shall submit a revised lesson plan to the department by the date indicated on the notice from the department.

(3) The failure of a traffic violator school to respond to any notification by the department regarding lesson plan deficiencies by the date indicated on the notice, by providing revisions responsive to the lesson plan deficiencies noted by the department, is cause for action pursuant to Vehicle Code Section 11215(b).

(c) A traffic violator school shall continue to use its previously approved lesson plan until receiving notification from the department that the revised lesson plan is approved. The school shall implement use of the revised lesson plan within 60 days of notification of approval.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11202, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

CLASSROOM STANDARDS AND CONDUCT

§ 345.38. Classroom Standards.

Approval for conducting traffic violator education courses shall be contingent upon the traffic violator school meeting and maintaining the following classroom standards requirements:

(a) Classroom shall provide a minimum of 15 square feet of space per student if the facility has lecture/assembly type seating or 20 square feet of space per student if the facility has standard classroom seating with table or desks.

(b) Classroom shall provide seating and writing surfaces for all students. Writing surfaces shall be tables, desks, the equivalent, or portable writing surfaces. Portable writing surfaces shall be made of a rigid material at least a 1/8 inch thick and shall measure at least 8 1/2 by 11 inches.

(c) Classrooms attendance shall be limited to a maximum of forty (40) students.

(d) Classrooms shall provide an educational atmosphere which is conducive to learning. To be conducive to learning, the classroom atmosphere shall be influenced as follows: appropriately cooled and heated to overcome normal summer and winter outside temperatures; appropriately lit for reading; and be free from interruptions including but not limited to noise, school business activities, foot traffic and machinery.

(e) Classrooms shall not be located in bars, restaurant lounges or other rooms which serve alcohol, allow alcohol consumption or advertise or promote alcohol or its consumption, nor shall student access to the classroom facility be through bars.

(f) Classrooms shall comply with all applicable local ordinances, including but not limited to health and safety ordinances.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11202, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.20 to new section 345.38 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.39. Conducting Classes.

Approval for conducting traffic violator education courses shall be contingent upon the traffic violator school conducting classes as follows:

(a) Only one school shall conduct class in any specific classroom at one time.

(b) The school shall ensure that students understand the language in which the course is presented by talking with students during registration.

(c) The instructor shall have the school's approved lesson plan in his/her possession for the duration of the class and shall follow that lesson plan.

(d) The instructor shall have a current Vehicle Code in her/her possession for the duration of the class.

(e) The instructor shall have evidence of licensure, which is specific to the school offering the class, in his/her possession, except as exempted by Vehicle Code Section 11206. The identification card issued by the department in accordance with Section 345.06(g) shall be used to meet this requirement, unless a permanent license has not yet been issued.

(f) The instructor shall ensure that the exterior of the classroom is clearly marked with the school name, as a guide to students. In a hotel or convention center type facility, a notice on the facility's bulletin board or room locator shall be sufficient.

(g) The instructor shall identify himself/herself by name to the class, state the full name of the school and post both names in the classroom.

(h) The instructor shall not admit any student to the class if the student arrives more than 15 minutes after commencement of instruction. This provision shall apply to students returning late from lunch or rest breaks. An instructor may admit a student to class who is late less than 15 minutes, provided that the instructor provides the student with a make-up session, which covers the actual class instruction missed by being late, during the lunch break or after normal class hours.

(i) The instructor shall ensure that a sign is posted in each classroom for the duration of the class which reads: "No Alcoholic Beverage To Be Consumed Or Possessed By Students During School Hours". Owners, operators and instructors shall strictly enforce this requirement and shall not permit any person to participate in any class who is under the influence of alcohol, has any alcoholic beverage on his or her person or who consumes any alcoholic beverage in the classroom.

(j) A traffic violator course shall not be combined with any other driver education or driver improvement course.

(k) Topics discussed by an instructor or during student participation or audio visual aids shall not include topics which are not of a traffic safety nature, including but not limited to: offering advice on how to beat traffic tickets, courtroom procedures and police jurisdictions.

(l) No instructor shall knowingly give false or misleading information to any student.

(m) The instructor shall conduct himself/herself in a professional and courteous manner at all times when students are present.

(n) At the start of any class, the instructor shall explain the affect of attendance on the students' driving records pursuant to Vehicle Code Section 1808.7, including the information that not all courts allow participation in traffic violator school program as part of the adjudication of a traffic violation.

(o) The instructor shall validate the student information provided on the roster sheet or enrollment card, pursuant to Section 345.56(a), with the student's actual driver license.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202, 11219 and 1808.7, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.45 to section 345.38 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. New subsection (o) filed 8-16-2005 as an emergency; operative 9-20-2005 (Register 2005, No. 33). A Certificate of Compliance must be transmitted to OAL by 1-18-2006 or emergency language will be repealed by operation of law on the following day.

3. Certificate of Compliance as to 8-16-2005 order transmitted to OAL 1-18-2006 and filed 2-22-2006 (Register 2006, No. 8).

§ 345.40. Class Schedules.

Approval for conducting traffic violator education courses shall be contingent upon the school meeting and maintaining the following scheduling requirements:

(a) A schedule of all classes shall be filed with the department a minimum of 15 days prior to any class being conducted by any new school or at any new classroom location being used by any school.

(b) A schedule of all classes shall be filed with the department a minimum of 15 days prior to the beginning of each calendar month after a school begins operation.

(c) Schools shall use the Official School And Class Location(s) Schedule, form OL 854 (Rev 7/93), when submitting schedules to the department. The form shall contain:

(1) The DBA name of the school, the TVS license number, and the date the form is prepared.

(2) The signature of the owner, operator, administrator if a public school or agency, or designated representative.

(3) The business address and telephone number of the school.

(4) The address of each classroom location to be used.

(5) The scheduled dates and hours for each classroom to be used during the scheduled period.

(6) Identification of the instructional language to be used for each scheduled class.

(d) Any school that fails to submit schedules pursuant to this section shall have its name removed from all judicial district on the next TVS Classroom Location List published by the department pursuant to Section 11205(a) of the Vehicle Code. If the school fails to submit schedules a second time within any 12 month period, the school's name shall be removed from all judicial districts on the next two TVS Classroom Location Lists published by the department pursuant to Section 11205(a) of the Vehicle Code.

(e) A school shall schedule and offer to conduct classes in a minimum of one approved classroom location in each city listed on the TVS Classroom Location List at least once every other month.

(1) For the purposes of this section "schedule and offer to conduct" means that a school shall schedule a class pursuant to the scheduling requirements of this section, shall offer to enroll prospective students in the class, and does not cancel the class except in accordance with the provisions of subdivision (b) or (c) of Section 345.41. If a school cancels a class pursuant to subdivision (a) of Section 345.41, the school did not "offer to conduct" for the purposes of this section.

(2) If the department determines, upon investigation, that a school is not scheduling and offering to conduct classes in a city pursuant to subdivision (e), that city location shall be removed from the next TVS Classroom Location list published by the department pursuant to Section 11205(a) of the Vehicle Code.

(3) If a school has 5 city locations removed from the TVS Classroom Location List within any 12 month period, the school's name shall be removed from all judicial districts on the next TVS Classroom Location

List published by the department pursuant to Section 11205(a) of the Vehicle Code.

(f) A school shall not offer to register a student for a class, nor conduct a class, that has not been included and submitted to the department on the Official School And Class Location(s) Schedule, Form OL 854.

(g) The department may waive the requirements of subdivision (a), (b), or (e) of this section for a traffic violator school if a school is unable to schedule or conduct classes due to a normal disaster such as, fire, flood, or earthquake, or a civil disturbance.

(1) As soon as circumstances allow, the school shall notify the department that it is unable to schedule or conduct classes, and shall specify whether the entire school operation is disrupted or which specific classroom locations/judicial districts are affected.

(2) The department shall determine whether to waive the requirements, and the duration of the waiver, based on the specific circumstances, and shall notify the school(s) of the decision immediately.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11213 and 11219, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering former section 101.40 to section 345.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Renumbering of former section 345.40 to new section 345.47 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
3. New section filed 1-5-95; operative 2-6-95 (Register 95, No. 1).

§ 345.41. Class Cancellations.

(a) Should a school cancel any scheduled class, the school shall notify the department in writing. The department shall receive such notification no later than 5:00 P.M. on the fifth business day preceeding the scheduled class date. The school shall notify affected students a minimum of 4 days prior to the scheduled class.

(b) If emergency circumstances prevent timely, written notice to the department of class cancellation, the school shall call the department no later than 72 hours prior to the scheduled date and start time. If emergency circumstances prevent notice to the department of class cancellation within 72 hours of the scheduled date and start time, the school shall call the department on the first work day following the decision to cancel the class and explain the circumstances causing the cancellation. The school shall also supply confirmation of the circumstances in writing.

(c) Traffic violator schools shall conduct classes at scheduled locations in cases of low enrollment, unless enrollment consists of less than six students. If less than six students enroll, the class may be canceled, provided that the school notifies all registered students by phone and the department of the cancellation a minimum of 24 hours prior to the scheduled start of the class. Leaving a message on an answering machine at the phone number provided by the student shall constitute notification for this purpose. If the school is unable to contact a student by phone on the first attempt, the school shall attempt a phone contact at least 2 subsequent times, and shall note the date and time of the attempts. If the school has only a mailing address for a student, the school shall send a written notification to the student. When notifying the students of the cancellation, whether by mail or phone, the school shall offer to provide the registered students with an alternate class, at a charge to the student not to exceed the cost of the department completion certificate and the cost of any other certificate required by the court. The school shall maintain a class roster or set of student enrollment cards for each class canceled for low enrollment, which shall indicate the date each student was notified by mail, or the date and time each student was notified by phone, or if the school was unable to notify the student by phone, the date and times of attempted notification.

(d) Whenever a class is canceled pursuant to section (a) or (b) the school shall refer affected students to the department's published Classroom Location List or other court approved list for selection of another school, except that a school may offer an alternate date, time, or location to a student registered in a class canceled pursuant to subdivision (a) or (b), provided that the alternate class is provided to the student at a charge not to exceed the cost of the department completion certificate and

the cost of any other certificate required by the court. Under no circumstances are the affected students to be referred to any other school. If these conditions cannot be met by the traffic violator school, the scheduled class shall be conducted as scheduled.

(e) If a school cancels a class for any reason, the school shall post a notice of cancellation at the classroom location for 1/2 hour prior to and one hour after the start of the scheduled class, unless all registered students and the department were either contacted by phone or mailed a notice of cancellation at least 4 days in advance of the class being canceled.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11213, 11215(c), 11215.5(d) and 11219, Vehicle Code.

HISTORY

1. New section filed 1-5-95; operative 2-6-95 (Register 95, No. 1).
2. Amendment of subsection (d) filed 3-25-2002; operative 4-24-2002 (Register 2002, No. 13).

§ 345.42. Quarterly Reporting of Classes Conducted.

(a) Traffic violator schools shall report the number of classes conducted and the number of students instructed for each classroom location.

(b) Reports shall be for each preceding calendar quarter or portion of the calendar quarter, if the classroom was not licensed for the full quarter.

(c) Reports shall be made on form OL 850 (Rev 10/94), Traffic Violator School Reporting Form, and shall contain the following information:

- (1) The months and year covered by the report.
- (2) The complete school name.
- (3) The school's license number and judicial district in which the classroom is located.
- (4) The classroom address.
- (5) The business address where school records are stored.
- (6) The business telephone number.
- (7) The number of students who completed the course at the location.
- (8) The number of classes scheduled and the number of classes actually conducted at the location.
- (9) The signature of the school owner, operator or authorized representative.

(d) Completed forms are to be received in the department's headquarters office on or before the thirtieth calendar day of the month following the quarter in which classes were conducted.

NOTE: Authority cited: Sections 1651, 11202(a)(2), 11213(d) and 11219, Vehicle Code. Reference: Section 11213, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

COMPLETION CERTIFICATES

§ 345.44. Purchases of Completion Certificates.

(a) Forms OL 730 (Rev 7/93), Completion Certificates, purchased by a traffic violator school from the department shall be used exclusively by the purchasing school for issuance to students who have satisfactorily completed the course of instruction offered at the school, and shall not be sold or transferred to another school or any other entity.

(b) The fee charged by the department shall be \$1.50 per completion certificate.

(c) Completion certificates shall be purchased in books of fifty (50) by a traffic violator school in designated field offices of the department. A list of designated offices can be obtained by contacting the headquarters office of the department.

(d) Completion certificates may be purchased by: a school owner; an administrator of a public school or other public agency; a school operator; or by a designated representative pursuant to Section 345.54.

(1) The school owner, administrator or operator shall present a picture identification card and the identification card provided by the department.

(2) An employee who is not the owner, administrator, or operator shall present a picture identification card and either a copy of the OL 227, Authorized Signatures, pursuant to Section 345.54 or a written statement of permission to purchase completion certificates on the letterhead stationery of the school. The statement of permission shall contain the original signature of the school owner, administrator or operator and be dated

within 10 days of the current date and shall be surrendered to the department at the time of purchase. Such authorization shall identify the specific number of certificates to be purchased.

(e) Receipts issued by the department for the purchase of completion certificates shall be maintained as a business record.

(f) The department shall refund amounts paid by a school owner for completion certificates only for unused certificates on hand when the owner ceases to do business and for certificates which were damaged during the manufacturing and/or shipping process. The original and first copy of the certificate shall be attached to an application for refund. The second copy of the certificate shall be retained by the school in numerical sequence in the original book. The application for refund shall be completed to include: the name and address of the owner (claimant), the amount of refund claimed, the date and field office location where the fees were paid, a list of the numbers for the certificates attached for refund, the reason for the refund request, and a statement, signed under penalty of perjury by the claimant, that the information contained in the request is true and correct.

NOTE: Authority cited: Sections 1651 and 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11208 and 11212, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.35 to section 345.44 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.45. Issuance, Content and Disposition of Completion Certificates.

(a) When a traffic violator school determines that a student referred by a court has satisfactorily completed the course, the school shall issue the student a completion certificate, form OL 730 (Rev 2/2005), which shall contain the following information:

- (1) A unique preprinted number assigned by the department.
- (2) Name, address, birth date and driver license number of the student.
- (3) The date of course completion and the city and date the certificate was issued.
- (4) The name, additional DBA's, primary business address, city and license number of the traffic violator school issuing the completion certificate.
- (5) Length of the course completed.
- (6) The total course fee.
- (7) The name of the court which ordered the student to attend traffic violator school and the case or docket number of the violation.
- (8) The license number of the instructor. If the instructor has a temporary license, the number of the school followed by a slash (/) and a "T" shall be noted in lieu of the instructor license number; if the instructor is credentialed, the number of the school followed by a slash (/) and a "C" shall be noted in lieu of the instructor license number.

(9) A statement certifying under penalty of perjury that the information contained on the certificate is true and correct, signed by the student and the course instructor. The certificate shall be signed only after the student has satisfactorily completed the course. The student shall sign the certification statement prior to departure from the class.

(b) The completion certificate shall be prepared in triplicate for disposition as follows:

- (1) The original shall be the court's copy and shall be issued to the student upon successful completion of the course. It shall be the student's responsibility to submit the completion certificate to the court which ordered the student to attend traffic violator school.
- (2) The first copy shall be the student's copy of the certificate and shall constitute a receipt for the student provided that the certificate is issued the same day the fee is paid.
- (3) The second copy shall be the traffic violator school's copy and shall remain with the business records of the school.
- (c) Completion certificates shall not be duplicated or reproduced for any purpose.
- (d) Except as specified in country or court contracts which are exempt under Vehicle Code Section 42005(f), no school shall mail or otherwise

deliver any completion certificate to the court of jurisdiction for any student.

(e) When a student does not satisfactorily complete the course the same day that payment is made for the course or the student has elected to attend the course, the traffic violator school shall issue the student a separate and distinct receipt for payment. The receipt shall contain the following information:

- (1) Amount paid by the student and date of payment. This amount shall be the total cost to the student for the course, including any fee charged for the certificate.
- (2) Name and driver license number of the student.
- (3) Name, primary business address, and license number of the school.

(f) A certificate of completion, form OL 730 (Rev. 2/2005), shall not be issued to any person who elects to attend a traffic violator school or any person who holds a class A, class B, or commercial class C driver license.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11208, 11212, 11219 and 11219.5, Vehicle Code.

HISTORY

1. Renumbering of former section 345.45 to section 345.38 and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.
2. Amendment of subsections (a), (a)(3)-(4) and (d)-(e) and new subsection (f) filed 8-16-2005 as an emergency; operative 9-20-2005 (Register 2005, No. 33). A Certificate of Compliance must be transmitted to OAL by 1-18-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-2005 order transmitted to OAL 1-18-2006 and filed 2-22-2006 (Register 2006, No. 8).

§ 345.46. Duplicate Completion Certificate.

(a) A duplicate completion certificate form shall be issued only by the traffic violator school that issued the original certificate.

- (1) The traffic violator school may charge a fee for the duplicate certificate, not to exceed \$3.00 in addition to the actual cost of the certificate to the school.
- (2) The school shall verify from the school's records that the student completed the course. The number of the original certificate issued shall be marked on the top of the duplicate certificate.

(3) A duplicate certificate shall be marked "duplicate" in large letters across the face of the certificate and both copies.

(4) The disposition of the duplicate certificate and copies shall be as described for an original certificate in Section 345.45(b).

(b) A duplicate completion certificate may be signed by the school owner, operator, administrator if a public school or agency, or any designated employee authorized pursuant to Section 345.54.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11208, 11212 and 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.47. Lost or Stolen Completion Certificates.

The traffic violator school owner, operator, or administrator, if a public school or agency, shall report any lost or stolen completion certificates to the department not later than close of business of the day following discovery of the loss or theft. The traffic violator school owner, operator or administrator shall complete a Report of Lost/Stolen TVS Completion Certificates, OL 855 New 5/94, and in addition to retaining a copy in the school's business records, forward the report to the department within thirty (30) days of the discovery of the loss or theft. The report shall be completed to contain the following information:

- (a) The school DBA and license number.
- (b) The school's business address.
- (c) The date of the discovery of the lost or stolen certificates.
- (d) The date of loss (if known).
- (e) The number of certificates lost or stolen.
- (f) The series numbers of the certificates.
- (g) A description of the incident and/or the discovery of loss.
- (h) A certification statement by the owner, operator, or administrator, signed under penalty of perjury, that all information provided is true and correct.

NOTE: Authority cited: Sections 1651 and 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11208(d), Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.40 to new section 345.47 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.48. One Class, One Ticket.

The successful completion of one 400 minute traffic violator school course shall adjudicate only one traffic citation and only one completion certificate shall be issued.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 42005, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

TVS CLASSROOM LOCATION LIST

§ 345.49. TVS Classroom Location List Publication.

The department shall publish the TVS Classroom Location List twice annually. The list shall be revised for distribution to each municipal and justice court by the first day in January and the first day in July. In order for a school to add a location or change any information contained on the list, all requirements for the addition or change shall be completed and received by the department no later April 1 for the list published in July, and no later than October 3 for the list published in January. Any addition or change completed or received after date specified shall be retained for inclusion in the next scheduled publication.

NOTE: Authority cited: Sections 1651 and 11202(a)(2), Vehicle Code. Reference: Section 11205, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

OFFICE PRACTICES AND ADVERTISING

§ 345.50. Office Practices.

(a) Each traffic violator school shall post its approved name and its office hours at its primary business office and any branch business office and shall be open to the public during the posted hours. The person in charge of the office during the posted hours shall be knowledgeable concerning the operation of the school, shall be authorized to give information to the public concerning classes and fees charged by the school and shall be able to provide detailed information to any representative or contractor of the department or a court concerning the operation and business records of the school.

(1) At a minimum, each office shall maintain the same office hours as the day courts in the county, except in counties with populations of less than 400,000.

(2) In counties with populations of less than 400,000, each office shall be open a minimum of two hours per week, during the day court hours, provided that:

(A) The school does not schedule or offer classes in any county with a population of 400,000 or more.

(B) The school utilizes an answering machine or service for the office number during department business hours and responds to all calls from the public within two business days of the call.

(C) The school notifies the department in writing at least ten days before any acceptable change is made in posted office hours.

(3) Any school which offers classes in counties with populations of 400,000 or more is required to maintain the office hours described in subdivision (1) for the county(ies) in which classes are offered.

(b) If the office is located in a free standing building, a storefront or a residence, the school name shall be posted on the front of the building. If the office is located in a multi-business building, the school name shall be posted in an area common to all of the businesses and on, adjacent to or over the entry door to the school office. Any sign shall contain lettering of sufficient size to be clearly legible from a distance of fifty (50) feet for an outdoor sign and ten (10) feet for an indoor sign. The department may make exceptions to sign requirements to accommodate unique circumstances.

(c) Each school shall maintain a telephone at its primary business office and at any branch business office(s). The following conditions shall be met by each school:

(1) The telephone shall be answered with the approved school name.

(2) Separate telephone numbers. No two or more traffic violator schools shall share the same telephone number. The telephone number used by a school shall not be shared with any other business, unless approved by the department.

(3) All telephone numbers published in the department's list of schools pursuant to Vehicle Code Section 11205(c) shall be operational and answered during the posted office hours.

(4) If an automated phone system or an answering service is used for scheduling classes and the service or system is unable to answer questions regarding the school, a referral number shall be provided to the caller. The referral number shall be operational and answered during the posted office hours and shall be answered by a person with the knowledge described in subdivision (a).

(5) If the traffic violator school is unable to accommodate any prospective student, the prospective student shall be referred back to the department's published TVS Classroom Location List or other court approved list to select another school. No traffic violator school shall refer a student to any specific listing or school.

(6) Answering machines shall be utilized only during non-business hours.

(7) No school may use California 900/976 numbers or any for-profit telephone lines.

(8) If an answering service is used to answer the telephone numbers published in the department's Classroom Location List, or, if the school's telephone number is regionalized to prohibit calls from outside of a defined calling area, the school shall provide one direct number which is operational and answered during the posted office hours for use by the department for contacting the school.

(9) Any traffic violator school representative who discusses enrollment with any potential student shall provide the following information to the prospective student:

(A) The total fee for the course, including any charge for the completion certificate and whether that charge is included in the total class fee or is in addition to the class fee.

(B) What form(s) of payment are acceptable.

(C) Any fees charged for canceling or rescheduling a class.

(10) Any traffic school representative who enrolls students in scheduled classes shall obtain sufficient information to notify the students of class cancellations pursuant to Section 345.41. If a student can not be contacted by phone, the representative shall obtain a mailing address for the student.

(d) Each school shall post licenses as follows:

(1) Owner licenses shall be posted in the primary business office and in a location conspicuous to the public.

(2) Operator licenses shall be posted in the primary business office and in a location conspicuous to the public, except for public school providers in accordance with Vehicle Code 11202.

(3) Photocopies of the owner and operator licenses shall be similarly posted at each branch business office.

(e) Each school shall maintain on file in the primary business office the current license of each instructor, including a copy of the temporary permit if no permanent license has been issued.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 320, 1671, 11202 and 11215(a), Vehicle Code.

HISTORY

1. Renumbering of former section 345.50 to section 345.47 and new section filed 10-26-94; operative 11-25-94 (Register 94, No. 43). For prior history, see Register 93, No. 30.

§ 345.52. Solicitation and Advertisement.

(a) No licensee or any employee or agent of the licensee shall advertise, discuss or otherwise promote traffic school enrollment in any office of the department or in any court or within 500 feet of any court. The out-

side perimeter of the property on which any court resides is the beginning point for calculating the straight-line 500 foot distance.

(b) The full name of a traffic violator school, the address of the principal business office as shown in department records and the school's licence number shall be used in all media of advertising, including telephone listings, except for the department's TVS Classroom Location List.

(c) No traffic violator school shall advertise that it is approved by the department. However, the school may refer to the fact that it is licensed by the department.

(d) A traffic violator school name shall be considered a form of advertising. A traffic violator school shall conduct its business pursuant to any claims, actual or implied, that are included in its name.

(e) The department's published TVS Classroom Location List shall not be altered in any manner. Alteration includes stamping a school name on the list.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202 and 11215, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.54. Authorized Signatures.

(a) All required notification forms sent to the department shall be signed by a school owner, operator, administrator, or designated representative. All signatures shall be as previously provided to the department on license applications or an OL 227 (New 2/94), Authorized Signatures.

(b) One or more designated representative(s) may be identified by a school owner, operator or administrator by submitting an OL 227 (New 2/94), Authorized Signatures, to the department's headquarters office, signed by an owner, operator or administrator which states the designated representative's name(s), and which contains the signature(s) and full printed name(s) of the designated representative(s).

(c) Designation of an authorized representative shall be withdrawn upon receipt by the department's headquarters office of an OL 227 (New 2/94), Authorized Signatures, from the school owner, operator or administrator, which no longer includes the representative's name and signature.

NOTE: Authority cited: Sections 1651 and 11202(a)(2), Vehicle Code. Reference: Section 11213, Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.10 to new section 345.54 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.56. Business Records.

(a) Each traffic violator school shall maintain records of every traffic violator school class conducted pursuant to Vehicle Code Section 11212 for a minimum of three years. A roster sheet or set of student enrollment cards shall be completed for each class conducted. The roster may be maintained electronically and shall contain the following:

- (1) The information required in Vehicle Code Section 11212.
- (2) The telephone number of each student, unless the student does not have a telephone, and the post knowledge test score of each student.
- (3) The driver license class of each student.

(4) The citation number of a student referred pursuant to Vehicle Code Section 42005 or an indication that the student elected to take the course.

(b) Each traffic violator school owner shall maintain records of each completion certificate purchased and issued for a minimum of three years.

(1) The school shall maintain all receipts for purchase of certificates from the department.

(2) The school copy of each completion certificate issued shall be maintained in numerical order.

(3) Any voided completion certificate shall be marked void on the original and both copies. The original and both copies of a voided certificate shall be maintained in numerical order.

(4) The school shall maintain a copy of every request for refund for fees paid for completion certificates.

(5) The school shall maintain a copy of every report of stolen or lost certificate(s).

(c) The school shall maintain a copy of each quarterly report on classroom location activity for a minimum of three years.

(d) The school shall maintain a copy of each receipt issued pursuant to Section 345.45(e) for a minimum of three years, unless a notation that a receipt was issued, including the date of payment and the amount paid, is made on the class roster sheet or student enrollment card.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11212, 11219.5, 15210 and 42005, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Amendment of subsection (a), new subsections (a)(1)-(4) and amendment of NOTE filed 8-16-2005 as an emergency; operative 9-20-2005 (Register 2005, No. 33). A Certificate of Compliance must be transmitted to OAL by 1-18-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-2005 order transmitted to OAL 1-18-2006 and filed 2-22-2006 (Register 2006, No. 8).

§ 345.58. Verification of Employment.

The owner, operator, administrator of a public school or agency, or designated representative of a school shall verify the period(s) of employment and actual hours of classroom instruction for any instructor occurring within the 36 months prior to the date of the request, if requested by the instructor or the department, within 30 days of such request.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11213(d), Vehicle Code. Reference: Section 11202.5(a)(4), Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.60. Providing Department Address to Students.

Upon receipt of an oral or written request from any potential student or student, a traffic violator school shall provide the complete mailing address and telephone number of the department's headquarters office.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11213(d), Vehicle Code. Reference: Section 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

BONDS, DEPOSITS AND BACKGROUND CHECKS

§ 345.65. Traffic Violator School Owner Surety Bond Requirements.

(a) Every applicant for issuance or renewal of a traffic violator school owner occupational license shall submit the bond required by Vehicle Code section 11202 on a Traffic Violator School (TVS) Owner Surety Bond, form OL 704 (REV. 11/2004), which is hereby incorporated by reference. The bond shall be subject to chapter 2 (commencing with Section 995.010), title 14, of part 2 of the Code of Civil Procedure.

(b) The true, full name of the traffic violator school owner principal, and any doing business as (DBA) names under which the licensed activity is conducted, shall be entered on the bond.

(c) The appointment of director as the agent for service of process required by Vehicle Code section 11202(a)(6) shall be in the form required under subdivision (c) of Section 330.08 of Title 13, California Code of Regulations.

NOTE: Authority cited: Sections 1651 and 11202(a)(2), Vehicle Code. Reference: Section 995.010, Code of Civil Procedure; and Section 11202, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Amendment of section heading, section and NOTE filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 345.66. Deposit in Lieu of Bond.

(a) A traffic violator school owner who chooses to deposit \$2,000 cash in lieu of a surety bond shall complete the following forms for submission to the department:

- (1) Form OL 723 (New 6/93), Cash Bond. This form shall contain:
 - (A) The name of the applicant, including the DBA name.
 - (B) The applicant's principal business address.
 - (C) The cash sum.

- (D) The receipt number issued by the department.
- (E) The signature date and county in which signed.
- (F) The typed name of the applicant.
- (G) The signature of the applicant or authorized representative.
- (H) The typed name and title of the signer.

(2) Form OL 65 (Rev 11/86), Notice of Acknowledgment. This form shall contain:

- (A) The typed name of the applicant(s).
- (B) A check in the first election box which refers to a cash deposit.
- (C) A signed and dated acknowledgment which includes typed name(s) of the signer(s).

(b) A traffic violator school owner who chooses to assign to the department a certificate of deposit or a passbook savings account in the amount of \$2,000 in lieu of a surety bond shall complete the following forms for submission to the department:

(1) Form OL 64 (Rev 11/86), Assignment of Insured Account. This form shall contain:

- (A) The name and address of the assignor, including the DBA name.
- (B) The name and address of the financial institution which holds the account.
- (C) The amount of the account, which cannot be less than \$2,000, unless multiple accounts are being assigned.
- (D) The account number.
- (E) The date on which the assignor signs the agreement and the name of the community in which it is signed.
- (F) The typed name of the applicant, signature of the applicant or person authorized to sign for the applicant, and the typed name and title of the signer.

(G) Endorsement by the financial institution which holds the account, including: the dollar amount available under the assignment, the date the endorsement is signed and the city in which signed, the typed name of the financial institution, the signature of an officer of the institution and the title of the signer.

(2) Form OL 65 (Rev 11/86), Notice of Acknowledgment, as described in subdivision (a)(2), with a check in the second or third election box on the form, depending on whether the assignment involves a certificate of deposit or a passbook account.

(c) Any deposit made in lieu of a surety bond shall be held by the department for a period of three years following the date the licensee has ceased to do business or has ceased to be licensed, whichever is greater, pursuant to Vehicle Code Section 11203, or three years following the replacement of the deposit by a valid surety bond as described in Section 345.65.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11203, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.67. Certification Required With Application for Traffic Violator School Owner.

NOTE: Authority cited: Sections 1651 and 11220(a)(2), Vehicle Code. Reference: Section 11202, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Repealer filed 2-14-2006; operative 3-16-2006 (Register 2006, No. 7).

§ 345.68. Background Investigation Required.

(a) The department shall investigate the background of each applicant for a traffic violator school owner, operator or instructor license pursuant to Chapter 1.5, Division 5 (commencing with Section 11200), to ensure that each applicant is fit to properly perform the duties of the occupation to be licensed. No permanent license shall be issued pending completion of this investigation; however, the department may issue a temporary permit pursuant to Vehicle Code Section 11210.

(b) Each applicant shall be required to complete an Application For Occupational Licensing (Part B) Personal History Questionnaire, form OL 29 (Rev 3/94), provided by the department. Owner applications shall include a Questionnaire completed by:

- (1) The sole owner or
- (2) All general partners or
- (3) For a corporate owner all principle corporate officers; all parties to a trust agreement; all corporate board members; and any stockholders who are active in the management, direction or control of the corporation or

- (4) The public administrator and
- (5) Any other parties who are active in the management, direction or control of the business activities of the school.

(c) The Personal History Questionnaire shall contain the following information:

- (1) The true full name of the applicant.
- (2) The residence address of the applicant.
- (3) The business and home telephone numbers of the applicant.
- (4) The social security number of the applicant.
- (5) The physical description of the applicant including sex, color of hair, color of eyes, height, weight and birthdate.
- (6) Whether or not the applicant holds a valid California driver license. When the applicant is a holder of a valid California driver license, the license number shall be provided.

(7) Any name or names the applicant has been known by or used other than the name provided in subdivision (c)(1).

(8) The experience and employment record of the applicant for the past three years prior to the date the personal history questionnaire is signed and dated by the applicant.

(9) For instructors only, whether the applicant has attended and or completed high school or college, the name and address of any high school or college attended, and the date studies were completed.

(10) Whether or not the applicant has previously been or is currently licensed in California as a registration service; vehicle salesperson, representative, distributor, dealer, dismantler, manufacturer, remanufacturer, transporter, verifier, lessor-retailer; driving school owner, operator or instructor; traffic violator school owner, operator or instructor; or all-terrain vehicle safety training organization or instructor. When the applicant has previously been or is currently licensed as described in subdivision (c)(10), each current or previous occupational license number issued to the applicant shall be provided.

(11) Whether or not the applicant has ever had a business or occupational license issued by the department or an application for such license refused, revoked, suspended, or subjected to other disciplinary action or was a partner, managerial employee, officer, director, or stockholder in a firm licensed by the department, and the license was revoked, suspended or subject to other disciplinary action. When the applicant answers yes to subdivision (c)(11), the occupational license number, the type of license, the action and the date of the action taken by the department shall be provided.

(12) Whether or not the applicant has ever had a civil judgment rendered against him/her and whether or not the judgment was a result of activity of the applicant's firm licensed by the department. When the applicant answers that the judgment was a result of activity of the applicant's firm licensed by the department, the amount of the judgment and whether the judgment is paid or unpaid shall be provided.

(13) Whether the applicant was ever a partner, managerial employee, officer, director, or stockholder in a firm that had a civil judgment rendered against it and whether or not the judgment was a result of the activity of the firm licensed by the department. When the applicant indicates he/she was a partner, managerial employee, officer, director, or stockholder in a firm that had a civil judgment rendered against it and the judgment was a result of the activity of the firm licensed by the department, the amount of the judgment and whether the judgment is paid or unpaid shall be provided.

(14) Whether or not the applicant has ever declared bankruptcy or was a partner, managerial employee, officer, director, or stockholder in a firm that declared bankruptcy. When the applicant indicates he/she has declared bankruptcy or was a partner, managerial employee, officer, director, or stockholder in a firm that declared bankruptcy, the date the bank-

ruptcy was filed and the name and location of the court of jurisdiction shall be provided.

(15) Whether or not the applicant has ever been convicted, placed on probation, or released from incarceration following conviction for any crime or offense, either felony or misdemeanor, including traffic offenses, within the last ten years. When the applicant indicates he/she was convicted, placed on probation, or released from incarceration following conviction for any crime or offense, either felony or misdemeanor, including traffic offenses, within the last ten years, each offense shall be listed with the conviction date, the court of jurisdiction and the disposition.

(16) A statement signed and dated by the applicant which certifies under the penalty of perjury all the answers and the information contained in the personal history questionnaire are true and correct, and includes the city and state where the document was executed.

(17) A statement signed by the owner, operator or administrator of the traffic violator school acknowledging the information provided on the personal history questionnaire.

(d) The applicant shall submit with the personal history questionnaire a certified copy of the arresting agency report and a certified copy of the court documents for each conviction listed pursuant to subdivision (c)(15).

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219. Reference: 42 U.S.C. 405; Section 11350.6, Welfare and Institutions Code; and Sections 11202, 11202.5, 11206, 11211, 11215 and 11215.5, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.72. Fingerprinting of Applicants.

(a) All original applications for licenses under Chapter 1.5, Division 5, (commencing with Section 11200) of the Vehicle Code shall be accompanied by one set of fingerprints from each applicant on a standard fingerprint card and payment of a fingerprint processing fee, as described in Vehicle Code Section 1668(b), for each applicant. If the applicant is a partnership or corporation, the application shall be accompanied by a set of fingerprints from each partner, principle corporate officer, board member and any stockholder who is active in the management, direction or control of the corporation. The completed fingerprint card shall contain the following:

- (1) The typed or printed name of the person fingerprinted.
- (2) Any aliases used by the person fingerprinted.
- (3) The birthdate of the person fingerprinted.
- (4) The birthplace of the person fingerprinted.
- (5) The sex, height, weight, eye color and hair color of the person fingerprinted.
- (6) The fingerprint of each finger and thumb on each hand, unless missing or bandaged. When a finger or hand is missing or bandaged, it shall be stated on the card.
- (7) The signature of the person fingerprinted.
- (8) The date the fingerprints are taken.
- (9) The signature of the person taking the fingerprints.
- (10) A statement that the fingerprint card is for the purpose of applying for a traffic violator school license.
- (11) The residence address of the person fingerprinted.

(b) A fingerprint card is not required when the applicant is currently an occupational licensee of the department or the applicant is a prior occupational licensee of the department whose license has not lapsed more than three years from the date of expiration.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11202(a)(1), 11202.5 and 11206(a), Vehicle Code.

HISTORY

1. Renumbering and amendment of former section 345.30 to new section 345.72 filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

INSPECTIONS BY DEPARTMENT

§ 345.74. Inspection and Approval of Sites.

(a) Before authorizing the use of a primary business location, a branch business office or a classroom location, the department shall inspect the

location as needed to determine that the location meets or exceeds the following minimum qualifications.

(1) A business office location, whether the primary location or a branch location, shall comply with the provisions of Vehicle Code Sections 1671(a), 11202(a)(1) and 11202(e) and all applicable provisions of this code.

(2) A classroom location shall meet the requirements outlined in Section 345.38.

(b) No business office, branch business office or classroom shall be inspected by the department until it is operationally ready for business. If the location is not operationally ready for business at the time the application for the location is filed, the date that the location shall be operationally ready for business shall be indicated on the application.

(c) No business office, branch business office or classroom shall be used by a school until its use has been approved by the department.

(1) The department has the authority to approve a classroom without prior inspection based upon the self-certification information contained on the Traffic Violator School Branch Business Office/Classroom Application, form OL 712 (Rev 10/94).

(2) If the department approves the classroom without prior inspection, the department shall inspect the classroom at or before the next monitoring visit, pursuant to Vehicle Code Section 11214.

(d) The department shall notify the applicant in writing when the location is approved for use.

(e) If the location does not comply with department standards, the department shall notify the applicant in writing, within seven (7) days following the inspection citing the specific reasons the location does not comply.

(1) The department shall, upon written request from the applicant, reinspect a proposed location to determine if the deficiencies have been corrected.

(2) The department shall disapprove any site which has been inspected twice and does not pass inspection. A new application and payment of appropriate fees shall accompany any request for further consideration of the site.

(f) The department may reinspect any licensed location as needed to determine that the location continues to meet licensing requirements pursuant to this section.

(1) If the department determines that a location no longer meets approval standards, the department shall notify the school in writing that the location has been disapproved, the specific reasons for disapproval, and the date by which the school shall cease using the location.

(2) The department shall, upon written request from the applicant, reinspect such a disapproved location once to determine if the deficiencies have been corrected.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 1671(a) and 11202, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

MISCELLANEOUS REQUIREMENTS

§ 345.76. Traffic Violator School Program Assessment.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Section 11202(a)(2), Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

2. Repealer filed 8-29-96; operative 9-28-96 (Register 96, No. 35).

§ 345.78. Traffic Violator School Attendance.

(a) An owner, operator, administrator or instructor of a traffic violator school may not attend any class offered by the school for which he/she is licensed, in lieu of adjudication of any personal traffic citation.

(b) In order to determine compliance with Vehicle Code Section 42005, each traffic violator school shall verify the driver license class and a copy of the citation of each student prior to the student attending the course. The following persons may not attend a traffic violator school in lieu of adjudicating a traffic offense:

(1) Any person holding a class A, class B, or commercial class C driver license.

(2) Any person regardless of driver license class that committed a traffic offense that occurred in a commercial motor vehicle, as defined in subdivision (b) of Vehicle Code Section 15210.

(c) Any person described in subdivision (b) that complies with Vehicle Code Section 11200(b), may elect to attend a traffic violator school.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 11200, 11202, 15210 and 42005, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).
2. Amendment of section heading, section and NOTE filed 8-16-2005 as an emergency; operative 9-20-2005 (Register 2005, No. 33). A Certificate of Compliance must be transmitted to OAL by 1-18-2006 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-2005 order transmitted to OAL 1-18-2006 and filed 2-22-2006 (Register 2006, No. 8).

§ 345.86. Refusal to Issue, Suspension, Revocation or Cancellation of a License.

(a) In addition to the conditions specified in Sections 11215, 11215.5, 11215.7 and 11216 of the Vehicle Code, the department may refuse to issue, suspend, or revoke a license for a traffic violator school for any of the following reasons:

(1) The traffic violator school wrote a check to the department that was thereafter dishonored when presented for payment.

(2) The traffic violator school violated any of the provisions contained in this Article.

(b) In addition to the conditions specified in Sections 11215, 11215.5, and 11215.7 of the Vehicle Code, the department may refuse to issue, suspend, or revoke a license for a traffic violator school operator for any of the following reasons:

(1) The traffic violator school operator wrote a check to the department that was thereafter dishonored when presented for payment.

(2) The traffic violator school operator violated any of the provisions contained in this Article.

(c) In addition to the conditions specified in Sections 11215, 11215.5, and 11215.7 of the Vehicle Code, the department may refuse to issue, suspend, or revoke a license for a traffic violator school instructor for any of the following reasons:

(1) The traffic violator school instructor wrote a check to the department that was thereafter dishonored when presented for payment.

(2) The traffic violator school instructor violated any of the provisions contained in this Article.

(d) A traffic violator school owner, operator or instructor license may be canceled by the department when the license was issued through error.

NOTE: Authority cited: Sections 1651 and 11202(a)(2), Vehicle Code. Reference: Sections 11204, 11207, 11211, 11215 and 11215.7 and 11216, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

§ 345.88. Monetary Penalties.

Payment of the following monetary penalties may be required of a traffic violator school owner, operator or instructor pursuant to a stipulated settlement agreement between the Director and the licensee entered into under the authority of Vehicle Code Section 11218:

(a) The monetary penalty shall not exceed one thousand dollars (\$1,000) for a traffic violator school owner or five hundred (\$500) for a traffic violator school operator or instructor, per violation.

(b) A minimum penalty of \$15 and a maximum penalty of \$500 shall be assessed for each violation of the following provisions of law: Vehicle Code Sections 1671, 11202(e), 11202.5, 11206, 11213(c), and 11219.5.

(c) A minimum of \$100 and a maximum of \$1000 for each violation of the following provisions of law: Vehicle Code Sections 20, 11200, 11202(a), 11212, 11213(a), 11213(b), 11213(d), 11215, and 11215.5 and 11215.7.

NOTE: Authority cited: Sections 1651, 11202(a)(2), 11218 and 11219, Vehicle Code. Reference: Section 11218, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

CESSATION OF BUSINESS

§ 345.90. Voluntary or Involuntary Cessation of Business.

Whenever a school ceases to do business for any period, either voluntarily or involuntarily:

(a) The department may cancel or suspend use of the school's published telephone number(s).

(b) The school shall surrender all owner, operator and instructor licenses applicable to the school and all unused completion certificates.

(c) The school shall provide the department with a telephone number and address of the owner or, if a corporation or partnership, a principal or partner, to enable the department to inquire as to specific records which the ex-licensee shall maintain for three (3) years following cessation of business. The ex-licensee shall notify the department within ten (10) days of any change in either the telephone number or address.

(d) No other traffic violator school shall buy or otherwise obtain the telephone number of a school which ceases to do business, except when a traffic violator school is sold in its entirety.

NOTE: Authority cited: Sections 1651, 11202(a)(2) and 11219, Vehicle Code. Reference: Sections 8803, 11208(d), 11212, 11213, 11217.5 and 11219, Vehicle Code.

HISTORY

1. New section filed 10-26-94; operative 11-25-94 (Register 94, No. 43).

Article 5. Requesting Information from the Department

§ 350.02. Definitions.

As used in this article the following definitions shall apply:

(a) Agent. As authorized by the department, a person or entity who is authorized by its preapproved requester to access, receive, or use departmental record information on behalf of its preapproved requester.

(b) Business Use. Use for any approved governmental or commercial purpose. This includes both nonprofit and charitable purposes.

(c) Casual Requester. Any person who is requesting information from the department's files and is not a preapproved requester.

(d) Commercial Requester Account. An account opened to assure timely billing and payment due the department for the sale of information and identified by a unique number.

(e) Commercial Requester Account Agreement. An agreement entered into between the department and a nongovernmental entity applying for preapproved status to request information from the files of the department. The signing of the agreement by both the nongovernmental entity and a representative of the department constitutes the basis to establish a Commercial Requester Account and becomes part of the Commercial Requester Account Application required in section 350.16.

[The next page is 28.11.]

(f) **Direct Requester.** A requester code holder who makes information requests directly to the department, and is billed directly by the department through a Commercial Requester Account.

(g) **End User.** Any requester code holder for whose use information is requested from the department's records. An end user may be either the person requesting the information or another person on whose behalf the information is requested.

(h) **Governmental Entity.** The United States Government or any subdivision, department, court or agency thereof; the state or any subdivision, department, court or agency thereof, including special districts, school districts, the Board of Regents of the University of California; and any city, county, city and county or any agency or subdivision thereof.

(i) **Indirect Requester.** A requester code holder making requests for department information from another requester code holder.

(j) **Mailing Address.** An address, reported separately from the residence address, reported to the department as the address where mail is to be delivered to the addressee. A mailing address is mandatory only when mail cannot be delivered to the reporting individual's residence address. Otherwise a mailing address is optional.

(k) **On-Line Access.** Direct access to the department's electronic data base through computerized equipment and communications lines furnished and maintained at no cost to the department.

(l) **Person.** A natural person, governmental entity, partnership, corporation, association, or the fictitious name under which one of the aforementioned does business.

(m) **Personal Identification Number.** A unique configuration of numbers and letters assigned by the department to requester code holders for use in conjunction with a requester code whenever the department in its sole discretion wishes to validate the identity of a direct requester when information is requested by telephone or in person. Personal identification numbers may be changed at the request of the person to whom issued or at the sole discretion of the department.

(n) **Preapproved Requester.** Any person issued a requester code pursuant to sections 350.08 or 350.26.

(o) **Public.** All natural persons, partnerships, corporations or associations. The public does not include governmental entities, preapproved requesters, natural persons requesting information concerning themselves or their spouses or minor children, and partnerships, corporations or associations requesting information concerning vehicles registered to the partnership, corporation or association.

(p) **Requester Code.** A unique configuration of numbers or letters and numbers assigned by the department to identify a requester.

(q) **Residence Address.** A residence address is the address reported to the department by an individual as the place where that individual resides.

(r) **Special Permit.** A signed agreement between the department and a Commercial Requester Account holder authorized on-line access to the department's electronic data base.

(s) **Vehicle Dealer's Agent.** A person certified by a vehicle dealer, licensed to do business in California, as its agent for the purpose of obtaining information directly from the department as a preapproved requester, pursuant to section 1808.23, subdivision (b), of the Vehicle Code.

(t) **Vehicle Manufacturer's Agent.** A person certified by a vehicle manufacturer, licensed to do business in California, as its agent for the purpose of obtaining information directly from the department, either as a preapproved requester or a nonpreapproved requester, pursuant to section 1808.23(a) of the Vehicle Code.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 470, 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.02 to section 350.02 and amending and repositioning article 5 heading filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a), new subsection (c), subsection relettering, repealer of subsection (j) and amendment of subsections (p) and (s) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.03. Address Elements.

(a) The following elements of information constitute an address in the records of the department:

- (1) The street name and number, the route and box number, or the post office box number.
- (2) The city name.
- (3) The state name.
- (4) The county name or county code.
- (5) The five digit zip code.
- (6) The plus-four digit zip code.

(b) All elements of a residence address in the department's records shall be confidential and shall not be released to a requester except as follows:

- (1) As provided for in Vehicle Code sections 1808.21, 1808.22, or 1808.23, or

(2) When the requester certifies and the department determines that residence information is needed in order to comply with a state or federal statute, regulation, or rule of court that requires or permits the department to release residence information from the department's records.

(c) The release of any elements of a mailing address in the department records to a nonpreapproved requester shall be restricted to those requests meeting the requirements of section 350.36(a)(6).

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.03 to section 350.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (b)(1)-(2) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.04. Information Access.

Information may be obtained from the department's records in one or more of the following ways:

- (a) Directly from the department using an approved requester code.
- (b) Indirectly from the holder of a Commercial Requester Account who is authorized by the department to sell department information to an end user. The request must include both the requester code issued to the direct requester and the requester code issued to the end user.

(c) Directly from the department using the procedures established for a casual requester pursuant to section 350.36.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.04 to section 350.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (c) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.06. Governmental Entity's Application for a Requester Code.

A governmental entity's application for a requester code shall be submitted to the department's Information Services Branch in Sacramento on the Governmental Requester Account Application, Form INF 1130 (12/90), provided by the department and shall include the following:

- (a) The type of governmental entity.
- (b) The name of the governmental entity.
- (c) The business and the mailing address of the governmental entity.
- (d) The telephone number of the governmental entity.
- (e) Any existing requester code(s) used by the governmental entity to obtain information from the department.
- (f) The primary function of the governmental entity and the purpose for requesting department information.
- (g) Whether the governmental entity uses exempt license plates as defined in section 4155 of the Vehicle Code.
- (h) Whether the governmental entity is a law enforcement agency.
- (i) Whether the governmental entity's investigators or agents are classified as "peace officers" as described in section 830 of the Penal Code.

(j) The procedures established to protect the confidentiality of information received from the department as required by Vehicle Code section 1808.47.

(k) The name and title of the person responsible for compliance with the statutes and regulations pertaining to access and use of information from department records and a description of the person's position within the governmental entity.

(l) The name, title and telephone number of the person to be contacted by the department to resolve problems.

(m) A sworn statement signed and dated by the person described in subdivision (k) as to the truth of the contents of the application; the penalties for false representation and misuses of the information; and, the city, county and state where the document is executed.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.47, 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.06 to section 350.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of first paragraph filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.08. Assignment of Requester Codes, and Personal Identification Numbers to Governmental Entities.

Any governmental entity whose application is approved shall be issued a requester code, and a personal identification number.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.08 to section 350.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.10. Governmental Entity's Request for Information.

A governmental entity's request for information, including an on-line access request, must include the requester code issued to the governmental entity. If the request is made by telephone or in person the personal identification number issued to the governmental entity may also be required. The request must also include one or more of the following identifying points of the record from which information is requested:

(a) For vehicle registration information the identifying points of the record may be the license plate number, vehicle identification number, owner's full name, owner's full name and address, or any combination thereof.

(b) For vessel registration information the identifying points of the record may be vessel registration number, hull number, owner's full name, owner's full name and address, or any combination thereof.

(c) For driver's license or identification card information, the identifying points of the record shall be at least one of the full name, driver's license number, or identification card number.

(d) For financial responsibility information the identifying points of the record may be the date, time and location of accident; full name of either driver involved; driver's license number of either driver; license plate number of a vehicle involved; the financial responsibility number assigned by the department; or any combination thereof.

(e) For occupational licensing information the identifying points of the record may be the full name of the licensee, the name under which the licensee does business, the occupational license number, or any combination thereof.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.10 to section 350.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.12. Priority for Processing Governmental Requests.

Governmental requests for information shall be processed in accordance with the following priorities:

- (a) Departmental processing.
- (b) Law Enforcement request processing.
- (c) Court request processing.
- (d) Other governmental request processing.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.12 to section 350.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.14. Release of Information to Governmental Entity.

Information shall be released to a governmental entity as soon as the information request is processed and without notice to the person to whom the information relates.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code; Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.14 to section 350.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.16. Information Required on a Nongovernmental Application for a Requester Code.

(a) A nongovernmental original and a renewal application for a requester code shall be submitted to the department's Information Services Branch in Sacramento on the Commercial Requester Account Application, Form INF 1106 (REV. 10/2000), and shall include the following:

- (1) The nongovernmental entity's business/organization name.
- (2) The nongovernmental entity's telephone number.
- (3) The business and the mailing address of the nongovernmental entity.

(4) The name, addresses and telephone numbers of the branch locations of the nongovernmental entity that will be receiving information from the department's records.

(5) Any existing requester code(s) issued by the department and used for the nongovernmental entity's business.

(6) Whether the nongovernmental entity will purchase departmental information through a departmental preapproved requester.

(7) Where the nongovernmental entity wants purchased information mailed.

(8) If the nongovernmental entity is required to be licensed by the State of California or if the applicant is a member of the California State Bar list the business license number, the agency issuing the license, the type of license, and the date the license expires. Also, if applicable, list the federal employer identification number, the corporation number, and the state that issued the number.

(9) A description of the business or organization.

(10) The purpose(s) for requesting information.

(11) The medium of inquiry and delivery the nongovernmental entity requests.

(12) Whether the nongovernmental entity will request information from the registration file; the driver's license file; the financial responsibility file; the occupational licensing file; or any combination thereof; and, whether the nongovernmental entity will request mailing address and/or residence address information.

(13) If residence address information will be requested, the specific reasons such information will be requested, and the regulation, federal or state statute, identified by code name and section number, or rule of court that requires the department to release the residence address information.

(14) If mailing address information will be requested, the specific reasons such information will be requested.

(15) Whether or not the nongovernmental entity will resell information to another preapproved requester.

(16) A description of the nongovernmental entity's automated system design to be used for on-line access and record reproduction when the application is for on-line access.

(17) If the applicant is requesting access to residence address or mailing address information, a copy of the procedures established to protect the confidentiality of the information received from the department as required by Vehicle Code section 1808.47. The security procedures shall address at least the extent to which access to the requester code, personal identification number, and information received from department records is restricted.

(18) The name and title of the person signing the agreement described in section 350.18 who is responsible for compliance with the statutes and regulations pertaining to the access and use of information from department records, and a description of the person's position within the nongovernmental entity.

(19) The name, title and telephone number of the person to be contacted by the department to resolve problems.

(20) A sworn statement signed and dated by the person described in subdivision (18) as to the truth of the contents of the application; the penalties for false representation and misuse of information; and, the city, county and state where the document is executed.

(b) A nongovernmental entity shall notify the department's Information Services Branch in Sacramento in writing within ten (10) working days of any permanent termination of the need for information, or any change of the information required in subdivision (a).

(c) A nongovernmental entity may have its authorization for access to residential information deleted by making either a written or verbal request to that effect to the department. The request will be honored upon receipt.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.16 to section 350.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.18. Additional Requirements for a Nongovernmental Application for a Requester Code.

(a) A Commercial Requester Account Agreement, Form INF 1108 (2/91), provided by the department shall be completed and submitted with the application required in section 350.16.

(b) In addition to provisions contained in this article or in existing statute, the agreement includes the following provisions:

(1) The agreement is subject to any restrictions, limitations, or provisions enacted by the California State Legislature which may affect the provisions or terms set forth in the agreement.

(2) The agreement is not assignable by the preapproved requester, either in whole or in part, without the prior written consent of the department.

(3) The preapproved requester shall not sell or transfer ownership of a vehicle or vessel if the information received from the files of the department indicates a Department of Justice stop ("DOJ STOP"). The preapproved requester shall notify the local police regarding the vehicle or vessel whenever the location of the vehicle or vessel is known to the preapproved requester.

(4) If the preapproved requester receives residence address or mailing address information from the files of the department, the requester may release the address information to an agent, other than an employee of the requester acting on that requester's behalf, if the requester has on file at the business address listed on the application for a requester code a Security Statement, Form INF 1110 (12/90) provided by the department and signed by the agent.

(5) The requester agree to defend, indemnify and hold harmless the department and its officers, agents and employees from any and all claims, actions, damages or losses which may be brought or alleged against the

department, its officers, agents or employees by reason of the negligent, improper, or unauthorized use or dissemination by the requester or its officers, agents, or employees, of information furnished to the requester by the department or by reason of inaccurate information furnished to the requester by the department unless the requester can show that the department was originally furnished accurate information from the reporting source.

(c) The agreement shall be dated and signed by the person described in section 350.16(a)(25); and, shall include the city, county, and state where the document is executed.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.18 to section 350.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.20. Certifications Required with Nongovernmental Applications for Access to Residence Address Information.

(a) If the applicant for a requester code is an agent and is requesting access to residence addresses, an Information Services Certification of Agency, Form INF 1184 (2/91), provided by the department, shall be submitted with the application and shall include the following:

(1) The name, address, telephone number, and the dealer or manufacturer license number of the vehicle dealer or vehicle manufacturer certifying the agent.

(2) The name, address, telephone number, and driver's license number of the agent being certified.

(3) A certification by the vehicle dealer or vehicle manufacturer which authorizes the applicant to act as an agent for the purpose of obtaining information from the department pursuant to section 1808.23 of the Vehicle Code.

(4) A signed statement, certified under the penalty of perjury, by the vehicle dealer or vehicle manufacturer in which the dealer of manufacturer agrees to:

(A) Hold the department harmless from any monetary loss to the department by reason of the use of information obtained from the department by the agent; and

(B) Pay to the department, its officers, and any other person(s) all civil damages occasioned to the department or such persons by reason of the acts or omissions by the agent in obtaining information from the Department by means of false or misleading representations, or in selling, giving, or otherwise furnishing any information obtained from the Department records to any third party not specifically authorized and approved by the Department.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.25, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1811, and 16053, Vehicle Code. Sections 1798.24 and 1798.26, Civil Code; and Cal Jur 3d 109.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.20 to section 350.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Repealer of subsections (a) and (b), subsection relettering, and amendment of newly designated subsection (a) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.22. Fees Required with an Application for a Nongovernmental Requester Code.

(a) A filing fee of two hundred and fifty dollars (\$250) shall accompany an original application and each biennial renewal application for a requester account when the applicant is requesting and is authorized by law to receive confidential residence address information. Applicants not authorized to receive, or not requesting, confidential residence address information shall submit a filing fee of fifty (\$50) with the original application and with each biennial renewal application.

(b) If the application is for an on-line access special permit, a filing fee of two hundred and fifty dollars (\$250) shall accompany an original application and each biennial renewal application.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.22 to section 350.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Editorial correction of subsection (a) (Register 95, No. 43).
3. Amendment filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.24. Bond Requirements for a Commercial Requester Account with Access to Confidential Address Information.

(a) The bond required by Vehicle Code section 1810.2(c) shall be executed by an admitted surety insurer, on a Commercial Requester Account Bond, form INF 1132 (REV. 9/2004), which is hereby incorporated by reference and subject to chapter 2 (commencing with section 995.010), title 14, of part 2 of the Code of Civil Procedure. The bond shall be conditioned that the applicant shall:

(1) Pay to the State monies due for application fees and department costs related to the release or access of information from DMV records to the Principal; and

(2) Pay for any loss or damage to the State, the department, its officers, and employees arising from the use of the requester account including:

(A) Obtaining information from the department by means of false or misleading representations,

(B) Using information obtained from the department for any purpose different from the purpose specified in the Principal's application for a Commercial Requester Account, and

(C) Selling, giving, or otherwise furnishing any information obtained from department records to any third party not specifically authorized and approved by the department.

(b) The bond requirement of this section shall be the only financial security required of an on-line access permit holder pursuant to Vehicle Code section 1810.7(d).

(c) The commercial requester account holder shall not access confidential address information pursuant to Vehicle Code section 1810.2 when the bond falls below fifty thousand dollars (\$50,000) or after the effective date of revocation or cancellation by the surety pursuant to section 996.310 of the Code of Civil Procedure without the filing of an adequate replacement bond. The commercial requester account holder may access confidential address information when the liability on the bond is at fifty thousand dollars (\$50,000) or an adequate replacement bond has been filed with the department.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.24 to section 350.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).
3. Amendment of section heading, section and NOTE filed 7-27-2005; operative 8-26-2005 (Register 2005, No. 30).

§ 350.26. Assignment of Commercial Requester Accounts, Requester Codes, and Personnel Identification Numbers to Nongovernmental Entities.

(a) Any nongovernmental entity submitting an application which is approved shall be issued a Commercial Requester Account number, one or more requester codes, and a personal identification number. Requester codes shall be assigned which permit access to information in accordance with the approved application.

(b) Requester codes shall be issued for a period of two years from the date of application approval and may be renewed upon each biennial application for additional periods of two years each.

(c) Any nongovernmental entity submitting an application which is disapproved shall not be issued the numbers and codes described in sub-

division (a), and shall be notified in writing by the department of such disapproval and the reasons therefor.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2, 1810.7 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering former section 320.26 to section 350.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.28. Nongovernmental Requester Code Holder's Request for Information.

(a) A nongovernmental requester code holder's request, including an on-line access request, for information must include a requester code issued to the requester and, if acting on behalf of another, a requester code issued to the end user of the information. If the request is made by telephone or in person, the personal identification number of the requester code holder making the request may be required. The request must also include one or more of the following points of identification of the record:

(1) For vehicle registration information the points of identification include the license plate number, or the vehicle identification number or the owner's name and full address. If the request is made in conjunction with a vehicle lien sale the points of identification shall include the vehicle identification number, make, and year model of the vehicle being sold.

(2) For vessel registration information the points of identification include the vessel registration number or hull number.

(3) For driver's license or identification card information the points of identification include either the full name and date of birth, or the full name and driver's license or identification card number.

(4) For financial responsibility information the points of identification include the date, time and location of accident; the full name of either driver involved; the driver's license number of either driver; the license plate number of a vehicle involved; the financial responsibility number assigned by the department; or any combination thereof.

(5) For occupational licensing information the points of identification include the full name of the licensee, the name under which the licensee does business, or the occupational license number.

(b) If the end user of information that includes a residence address is a financial institution, the financial institution must determine before submitting the request, either that it has obtained a written waiver of the right to confidentiality of residence address signed by the individual about whom the information is requested, or that such individual is presently obligated to the financial institution under an agreement that was executed prior to July 1, 1990.

(c) If the end user of information that includes a residence address is an insurance company, the insurance company must determine before submitting the request, that it obtained a written waiver of the right to confidentiality of residence address signed by the individual about whom the information is requested; that such individual is presently insured under a policy, and that a named insured under that policy signed such a written waiver; or that such individual was involved in an accident with a person who is insured by the end user.

(d) If the end user of information that includes a residence address is an attorney, the attorney must determine before submitting the request, that the request is pursuant to section 1808.22(c) of the Vehicle Code.

(e) If the end user of the information that includes a residence address is a vehicle manufacturer or a vehicle manufacturer's agent, the manufacturer or the agent must determine before submitting the request, that the request is pursuant to section 1808.23(a) of the Vehicle Code.

(f) If the end user of the information that includes a residence address is a vehicle dealer or a vehicle dealer's agent, the dealer or the agent must determine before submitting the request, that the request is pursuant to section 1808.23(b) of the Vehicle Code.

(g) If the end user of the information that includes a residence address is requesting the information as permitted under subdivision (h) of section 1798.24 of the Civil Code, the requester must determine before sub-

mitting the request, that no persons will be contacted by mail or otherwise at the address included with the information.

(h) If the end user of information that includes a residence address is not requesting the residence address information pursuant to section 1808.22 or 1808.23 of the Vehicle Code, the end user must cite a federal or state statute, regulation, or rule of court that specifically requires the department to release the residence address information from its records.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.28 to section 350.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (b), (c) and (h) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.30. Priority for Processing Nongovernmental Requests.

Nongovernmental requests for information shall be processed in accordance with the following priority:

- (a) Departmental processing.
- (b) Governmental request processing.
- (c) Nongovernmental request processing.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.30 to section 350.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.32. Release of Information to Commercial Requester Account Holder.

(a) Information may be released to a Commercial Requester Account holder as soon as the information request is processed and without notice to the person to whom the information relates.

(b) Residence address information shall be deleted from copies of non-electronically stored records before such copies may be released to any person not authorized access to residence address information. Copies of nonelectronically stored records shall not be released to those entities defined as the public pursuant to section 350.02(o).

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1810, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.32 to section 350.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.34. Additional Security Requirements for On-Line Access.

On-line access special permit holders shall be responsible for security of the system and the information received as follows:

(a) When access to address information is authorized, terminal or modems shall not be left unattended unless secured by a locking device or placed in a locked room.

(b) Video terminals, printers, or other forms of information duplication shall be placed so that address information may not be viewed by the public.

(c) Access to codes and operational manuals shall be restricted to persons authorized access to department information, and who have signed an Employee Security Statement, Form INF 1128 (3/97), provided by the department.

(d) Each person authorized on-line access by a special permit holder shall sign an Employee Security Statement, Form INF 1128 (3/97) for his or her employer. The statement shall be retained by the employer for a period of two (2) years. A new statement shall be signed annually.

(e) The special permit holder shall maintain at the business address listed on its application a current list of the names of persons authorized

access to department information. The list shall be initialed and dated by each authorized employee.

(f) The special permit holder shall notify the department's Office of Information Services in Sacramento, in writing, by the end of the next business day following the termination of authority of any person to access department information. The special permit holder shall maintain a list of the names of persons whose authority to access information was terminated and the reason for the termination. Names shall not be purged from the list for a period of at least two (2) years from the date of termination. The list shall be available for inspection by the department at the business address listed on the permit holder's application, during normal business hours, on one business day's notice from the department.

(g) If the special permit holder suspects any misuse of the system or department information by any person, the suspicion shall be reported to the department's Office of Information Services by telephone immediately, and in writing within three (3) days.

(h) The special permit holder shall be responsible for administering the terms and conditions of the permit agreement and department regulations in this article, and for the orientation, training, and supervision of persons authorized on-line access pursuant to the permit.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.7 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.34 to section 350.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsections (c) and (d) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.36. Casual Requests for Information.

(a) A casual requester may submit a request for information in person or by mail at any office of the department. The request shall be made in writing and shall include the following information:

- (1) The name of the requester.
- (2) The residence or business address and telephone number of the requester.
- (3) The reason the information is requested.
- (4) The intended use of the information requested.
- (5) If residence address information is requested, the specific reasons such information is being requested, and the regulation, federal or state statute, identified by code name and section number, or rule of court that requires the department to release the residence address information.

(6) If mailing address information is requested, the reason such information is being requested. Acceptable reasons are for use in connection with assessment of driver risk or ownership of vehicles or vessels.

(b) Whether submitted by mail or in person, a casual requester's request for information must include the following points of identification of the record requested.

(1) For vehicle registration information the points of identification may be the license plate number or vehicle identification number; or the owner's name and full address. If the request is made in conjunction with a vehicle lien sale the points of identification shall include the vehicle identification number, make, and year model of the vehicle being sold.

(2) For vessel registration information the points of identification may be the vessel registration number or hull number.

(3) For driver's license or identification card information the points of identification may be either the full name and date of birth or the full name and driver's license number or the full name and identification card number.

(4) For financial responsibility information the points of identification may be the date, time and location of accident; the full name of either driver involved; the driver's license number of either driver; the license plate number of a vehicle involved; the financial responsibility number assigned by the department; or any combination thereof.

(5) For occupational licensing information the points of identification may be the full name of the licensee; the name under which the licensee

does business, the occupational license number, or any combination thereof.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Section 1798.26, Civil Code; Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.36 to section 350.36 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading and subsections (a) and (a)(5), repealer of subsection (a)(5)(A) and amendment of subsection (b) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.38. Identification of Casual Requesters.

(a) No request for information made in person by a casual requester shall be processed until the requester's true identity is established to the satisfaction of the department. Acceptable evidence of identification shall be:

- (1) A valid California driver's license.
- (2) A valid California identification card.
- (3) A valid foreign state driver's license.
- (4) Any other identification cards issued by a governmental agency.
- (5) A valid California State Bar membership card.

(b) No request for information submitted by mail by a casual requester shall be processed until the requester's true identity is established to the satisfaction of the department. Acceptable evidence of identification shall be:

- (1) The number of the requester's valid California driver's license.
- (2) The number of the requester's valid California identification card.
- (3) The number of the requester's valid foreign state driver's license.
- (4) The number and identity of the requester's valid identification document issued by a governmental entity.

(5) The number of the requester's valid California State Bar membership card.

NOTE: Authority cited: Section 1798.26, Civil Code; Section 1651, Vehicle Code. Reference: Section 1798.26, Civil Code; Sections 1808.21, 1801.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering former section 320.38 to section 350.38 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading and subsections (a) and (b) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.40. Release of Information to Casual Requester.

(a) Information may be released to a casual requester either in person or by mail and as soon as the information request is processed if the requester is properly identified and is acting in the course of employment for a governmental entity.

(b) Information may be released to a casual requester either in person or by mail and as soon as the information request is processed if the requester is properly identified and has satisfied the department that the information is required without delay to comply with a regulation, rule of court or federal or state statute, and the applicant has furnished the information required by section 350.36(a)(5).

(c) Information may be released to a casual requester who is requesting information pursuant to section 1808.22(a), 1808.22(b), 1808.22(c), 1808.23(a), 1808.23(b), or 1808.23(c), either in person or by mail, and as soon as the information request is processed provided that the applicant has furnished the department with the information required or by the specific subdivision which permits the request.

(d) Information may be released to a casual requester either in person or by mail and as soon as the information request is processed if the requester is properly identified and has satisfied the department that the information is from applicant's own record or from the record of a spouse or minor child when the department's record reflects the same residence address for the subject of record and the requester.

(e) Except as provided in subdivisions (a), (b), (c), and (d) information shall be released by mail to a casual requester, but not until ten (10) working days from the date the request is received at the department's Information Services Branch. Whether or not release of the information is delayed, the department shall furnish the person to whom the information relates with the name of the person making the request and the identity of the information requested. The address of the person requesting the information shall not be disclosed to the person to whom the information relates.

(f) If, during the ten (10) day period referred to in subdivision (e), the department's Office of Information Services receives a written objection to the release of the information from the person to whom the information relates, the department may further delay the release of the information for as long as is necessary to evaluate the objection. If the department determines that the public interest in withholding the information outweighs the public interest in releasing the information, then the information shall not be released. If the information is not released, both the requester and the person to whom the information relates shall be notified, in writing, about the decision to withhold the information. If the department determines that the public interest in releasing the information outweighs the public interest in withholding the information, the information shall be released but only after the person making the objection is notified that the department intends to release the information.

(g) Whether the request for information is received by mail or in person, the information approved for release to a casual requester may be mailed to the requester at the address furnished by the requester.

(h) Residence address information shall be deleted from copies of nonelectronically stored records before such copies may be released to any person other than a governmental entity. Copies of nonelectronically stored records shall not be released to those entities defined as the public pursuant to section 350.02(o).

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.47, 1810, 1810.7, 1811, 1808.22 and 1808.23, Vehicle Code; Section 1798.26, Civil Code; Section 6255, Government Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.40 to section 350.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section heading and subsections (a)-(e) and (g) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.42. Use of Information.

Any use of the information for a purpose other than the use stated in the approved application for a requester code or in the approved information request is prohibited.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.7 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering former section 320.42 to section 350.42 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 350.44. Cost of Information.

(a) Information shall be furnished to a governmental entity without charge.

(b) Nongovernmental Commercial Requester Account holders shall be charged for information according to the following schedule:

- (1) Two dollars (\$2) for each record requested electronically.
- (2) Five dollars (\$5) for each record requested in writing or by telephone.
- (3) Twenty dollars (\$20) for each copy of a nonelectronically stored record.
- (4) One hundred dollars (\$100) per thousand records for a bulk request for all records which meet a specified criteria not related to a specific person or vehicle.

(c) Casual requesters shall be charged for information according to the following schedule:

- (1) Five dollars (\$5) for each computer printout.
- (2) Twenty dollars (\$20) for each copy of a nonelectronically stored record.
- (3) One hundred dollars (\$100) per thousand records for a bulk request for all records which meet a specified criteria not related to a specific person or vehicle.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1811 and 1812, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.44 to section 350.44 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (c) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).
3. Amendment of section and NOTE filed 4-29-2002 as an emergency; operative 4-29-2002 (Register 2002, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-27-2002 or emergency language will be repealed by operation of law on the following day.
4. A court order issued 7-3-2002 invalidated application of the amendment of 4-29-2002 to commercial requesters for electronic access to drivers' license information (*Personal Insurance Federation of California et al. v. California Department of Motor Vehicles*, Sacramento County Superior Court, Case No. 02CS00702).
5. Certificate of Compliance as to 4-29-2002 order transmitted to OAL 8-12-2002; withdrawn by Department of Motor Vehicles 9-23-2002. Reinstatement of section and NOTE as they existed prior to 4-29-2002 emergency amendment by operation of law 9-24-2002 (Register 2002, No. 39).

§ 350.46. Payment for Information.

(a) Nongovernmental Commercial Requester Account holders shall be billed monthly, in arrears, for information requested by the Commercial Requester Account holder and processed by the department. The bill shall be payable, in full, upon receipt. If any amount remains unpaid sixty (60) days after the invoice date, the Commercial Requester Account holder's requester codes shall be revoked unless the Commercial Requester Account holder disputes the amount of the bill, in writing, within thirty (30) days of the invoice/date. If the amount of the bill is disputed, the Commercial Requester Account holder's requester codes shall not be revoked until thirty (30) days after the department confirms the amount of any disputed bill and rebills the Commercial Requester Account holder.

(b) Casual requesters shall pay in cash, money order, or check at the time the request for information is submitted to the department.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering former section 320.46 to section 350.46 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (b) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.48. Retention of Records.

(a) The department shall retain a record of each request for information from a casual requester for a period of ninety (90) days from the date the request is received, and from a preapproved requester for a period of two (2) years from the date the request is received. The record retained may indicate whether the request was granted, in whole or in part, and may identify the information released, if any.

(b) Each requester code holder authorized to resell information to another requester shall maintain a monthly record of each request for information for a period of five (5) years from the date of the request, showing the date of the request, the type of information requested (vehicle or vessel registration, drivers license, financial responsibility, or occupational licensing), the identity of the end user including indirect requesters, and identify the proposed use of information as approved by the department, in that order.

(c) Each requester code holder who is requesting or receiving confidential information, but who is not reselling the confidential information, shall maintain a monthly record of each request for information for a period

of two (2) years from the date of the request, showing the date of the request, the requester code of the person making the request to the department, the type of information requested (vehicle or vessel registration, drivers license, financial responsibility, or occupational licensing), points of identification used for the request (e.g., license number and date of birth), and the purpose of the request, in that order.

NOTE: Authority cited: Section 1798.26, Civil Code; Sections 1651 and 1810, Vehicle Code. Reference: Section 1798.26, Civil Code; Sections 1808.46, 1810 and 1811, Vehicle Code; and Driver's Privacy Protection Act (18 U.S.C., Section 2721).

HISTORY

1. Change without regulatory effect renumbering former section 320.48 to section 350.48 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of section and NOTE filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.50. Inspection of Records.

(a) Each requester code holder shall keep the records retained pursuant to sections 350.48 and 350.18(b)(4) at the business address listed on the requester code holder's application for a requester code.

(b) The place of business shall be open to an electronic or manual audit of the records required to be retained during normal business hours, immediately upon request from the department or the department's representative.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.46, 1810 and 1811, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.50 to section 350.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (b) filed 6-13-2001; operative 7-13-2001 (Register 2001, No. 24).

§ 350.52. Refusal, Suspension or Revocation of Requester Codes.

(a) The department may suspend or revoke a requester code or an on-line access special permit, may refuse to issue a requester code or on-line access special permit, or may refuse to approve access to confidential address information, after notice and opportunity to be heard, for any of the following reasons:

(1) The application is incomplete.

(2) The applicant requests access to residence address information when not authorized such access pursuant to statute, regulation, or rule of court.

(3) Based on the applicant's stated purpose for requesting information, the department determines that the public interest in withholding the information outweighs the public interest in releasing the information.

(4) The information on the application for a requester code is incorrect, false, misleading, or identifies an intended misuse of the information requested.

(5) The applicant, or a representative of the applicant, was previously the holder or a managerial employee of the holder of a requester code revoked for cause and never reissued by the department, or suspended for cause and the terms of the suspension are not fulfilled. For the purposes of this subdivision, a representative means a proprietor, limited or general partner, a managerial employee, or a director or officer active in the management, direction, or control of the business of the requester code holder. A managerial employee is any person who exercises managerial control over the business of a requester code holder.

(6) The holder, or any employee of the holder, used information received from the department for a purpose other than the purpose stated in the holder's application for a requester code.

(7) The bond required pursuant to section 350.24 is canceled and a replacement bond is not filed with the department prior to the cancellation.

(8) The holder submitted a check, draft, or money order to the department, that was thereafter dishonored when presented for payment.

(9) The holder sold or otherwise delivered information obtained from the department to a person other than the requester code holder for whom

the information was obtained except as provided for in section 350.18(b)(6).

(10) The holder failed to pay for information received from the department.

(11) The holder or any representative of the holder represented to any person that the holder or such representative as an officer, agent or employee of the department.

(12) The holder published any false or misleading advertising related to the purchase of information from the department.

(13) The holder used the DMV logogram in any advertising or other materials used in the business of the holder. If the holder uses the DMV logogram in any advertising, the advertising shall neither state nor infer that there is any official connection between DMV and the advertiser or that DMV has sanctioned or approved of either the advertisement or the advertiser's services.

(14) The holder violated any of the provisions contained in this article.

(b) The notice and hearing provided for in this section shall be conducted pursuant to chapter 5 (commencing with section 11500) of part 1 of division 3 of title 2 of the Government Code.

(c) This section shall remain in effect only until October 1, 2000, and as of that date is repealed.

(d) From October 1, 1998 through September 30, 2000, provisions of this section shall apply only to requester codes issued or renewed on or before October 1, 1998.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.23, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.52 to section 350.52 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. New subsections (c) and (d) filed 8-31-98; operative 9-30-98 (Register 98, No. 36).

§ 350.53. Surrender of Records.

(a) Upon termination of a requester account agreement, the holder shall surrender to the department all records retained pursuant to sections 350.48 and 350.18(b)(4). The records shall be delivered to the department's Office of Information Services in Sacramento not later than the end of the third departmental business day following the date of termination of the agreement.

(b) Whenever notification is made pursuant to section 350.16(b) of any permanent determination of the need for information, all records retained pursuant to sections 350.18(b)(4) and 350.48 shall be delivered with the notification to the department's Office of Information Services in Sacramento.

(c) The department shall provide a no fee copy of the surrendered records to the account holder not later than 60 days from the date of surrender, provided that the account holder requests a copy, in writing, at the time of surrender.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1810, 1810.2 and 1810.7, Vehicle Code; and Section 1798.26, Civil Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 320.53 to section 350.53 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. Amendment of subsection (a) filed 8-31-98; operative 9-30-98 (Register 98, No. 36).

§ 350.54. Temporary Suspension of a Requester Code.

(a) The department may, pending a hearing, temporality suspend the requester code issued to any person, for a period not to exceed thirty (30) days, if the director finds that such action is required in the public interest. In any such case the director shall give the requester code holder an opportunity to appear before the director, either in person or by telephone to argue informally against the temporary suspension. If the director sustains the temporary suspension, the hearing shall be held and the decision rendered within thirty (30) days of the date of the temporary suspension.

(b) This section shall remain in effect only until October 1, 2000, and as of that date is repealed.

(c) From October 1, 1998 through September 30, 2000, provisions of this section shall apply only to requester codes issued or renewed on or before October 1, 1998.

NOTE: Authority cited: Sections 1651 and 1810, Vehicle Code; and Section 1798.26, Civil Code. Reference: Sections 1808.21, 1808.22, 1808.45, 1808.46, 1808.47, 1810, 1810.2 and 1811, Vehicle Code; Section 1798.26, Civil Code; and Section 1, Ch. 1213, Stats. 1989.

HISTORY

1. Change without regulatory effect renumbering former section 320.54 to section 350.54 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
2. New subsection (a) designator and new subsections (b) and (c) filed 8-31-98; operative 9-30-98 (Register 98, No. 36).

§ 400.00. Licenses.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1651, 11100, 11104, 11105 and 11105.5, Vehicle Code.

HISTORY

1. Renumbering of section 400.05 to section 400.00 and amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41). For former section 400, see Register 68, No. 26.
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.00 to section 340.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.10. Applications.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652, 11100, 11102, 11102.5, 11104, 11105, 11105.1 and 11105.5, Vehicle Code.

HISTORY

1. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. New NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Amendment filed 4-18-85; effective thirtieth day thereafter (Register 85, No. 16).
4. Change without regulatory effect renumbering former section 400.10 to section 340.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.15. Insurance Requirements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 1652 and 11103, Vehicle Code.

HISTORY

1. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
2. Change without regulatory effect renumbering former section 400.15 to section 340.15 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.20. Place of Business.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 320, 1651, 11102, 11105.2 and 11113, Vehicle Code.

HISTORY

1. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.20 to section 340.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.25. Driver Education Courses for Minors.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Section 11113, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.25 to section 340.25 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.27. Certificates of Completion for Minors.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 1652, 11108, 11113 and 12507, Vehicle Code.

HISTORY

1. New section filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).

2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Amendment filed 4-18-85; effective thirtieth day thereafter (Register 85, No. 16).
4. Change without regulatory effect renumbering former section 400.27 to section 340.27 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.30. Equipment.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11102 and 11109, Vehicle Code.

HISTORY

1. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.30 to section 340.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.40. Advertising.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11110, Vehicle Code.

[The next page is 28.19.]

HISTORY

1. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.40 to section 340.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 400.45. Instruction.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11113 and 12507, Vehicle Code; and Section 51220, Education Code.

HISTORY

1. New section filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 400.45 to section 340.45 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.00. Subject Matter of Driving Instructor Training Course.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11102.5, 11104 and 11113, Vehicle Code.

HISTORY

1. New section filed 8-17-73; effective thirtieth day thereafter (Register 73, No. 33).
2. Amendment of NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 401.00 to section 342.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.01. Length of Driving Instructor Training Course.

NOTE: Reference: Sections 11102.5 and 11104, Vehicle Code.

HISTORY

1. New section filed 8-17-73; effective thirtieth day thereafter (Register 73, No. 33).
2. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
3. Repealer filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).

§ 401.02. Departmental Approval of Instructor Training Course.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Section 11113, Vehicle Code.

HISTORY

1. New section filed 8-17-73; effective thirtieth day thereafter (Register 73, No. 33).
2. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
3. Amendment of NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
4. Change without regulatory effect renumbering former section 401.02 to section 342.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.03. Course Monitoring by Department.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 1651 and 11113, Vehicle Code.

HISTORY

1. New section filed 8-17-73; effective thirtieth day thereafter (Register 73, No. 33).
2. Amendment of NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Change without regulatory effect renumbering former section 401.03 to section 342.03 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.04. Proof of Satisfactory Completion.

NOTE: Authority cited: Sections 1651 and 11113, Vehicle Code. Reference: Sections 11104 and 11113, Vehicle Code.

HISTORY

1. New section filed 8-17-73; effective thirtieth day thereafter (Register 73, No. 33).
2. Amendment filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).

3. Amendment of NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
4. Change without regulatory effect renumbering former section 401.04 to section 342.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.05. Continuing Professional Education.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11105 and 11105.1, Vehicle Code.

HISTORY

1. New section filed 10-4-77; effective thirtieth day thereafter (Register 77, No. 41).
2. New NOTE filed 1-18-83; effective thirtieth day thereafter (Register 83, No. 4).
3. Amendment filed 4-18-85; effective thirtieth day thereafter (Register 85, No. 16).
4. Change without regulatory effect renumbering former section 401.05 to section 342.05 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.10. Definition.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12660, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.10 to section 344.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.12. Driving School Authorizations.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12660, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.12 to section 344.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.14. Description of Limitations.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.14 to section 344.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.16. Applications.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.16 to section 344.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.18. Verification of Name and Birthdate.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.18 to section 344.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.20. Examinations.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.20 to section 344.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.22. Grounds Requiring Refusal.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12661 and 12805, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.22 to section 344.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.24. Issuance, Content and Disposition.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.24 to section 344.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.26. Cancellations.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.26 to section 344.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.28. Fees and Purchasing.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12660 and 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.28 to section 344.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.30. Forms and Accountability.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.30 to section 344.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.32. Records Maintenance and Confidentiality.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Section 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.32 to section 344.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 401.34. Notice and Hearing.

NOTE: Authority cited: Sections 12660 and 12661, Vehicle Code. Reference: Sections 12660 and 12661, Vehicle Code.

HISTORY

1. New section filed 1-16-90; operative 2-15-90 (Register 90, No. 4).
2. Change without regulatory effect renumbering former section 401.34 to section 344.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 402.00. "Advertising" Defined.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Division 5, Vehicle Code.

HISTORY

1. New sections 402.00-409.00, not consecutive, filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
3. Change without regulatory effect renumbering former section 402.00 to section 255.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 402.01. "Dealer's Cost" Defined.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11713 and 11713.1, Vehicle Code.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 402.01 to section 255.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 402.02. "Demonstrator" Defined.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 665 and 11713, Vehicle Code.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 402.02 to section 255.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 402.03. "Manufacturer's Suggested Total Price" Defined.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11713 and 24014, Vehicle Code; and 15 U.S.C.S. 1231 et seq.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Repealer filed 9-11-86; effective upon filing (Register 86, No. 37).

§ 402.04. Applicability.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Division 5, Vehicle Code.

HISTORY

1. New section filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 402.04 to section 255.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.00. Advertisements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. Repealer and new section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 403.00 to section 260.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.01. Vehicle Description.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 665, 11614, 11713, 11713.1 and 11713.5, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of subsection (e) filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 403.01 to section 260.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.02. Vehicle History.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 403.02 to section 260.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.03. Vehicle Condition.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11615 and 11713, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

3. Change without regulatory effect renumbering former section 403.03 to section 260.03 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.04. Vehicle Availability.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11713, 11713.1 and 11713.3, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of subsection (b) filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Amendment of subsection (a) filed 10–26–87; operative 11–25–87 (Register 87, No. 44).
4. Change without regulatory effect renumbering former section 403.04 to section 260.04 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.05. Vehicle Equipment.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11615 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 403.05 to section 260.05 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.07. Returned Vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11613, 11614, 11705 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 403.07 to section 260.07 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 403.08. Incentive Advertising.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Repealer filed 9–11–86; effective upon filing (Register 86, No. 37).

§ 404.00. Dealer Price.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11713 and 11713.1, Vehicle Code.

HISTORY

1. Repealer and new section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.00 to section 262.00 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.01. Manufacturer's or Distributor's Price.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code; and 15 U.S.C.S. 1231, et. seq.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.01 to section 262.01 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.02. Savings Claims.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Repealer filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).

§ 404.03. Dealer Added Charges.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11713.1, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.03 to section 262.03 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.04. Rebates.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Repealer filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).

§ 404.05. Financing.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614, 11705 and 11713, Vehicle Code; and Section 2981, et. seq., Civil Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.05 to section 262.05 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.06. Down Payment.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment of subsection (b) filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.06 to section 262.06 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.07. Trade-In Allowances.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.07 to section 262.07 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.08. Identity of Dealer or Lessor–Retailer.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11–9–77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9–13–85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.08 to section 262.08 filed 7–19–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 404.09. Qualifying Statements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11614 and 11713, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 404.09 to section 262.09 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 405.01. Description of Vehicle.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.02. Ownership History.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.03. Vehicle Condition.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.04. Vehicle Equipment.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.05. Vehicle Availability.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.06. Vehicle Price.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.07. Trade-In Allowances.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.08. Terms.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 405.09. Identity of Dealer, Distributor or Manufacturer.

HISTORY

1. Repealer filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).

§ 406.00. Place of Business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11709 and 11713, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 406.00 to section 270.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 407.00. Change of Location.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11709 and 11712, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 407.00 to section 270.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 408.00. Signs or Devices.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11709, Vehicle Code.

HISTORY

1. Amendment filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).

3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 408.00 to section 270.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 409.00. Display Area.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11705 and 11709, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 409.00 to section 270.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 410.00. Business Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. Repealer and new section filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23). For history of former section, see Register 68, No. 26.
2. Amendment filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 410.00 to section 272.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 410.01. Location of Business Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. Repealer and new section filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23). For history of former section, see Register 68, No. 26.
2. Amendment of NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 410.01 to section 292.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 411.00. Place of Business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11701 and 11713, Vehicle Code.

HISTORY

1. New sections 411.00-413.08, not consecutive, filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Amendment of NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 411.00 to section 290.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 411.01. Pertinent Books and Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11701, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 411.01 to section 290.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 412.00. Place of Business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11701 and 11713, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 412.00 to section 295.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 412.01. Types of Licenses.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 412.02. Issuance of Vehicle Transporter's License.**HISTORY**

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 413.01. Place of Business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11513 and 11514, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.01 to section 304.01 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.02. Signs and Devices.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11514, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.02 to section 304.04 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.03. Dismantling Area.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320, 11501 and 11509, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.03 to section 304.06 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.05. Dismantler Report Forms.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11505 and 11520, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.05 to section 304.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.06. Acquisition of Cleared Vehicles.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 221 and 11520, Vehicle Code.

HISTORY

1. Amendment filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.06 to section 304.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.07. Business Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11520, Vehicle Code.

HISTORY

1. Repealer of subsection (c) filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.07 to section 304.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 413.08. Location of Business Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 320, Vehicle Code.

HISTORY

1. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
2. Change without regulatory effect renumbering former section 413.08 to section 304.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.00. Occupational License Application Requirements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11102, 11102.5, 11104, 11501, 11601, 11602, 11701 and 11704, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 414.00 to section 250.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.01. Time Requirements for Submitting Application.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11100, 11500, 11600 and 11700, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 414.01 to section 250.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.10. Business License Definition.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11500, 11600 and 11700, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 414.10 to section 250.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.20. Business License Application Requirements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11501, 11504, 11601, 11602, 11701, 11704 and 11712, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. Amendment of subsection (e)(2)(J) filed 3-22-78 as an emergency; effective upon filing. Certificate of Compliance included. (Register 78, No. 12).
4. Editorial correction to history note 3 (Register 78, No. 28).
5. Amendment of subsections (e)(2)(D), (e)(2)(J) and (e)(2)(k) filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
6. Change without regulatory effect renumbering former section 414.20 to section 250.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.30. Time Requirements for Any Change in License.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11704 and 11721(d), Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 414.30 to section 250.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.40. Branch Location Application Requirements.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 3062, 9262, 9550, 11704 and 11712, Vehicle Code.

HISTORY

1. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 414.40 to section 250.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.50. Dealer Branch Location Definition.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 320 and 11709, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering and amending former section 414.50 to section 270.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 414.60. Dismantler Branch Location Definition.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 220 and 320, Vehicle Code.

HISTORY

1. New section filed 12-21-77 as an emergency; designated effective 1-1-78 (Register 77, No. 52).
2. Certificate of Compliance filed 3-22-78 (Register 78, No. 12).
3. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
4. Change without regulatory effect renumbering former section 414.60 to section 304.02 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 415.00. Surety Bond for Engine Rebuilders.

HISTORY

1. Renumbering from Section 405.00 filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 415.01. Regulations.

HISTORY

1. Renumbering from Section 405.10 filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 415.02. When Sold Accompanied by Bill of Sale.

HISTORY

1. Renumbering from Section 405.15 filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.00. Unlawful Act Without Permit.

NOTE: Authority cited: Section 1651, Vehicle Code.

HISTORY

1. New Sections 416.00-418.00, not consecutive, filed 6-6-75; effective thirtieth day thereafter (Register 75, No. 23).
2. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.01. Application for Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.02. Authority to Issue or Refuse Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.03. Authority to Temporarily Suspend Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.04. Authority to Suspend or Revoke Permit.

HISTORY

1. Repealer fifth day thereafter (Register 77, No. 46).
2. New NOTE filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.05. Authority to Issue Probationary Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.06. Change of Address.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 416.07. Automatic Cancellation.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 417.00. Effect of Action Against Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 417.01. Surrender of Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 417.02. Causes of Action Against Permit.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 418.00. Unlawful Acts.

HISTORY

1. Repealer filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).

§ 420.00. Monetary Penalties.

NOTE: Authority cited: Sections 1651, 11509.1 and 11707, Vehicle Code. Reference Sections 11509.1 and 11707, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 420.00 to section 314.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

§ 421.00. Notices of Suspension.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference Sections 11105, 11506, 11606 and 11718, Vehicle Code.

HISTORY

1. New section filed 11-9-77; effective thirtieth day thereafter (Register 77, No. 46).
2. Amendment filed 9-13-85; effective thirtieth day thereafter (Register 85, No. 37).
3. Change without regulatory effect renumbering former section 421.00 to section 316.00 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).

Article 6. Administration**§ 422.01. Administrative Fees for Returned Checks.**

(a) The department shall assess an administrative fee of thirty dollars (\$30) for each check submitted to the department as payment of any fee or obligation if that check is returned as dishonored from the financial institution from which the check is drawn.

(b) The administrative fee shall be added to the fee or other obligation for which the check was submitted, and that fee or obligation shall not be considered paid until the entire amount is paid.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 6157, Government Code; and Sections 9558 and 34672, Vehicle Code.

HISTORY

1. New section filed 12-6-93; operative 1-5-94 (Register 93, No. 50).
2. Amendment of subsections (a)-(b) and repealer of subsections (c)-(d) filed 9-5-96; operative 10-5-96 (Register 96, No. 36).
3. Amendment of subsection (a) and amendment of NOTE filed 7-25-2002; operative 8-24-2002 (Register 2002, No. 30).

§ 423.00. Fee Adjustment.

(a) Vehicle Code section 1678 requires the department on January 1, 2005, and every January 1 thereafter, to adjust specified fees by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance with amounts equal to or greater than fifty cents (\$0.50) rounded to the next highest whole dollar.

(1) Effective January 1, 2005, the following fees authorized under the following statutes shall be changed to:

(A) Sixteen dollars (\$16) for fees authorized under Vehicle Code sections 4604(b), 5014(f), 5036, 6700.25(e), 9102.5(a), 9102.5(c), 9252(a), 9254, 9258, 9261(a), 9261(b), 9261(c), 9261(d), 9265(a), 9265(b), 9702, 11515, 11515.2, 38121(b), 38232, 38255(a), 38255(b), 38255(c), 38260, and 38265(a); Code of Civil Procedure sections 488.385(b) and (c); and Revenue and Taxation Code section 10902(c).

(B) Twenty dollars (\$20) for fees authorized under Vehicle Code section 14901.

(C) Twenty-one dollars (\$21) for fees authorized under Vehicle Code section 14902(a).

(D) Twenty-five dollars (\$25) for noncommercial driver license fees authorized under Vehicle Code sections 12814.5(d), 14900(a), and 14900.1(a).

(E) Thirty-five dollars (\$35) for fees authorized for commercial driver license renewal or noncommercial firefighter driver license renewal under Vehicle Code section 12814.5(d).

(2) Effective January 1, 2006, the following fees authorized under the following statutes shall be changed to:

(A) Ten dollars (\$10) for fees authorized under Vehicle Code section 9250.8(a) and (b).

(B) Thirteen dollars (\$13) for fees authorized under Vehicle Code section 9250.13(a)(1) and (2).

(C) Twenty-six dollars (\$26) for noncommercial driver license fees authorized under Vehicle Code sections 12814.5(d), 14900(a) and 14900.1(a).

(D) Thirty-six dollars (\$36) for fees authorized for commercial driver license renewal or noncommercial firefighter driver license renewal under Vehicle Code section 12814.5(d).

(3) Effective January 1, 2007, the following fees authorized under the following statutes shall be changed to:

(A) Six dollars (\$6) for fees authorized under Vehicle Code sections 14900(b) and 14900.1(b).

(B) Seven dollars (\$7) for fees authorized under Vehicle Code section 9250.13(a)(1) and 14902(c).

(C) Fourteen dollars (\$14) for fees authorized under Vehicle Code section 9250.13(a)(1) and (2) for Commercial Vehicle Registration Act (CVRA) vehicles only.

(D) Seventeen dollars (\$17) for fees authorized under Vehicle Code sections 4604(b), 5014(f), 5036, 6700.25(e), 9102.5(a), 9102.5(c), 9252(a), 9254, 9258, 9261(a), 9216(b), 9261(c), 9261(d), 9265(a), 9265(b), 9702, 11515, 11515.2, 38121(b), 38232, 38255(a), 38255(b), 38255(c), 38260, and 38265(a); Code of Civil Procedure sections 488.385(b) and (c); Revenue and Taxation Code section 10902(c).

(E) Twenty-one dollars (\$21) for fees authorized under Vehicle Code section 14901.

(F) Twenty-two dollars (\$22) for fees authorized under Vehicle Code section 14902(a).

(G) Twenty-seven dollars (\$27) for noncommercial driver license fees authorized under Vehicle Code sections 12814.5(d), 14900(a) and 14900.1(a).

(H) Thirty-eight dollars (\$38) for fees authorized for commercial driver license renewal or noncommercial firefighter driver license renewal under Vehicle Code section 12814.5(d).

(4) Effective January 1, 2008, the following fees authorized under the following statutes shall be changed to:

(A) Twenty-two dollars (\$22) for fees authorized under Vehicle Code section 14901.

(B) Twenty-three dollars (\$23) for fees authorized under Vehicle Code section 14902(a).

(C) Twenty-eight dollars (\$28) for noncommercial driver license fees authorized under Vehicle Code sections 12814.5(d), 14900(a) and 14900.1(a).

(D) Thirty-nine dollars (\$39) for fees authorized for commercial driver license renewal or noncommercial firefighter driver license renewal under Vehicle Code section 12814.5(d).

NOTE: Authority cited: Sections 1651 and 1678, Vehicle Code. Reference: Sections 1678, 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, 12814.5, 14900, 14900.1, 14901, 14902, 38121, 38232, 38255, 38260 and 38265, Vehicle Code; Section 488.385, Code of Civil Procedure; and Section 10902, Revenue and Taxation Code.

HISTORY

1. New section filed 12-9-2004; operative 1-1-2005 pursuant to Vehicle Code section 1678 (Register 2004, No. 50).
2. Editorial correction providing correct placement for section (Register 2005, No. 1).
3. New subsections (a)(2)-(a)(2)(D) and amendment of NOTE filed 8-11-2005; operative 9-10-2005 (Register 2005, No. 32).
4. Change without regulatory effect amending subsections (a)(2)(A)-(B) filed 4-4-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 14).
5. New subsections (a)(3)-(a)(3)(H) filed 10-27-2006; operative 1-1-2007 (Register 2006, No. 43).
6. New subsections (a)(4)-(a)(4)(D) filed 11-8-2007; operative 1-1-2008 (Register 2007, No. 45).

§ 425.01. Administrative Fee for Vehicle Code Book.

(a) The department shall assess an administrative fee of nine dollars (\$9) for each Vehicle Code book as payment of the entire cost of publishing the code.

(b) The purchaser of the Vehicle Code book will be responsible for any actual shipping costs, which shall be added to the administrative fee for the cost of publishing the code, and that fee or obligation shall not be considered paid until the entire amount is paid.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 1656(a), Vehicle Code.

HISTORY

1. New section filed 12-5-2005; operative 1-4-2006 (Register 2005, No. 49). For prior history, see Register 98, No. 31.
2. Amendment of subsection (a) filed 5-22-2006; operative 6-21-2006 (Register 2006, No. 21).
3. Amendment of subsection (a) filed 10-16-2007; operative 11-15-2007 (Register 2007, No. 42).

§ 430.00. Fee for Recording Notice of Delinquent Parking Violation.

Pursuant to Section 4763 of the Vehicle Code, the department shall assess on the processing agency a fee of \$3.00 for each notice of delinquent parking violation filed with the department according to Section 40220 of the Vehicle Code.

[The next page is 28.25.]

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 4763, Vehicle Code.

HISTORY

1. New article 6 and section filed 9-23-93; operative 10-25-93 (Register 93, No. 39).

§ 431.00. Fee for Recording Notice of Delinquent Toll Evasion Violation.

Pursuant to Section 4773 of the Vehicle Code, the department shall assess on the processing agency a fee of \$3.00 for each notice of delinquent toll evasion violation filed with the department according to Section 40267 of the Vehicle Code.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 4773, Vehicle Code.

HISTORY

1. New section filed 5-24-99; operative 6-23-99 (Register 99, No. 22).

Article 6.1. Administrative Adjudication

§ 440.00. Administrative Adjudication Proceedings.

In all administrative adjudication proceedings conducted by or on behalf of the Department of Motor Vehicles, the following provisions shall control:

- (a) Alternative dispute resolution proceedings, to include mediation and arbitration, shall not be used.
- (b) The hearing officer, administrative law judge or other presiding officer shall not be subject to peremptory challenge.
- (c) Declaratory decisions shall not be issued.
- (d) No order for monetary sanctions or the payment of expenses, including attorney's fees, incurred by another party, shall be effective until the order is adopted or entered by the Director of Motor Vehicles or his or her designee.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 11420.10, et seq., 11425.40(d), 11455.10, et seq. and 11465.20(b), Government Code.

HISTORY

1. New article 6.1 (sections 440.00-440.04) and section filed 6-27-97; operative 6-27-97 (Register 97, No. 26). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. Permanent section transmitted to OAL 8-20-98 pursuant to Government Code section 11400.21 and filed 10-1-98; operative 10-1-98 (Register 98, No. 40). Government Code section 11400.21 exempts this regulation from OAL review for Necessity.

§ 440.02. Occupational License Definition.

For purposes of administrative adjudication proceedings and disciplinary actions an occupational license includes the following:

- (a) A business license issued by the department to any of the following categories: Dealer, lessor-retailer, dismantler, manufacturer, remanufacturer, distributor, driving school, traffic violator school, registration service, all-terrain vehicle safety training organization, or transporter.
- (b) An individual license issued by the department to any of the following individuals: salesperson, driving school operator or instructor; traffic violator school administrator, operator, or instructor; vehicle verifier, all-terrain vehicle safety instructor, or a representative.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11100, 11200, 11300, 11400, 11500, 11600, 11700, 11800 and 11900, Vehicle Code; and Section 11400.20, Government Code.

HISTORY

1. New section filed 6-27-97; operative 6-27-97 (Register 97, No. 26). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.

2. Permanent section transmitted to OAL 8-20-98 pursuant to Government Code section 11400.21 and filed 10-1-98; operative 10-1-98 (Register 98, No. 40). Government Code section 11400.21 exempts this regulation from OAL review for Necessity.

§ 440.04. Occupational Licensing and Disciplinary Guidelines.

In reaching a decision on a licensing or disciplinary action under Division 5 of the Vehicle Code and the Administrative Procedure Act (Government Code section 11400, et seq.), the Director of Motor Vehicles or his or her designee shall consider the guidelines entitled "Occupational Licensing and Disciplinary Guidelines" (Rev. 11/2007), which are hereby incorporated by reference, and any and all other sanctions provided by relevant statutes and regulations. Deviation from these guidelines and orders, including standard terms of probation, is appropriate where the Director or his or her designee, in his or her sole discretion, determines that the facts of the particular case warrant such a deviation, for example, the presence of mitigating factors, the age of the case, and evidentiary problems.

NOTE: Authority cited: Section 1651, Vehicle Code; and Section 11400.20, Government Code. Reference: Sections 11340.5 and 11425.50(e), Government Code; and Sections 11100 through 11909, Vehicle Code.

HISTORY

1. New section filed 6-27-97; operative 6-27-97 (Register 97, No. 26). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and 11400.21 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. Permanent section transmitted to OAL 8-20-98 pursuant to Government Code section 11400.21 and filed 10-1-98; operative 10-1-98 (Register 98, No. 40). Government Code section 11400.21 exempts this regulation from OAL review for Necessity.
3. Amendment filed 7-15-2008; operative 8-14-2008 (Register 2008, No. 29).

Article 7. Federal Citizenship and Alien Status Requirements for Benefit Eligibility

§ 450.00. Benefits Subject to Federal Eligibility Requirements.

The department has determined that Occupational Licenses, Motor Carrier Permits, Commercial Driver Licenses, Non-Commercial Fire-fighter Driver License, School Bus Certificates, School Pupil Activity Bus Certificates, Youth Bus Certificates, General Public Paratransit Vehicle Certificates, Vehicle for Developmentally Disabled Persons Certificates, Ambulance Certificates, California Tow Truck Driver Clearances, Hazardous Agricultural Materials/Wastes Transportation Verifications, Verification of Transit Training Documents, and Farm Labor Certificates are the benefits provided by the department which are subject to the eligibility requirements imposed by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. No. 104-193 (PRWORA)) (8 U.S.C. § 1621 et seq.). These licenses, permits, clearances, verifications, and certificates will hereafter be referred to as PRWORA benefit(s).

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 8 U.S.C. Sections 1621, 1641, and 1642; U.S.C. Section 2000d et seq., and Divisions 5, 6 and 14.85, Vehicle Code.

HISTORY

1. New article 7 (sections 450.00-450.06) and section filed 8-20-98; operative 9-19-98 (Register 98, No. 34). For prior history, see Register 93, No. 30.

§ 450.02. Limitations on PRWORA Benefits.

(a) All eligibility requirements contained herein shall be applied without regard to the race, creed, color, gender, religion, or national origin of the individual applying for PRWORA benefits.

(b) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (8 U.S.C. § 1621), and notwithstanding any other provision of this division, aliens who are not qualified aliens, nonimmigrant aliens under the Immigration and Nationality Act (INA) (8 U.S.C. § 1101 et seq.), or aliens paroled into the United

States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)), for less than one year, are not eligible to receive an original or renewal PRWORA benefit, as set forth in the California Vehicle Code.

(c) A qualified alien is an alien who, at the time he or she applies for, receives, or attempts to receive a PRWORA benefit, is, under Section 431(b) and (c) of the PRWORA (8 U.S.C. § 1641(b) and (c)), any of the following:

(1) An alien lawfully admitted for permanent residence under the INA (8 U.S.C. § 1101 et seq.).

(2) An alien who is granted asylum under Section 208 of the INA (8 U.S.C. § 1158).

(3) A refugee who is admitted to the United States under Section 207 of the INA (8 U.S.C. § 1157).

(4) An alien who is paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)) for a period of at least one year.

(5) An alien whose deportation is being withheld under Section 243(h) of the INA (8 U.S.C. § 1253(h)) (as in effect immediately before the effective date of Section 307 of division C of Public Law 104–208) or Section 241(b)(3) of such Act (8 U.S.C. § 1251 (b)(3)) (as amended by Section 305 (a) of division C of Public Law 104–208).

(6) An alien who is granted conditional entry pursuant to Section 203(a)(7) of the INA as in effect prior to April 1, 1980. (8 U.S.C. § 1153(a)(7)) (See editorial note under 8 U.S.C. § 1101, “Effective Date of 1980 Amendment.”)

(7) An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980 (8 U.S.C. § 1522 note)).

(8) An alien who meets all of the conditions of subparagraphs (A), (B), (C), and (D) below:

(A) The alien has been battered or subjected to extreme cruelty in the United States by a spouse or a parent, or by a member of the spouse’s or parent’s family residing in the same household as the alien, and the spouse or parent of the alien consented to, or acquiesced in, such battery or cruelty. For purposes of this subsection, the term “battered or subjected to extreme cruelty” includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the PRWORA benefit to be provided in the opinion of the department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the PRWORA benefit to be provided:

(i) The PRWORA benefit is needed to enable the alien to become self-sufficient following separation from the abuser.

(ii) The PRWORA benefit is needed to enable the alien to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien from the abuser.

(iii) The PRWORA benefit is needed due to a loss of financial support resulting from the alien’s separation from the abuser.

(iv) The PRWORA benefit is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien to lose his or her job or to earn less or to require the alien to leave his or her job for safety reasons.

(v) The PRWORA benefit is needed because the alien requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The PRWORA benefit is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien’s ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

(vii) The PRWORA benefit is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The PRWORA benefit is needed to provide medical care during a pregnancy resulting from the abuser’s sexual assault or abuse of, or relationship with, the alien and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien had when living with the abuser.

(C) The alien has been approved or has a petition pending which sets forth a prima facie case for:

(i) status as a spouse or child of a United States citizen pursuant to clause (ii), (iii), or (iv) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(ii), (iii) or (iv)),

(ii) classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(ii) or (iii)),

(iii) cancellation of removal under 8 U.S.C. § 1229b as in effect prior to April 1, 1997,

(iv) status as a spouse or child of a United States citizen pursuant to clause (i) of Section 204(a)(1)(A) of the INA (8 U.S.C. § 1154(a)(1)(A)(i)) or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA (8 U.S.C. § 1154(a)(1)(B)(i)), or

(v) cancellation of removal pursuant to section 240A (b)(2) of the INA (8 U.S.C. § 1229b(b)(2)).

(D) For the period for which the PRWORA benefit is sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(9) An alien who meets all of the conditions of subparagraphs (A), (B), (C), (D) and (E) below:

(A) The alien has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or a parent of the alien (without the active participation of the alien in the battery or cruelty), or by a member of the spouse’s or parent’s family residing in the same household as the alien, and the spouse or parent consented to or acquiesced to such battery or cruelty. For purposes of this subsection, the term “battered or subjected to extreme cruelty” includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) The alien did not actively participate in such battery or cruelty.

(C) There is a substantial connection between such battery or cruelty and the need for the PRWORA benefit to be provided in the opinion of the department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the PRWORA benefit to be provided:

(i) The PRWORA benefit is needed to enable the alien’s child to become self-sufficient following separation from the abuser.

(ii) The PRWORA benefit is needed to enable the alien’s child to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien’s child from the abuser.

(iii) The PRWORA benefit is needed due to a loss of financial support resulting from the alien’s child’s separation from the abuser.

(iv) The PRWORA benefit is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien’s child to lose his or her job or to earn less or to require the alien’s child to leave his or her job for safety reasons.

(v) The PRWORA benefit is needed because the alien’s child requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The PRWORA benefit is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien’s child’s ability to care for his or her children

(e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

(vii) The PRWORA benefit is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The PRWORA benefit is needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien's child and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien's child had when living with the abuser.

(D) The alien meets the requirements of subsection (c)(8)(C) above.

(E) For the period for which the PRWORA benefit is sought, the individual responsible for the battery or cruelty does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.

(10) An alien child who meets all of the conditions of subparagraphs (A), (B), and (C) below:

(A) The alien child resides in the same household as a parent who has been battered or subjected to extreme cruelty in the United States by that parent's spouse or by a member of the spouse's family residing in the same household as the parent and the spouse consented or acquiesced to such battery or cruelty. For purposes of this subsection, the term "battered or subjected to extreme cruelty" includes, but is not limited to being the victim of any act or threatened act of violence including any forceful detention, which results or threatens to result in physical or mental injury. Rape, molestation, incest (if the victim is a minor), or forced prostitution shall be considered acts of violence.

(B) There is a substantial connection between such battery or cruelty and the need for the PRWORA benefit to be provided in the opinion of the department. For purposes of this subsection, the following circumstances demonstrate a substantial connection between the battery or cruelty and the need for the PRWORA benefit to be provided:

(i) The PRWORA benefit is needed to enable the alien child's parent to become self-sufficient following separation from the abuser.

(ii) The PRWORA benefit is needed to enable the alien child's parent to escape the abuser and/or the community in which the abuser lives, or to ensure the safety of the alien child's parent from the abuser.

(iii) The PRWORA benefit is needed due to a loss of financial support resulting from the alien child's parent's separation from the abuser.

(iv) The PRWORA benefit is needed because the battery or cruelty, separation from the abuser, or work absences or lower job performance resulting from the battery or extreme cruelty or from legal proceedings relating thereto (including resulting child support, child custody, and divorce actions) cause the alien child's parent to lose his or her job or to earn less or to require the alien child's parent to leave his or her job for safety reasons.

(v) The PRWORA benefit is needed because the alien child's parent requires medical attention or mental health counseling, or has become disabled, as a result of the battery or extreme cruelty.

(vi) The PRWORA benefit is needed because the loss of a dwelling or source of income or fear of the abuser following separation from the abuser jeopardizes the alien child's parent's ability to care for his or her children (e.g., inability to house, feed, or clothe children or to put children into a day care for fear of being found by the abuser).

(vii) The PRWORA benefit is needed to alleviate nutritional risk or need resulting from the abuse or following separation from the abuser.

(viii) The PRWORA benefit is needed to provide medical care during a pregnancy resulting from the abuser's sexual assault or abuse of, or relationship with, the alien child's parent and/or to care for any resulting children.

(ix) Where medical coverage and/or health care services are needed to replace medical coverage or health care services the alien child's parent had when living with the abuser.

(C) The alien child meets the requirements of subsection (c) (8) (C) above.

(d) For purposes of this section, "nonimmigrant" is defined the same as in Section 101(a)(15) of the INA (8 U.S.C. § 1101(a)(15)).

(e) For purposes of establishing eligibility for a PRWORA benefit, pursuant to the California Vehicle Code, all of the following must be met:

(1) The applicant must declare himself or herself to be a citizen of the United States, or a qualified alien under subsection (c), a nonimmigrant alien under subsection (d), or an alien paroled into the United States for a period of at least one year under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)).

(A) The applicant shall declare his or her eligibility status through use of a benefit eligibility statement given under penalty of perjury on a department issued application form appropriate to the PRWORA benefit being sought.

(B) The appropriate application form issued by the department must be one of the following: the Driver License Application, DL-44 (Rev. 3/98) or DL-44S (Rev. 3/98); the California Special Driver Certificate, DL-45 (Rev. 3/98); the California Tow Truck Driver Clearance, DL-64 (Rev. 3/98); the Hazardous Agricultural Materials/Waste Transportation Verification of Training, DL-267 (Rev. 3/98); the Driver License Renewal Notices, DL-1 RN (Rev. 4/98), DL-1 RNCH (Rev. 4/98), DL-1 RNF (Rev. 4/98), DL-1 RNFS (Rev. 4/98), DL-1 RNFH (Rev. 4/98), DL-1 RNFSH (Rev. 4/98), DL-1 RNBECH (Rev. 4/98), DL-1 RNBECHFF (Rev. 4/98), DL-1 RNBEF (Rev. 4/98), DL-1 RNBEFS (Rev. 4/98), DL-1 RNBEFH (Rev. 4/98), DL-1 RNBEFSH (Rev. 4/98), DL-1 RNBEFFF (Rev. 4/98), DL-1 RNBEFFFS (Rev. 4/98); the Driver License Renewal Notices (Congratulatory) DL-73 (Rev. 4/98), DL-73S (Rev. 4/98), DL-73BE (Rev. 4/98), DL-73BES (Rev. 4/98), DL-6 BEC (Rev. 4/98), DL-6 BEF (Rev. 4/98), DL6 BEFS (Rev. 4/98); the Driver License Renewal Notices (Mag Strip Conversion) DL-73M (Rev. 4/98), DL-73MC (Rev. 4/98), DL-73MS (Rev. 4/98), DL-73MF (Rev. 4/98), DL-73MFS (Rev. 4/98), DL-73BEMC (Rev. 4/98), DL-73BEMF (Rev. 4/98), DL-73BEMFS (Rev. 4/98), and the Driver License Renewal by Mail Notices DL-6C (Rev. 4/98), DL-6F (Rev. 4/98), DL-6FS (Rev. 4/98); the Application for Occupational License OL-16 (Rev. 3/98), and OL-29 (Rev. 3/98); the Application for Renewal of an Occupational License OL-45 (Rev. 3/98), the Applications for Renewal OL-603 (Rev. 3/98), for a Vehicle Dealer License, Lessor-Retailer, Manufacturer, Re-Manufacturer, Distributor, Transporter, Dismantler, Driving School, and Registration Service; the Applications for Renewal OL-44 (Rev. 3/98), for a Vehicle Verifier Permit, Driving School Instructor, Driving School Operator, Independent Instructor, Manufacturer Representative, and Distributor Representative; and the Application for Motor Carrier of Property Permit DMV 706 MCP (Rev. 4/98) which are hereby incorporated by reference.

(2) If the applicant is a U.S. citizen he or she must present valid U.S. citizenship documents, or if the applicant is an alien he or she must present documents of a type acceptable to the Immigration and Naturalization Service (INS) which serve as reasonable evidence of the applicant's declared alien status. The specific documents which the department will accept for proof of eligibility under PRWORA can be found in the department issued document entitled Driver and Occupational Licensing Eligibility Documents, FFDL-20 (New. 3/98), which is hereby incorporated by reference.

(3) Where authorized by the INS, the documentation presented by an alien as reasonable evidence of the alien's declared immigration status will be submitted to the INS for verification through the Systematic Alien Verification for Entitlements (SAVE) system procedures as follows:

(A) Unless the primary SAVE system is unavailable for use, the primary SAVE system verification must be used to access the biographical/immigration status computer record contained in the Alien Status Verification Index (ASVI) maintained by the INS. Subject to subparagraph (B), this procedure must be used to verify the status of all aliens who claim to be qualified aliens and who present an INS issued document that contains an alien registration or alien admission number.

(B) In any of the following cases, the secondary SAVE system verification procedure must be used to forward copies of original INS documents evidencing an alien's status as a qualified alien, as a nonimmigrant alien under the INA, or as an alien paroled into the United States under Section 212(d)(5) of the INA (8 U.S.C. § 1182(d)(5)), for less than one year:

- (i) The primary SAVE system is unavailable for verification.
- (ii) A primary check of the ASVI instructs the department to "institute secondary verification."
- (iii) The document presented indicates immigration status but does not include an alien registration or alien admission number.
- (iv) The ASVI record includes the alien registration or admission number on the document presented by the alien but does not match other information contained in the document.
- (v) The document is suspected to be counterfeit or to have been altered.
- (vi) The document includes an alien registration number in the A60 000 000 (not yet issued) or A80 000 000 (illegal border crossing) series.
- (vii) The document is a fee receipt from INS for replacement of a lost, stolen, or unreadable INS document.
- (viii) The document is one of the following: an INS Form I-181b notification letter issued in connection with an INS Form I-181 Memorandum of Creation of Record of Permanent Residence, an Arrival-Departure Record (INS Form I-94) or a foreign passport stamped "PROCESSED FOR I-551, TEMPORARY EVIDENCE OF LAWFUL PERMANENT RESIDENCE" that INS issued more than one year before the date of application for a PRWORA benefit.

(4) Where verification through the SAVE system is not available, if the documents presented do not on their face reasonably appear to be genuine or to relate to the individual presenting them, the government entity that originally issued the document should be contacted for verification. With regard to naturalized citizens and derivative citizens presenting certificates of citizenship and aliens, the INS is the appropriate government entity to contact for verification. The department will request verification by the INS by filing INS Form G-845 with copies of the pertinent documents provided by the applicant with the local INS office. If the applicant has lost his or her original INS documents, or presents expired INS documents or is unable to present any documentation evidencing his or her immigration status, the applicant should be referred to the local INS office to obtain documentation.

(5) If the INS advises that the applicant has citizenship status or immigration status which makes him or her a qualified alien under PRWORA, the INS verification should be accepted. If the INS advises that it cannot verify that the applicant has citizenship status, or an immigration status that makes him or her a qualified alien, the PRWORA benefit should be denied and the applicant notified pursuant to the department's regular procedures of his or her rights to appeal the denial of the PRWORA benefit.

(6) Provided that the alien has completed and signed a PRWORA eligibility statement under penalty of perjury on the appropriate application form and provided documents of a type acceptable to the INS which serve as reasonable evidence of the applicant's declared status, eligibility for a PRWORA benefit shall not be delayed, denied, reduced or terminated while the status of the alien is verified.

(f) Pursuant to Section 434 of the PRWORA (8 U.S.C. § 1644), where the department reasonably believes that an alien is unlawfully in the State based on the failure of the alien to provide reasonable evidence of the alien's declared status, after an opportunity to do so, said alien should be reported to the Immigration and Naturalization Service.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 8 U.S.C. Sections 1621, 1641, and 1642; and U.S.C. Section 2000d et seq.

HISTORY

1. New section filed 8-20-98; operative 9-19-98 (Register 98, No. 34). For prior history, see Register 93, No. 30.

§ 450.04. Terms of Issuance and Restrictions.

(a) The department may issue a temporary PRWORA benefit provided there is no other cause for refusal pending verification of documents submitted as proof of eligibility, or to allow applicants sufficient time to provide such documents when they have completed and signed a PRWORA eligibility statement. The temporary PRWORA benefit is valid for up to 120 days and the department may extend the temporary PRWORA benefit, if the applicant provides evidence that he/she is in the process of obtaining proof of eligibility.

(b) The department may refuse to accept an application for a PRWORA benefit, if the applicant has not provided one of the documents required by Section 450.02 to establish proof of PRWORA eligibility.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 8 U.S.C. Sections 1621, 1641, and 1642.

HISTORY

1. New section filed 8-20-98; operative 9-19-98 (Register 98, No. 34). For prior history, see Register 93, No. 30.

§ 450.06. Appeals Hearings.

(a) The department shall provide for an appeal hearing from the denial of a Commercial Driver License, Non-Commercial Firefighter Driver License, School Bus Certificates, School Pupil Activity Bus Certificates, Youth Bus Certificates, General Public Paratransit Vehicle Certificates, Vehicle for Developmentally Disabled Persons Certificate, Ambulance Certificate, California Tow Truck Driver Clearance, Hazardous Agricultural Materials/Wastes Transportation Verification, Verification of Transit Training Document, or a Farm Labor Certificate. The hearing shall be held in accordance with Article 3 (commencing with Section 13800 or 14100) of Chapter 3 of Division 6 of the Vehicle Code.

(b) The department shall provide for an appeal hearing from the denial of an occupational license or motor carrier permit. The hearing shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The only issue at the hearings shall be whether the department has acted properly in refusing to issue a temporary or permanent PRWORA benefit based on a failure to provide the documentation establishing PRWORA eligibility as required by Section 450.02.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 8 U.S.C. Sections 1621, 1641, and 1642; and Sections 11107, 11211, 11217, 11302, 11408, 11509, 11605, 11705, 11808, 11903, 12506, 12507.1, 12800(j) and 34623, Vehicle Code.

HISTORY

1. New section filed 8-20-98; operative 9-19-98 (Register 98, No. 34). For prior history, see Register 93, No. 30.

§ 450.08. Bond Requirements with an Application for Original Occupational License For a Registration Service.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11401 and 11402, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.08 to section 330.08 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.10. Certification Required with an Application for an Original Registration Service License.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11403, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.10 to section 330.10 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.12. Temporary Permit and License Issuance and Posting.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11400 and 11404, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.12 to section 330.12 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.14. Renewal of a Registration Service License.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11409 and 11410, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.14 to section 330.14 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.16. Change of Business or Corporate Name.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11402 and 1409, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.16 to section 330.16 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.18. Addition of a Branch Office or Change of Address.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11409, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.18 to section 330.18 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.20. Employee Changes.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.20 to section 330.20 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.21. Change of Ownership.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11490, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.20 to section 330.21 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.22. Change in Corporate Officer Structure.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11401 and 11409, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.22 to section 330.22 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.24. Signs.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.24 to section 330.24 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.26. Advertising.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 25 and 11405, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.26 to section 330.26 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.28. Additional Services Provided.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11400, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.28 to section 330.28 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.30. Compensation Received by a Registration Service.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.30 to section 330.30 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.32. Submitting Fees and Documents to the Department.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.32 to section 330.32 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.34. Subcontracting and Responsibility.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.34 to section 330.34 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.38. Withholding Documents or Operating Authority.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11405, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.38 to section 330.38 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.40. Release of Information.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.40 to section 330.40 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.42. Information for Clients.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.42 to section 330.42 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.44. Listing Sheet for Transmitting Registration Documents.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.44 to section 330.44 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.46. Incomplete Transactions.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11406, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.46 to section 330.46 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.48. Maintenance and Inspection of Business Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11406 and 11407, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.48 to section 330.48 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.50. Electronic Maintenance of Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11406 and 11407, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).

2. Change without regulatory effect renumbering former section 450.50 to section 330.50 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.52. Registration Service Voluntarily Out of Business.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 505.2 and 11407, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.52 to section 330.52 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.54. Refusal to Issue, Suspension, Revocation or Cancellation of a License.

NOTE: Authority cited: Sections 1651, Vehicle Code. Reference: Section 11405 and 11408, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.54 to section 330.54 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.56. Notices of Suspension.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11408, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.56 to section 330.56 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.58. Surrender of Records.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Sections 11405 and 11408, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.58 to section 330.58 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

§ 450.60. Certificate of Convenience.

NOTE: Authority cited: Section 1651, Vehicle Code. Reference: Section 11401, Vehicle Code.

HISTORY

1. New section filed 11-4-92; operative 12-4-92 (Register 92, No. 45).
2. Change without regulatory effect renumbering former section 450.60 to section 330.60 filed 7-19-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 30).
3. Prior to adoption of article 7 filed 8-20-98 (Register 98, No. 34), this section was part of article 6.1.

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Title 13. Motor Vehicles

Division 1. Department of Motor Vehicles

Chapter 2. New Motor Vehicle Board

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Chapter 2. New Motor Vehicle Board

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Chapter 2. New Motor Vehicle Board

Article 1. Administration

§ 550. Definitions.

For the purposes of these rules:

- (a) "Board" means the New Motor Vehicle Board.
- (b) "Department" means the Department of Motor Vehicles of the State of California.
- (c) "Director" means the director of the department.
- (d) "Executive Director" means the chief executive officer of the board.
- (e) Unless otherwise designated, the words "respondent," "appellant" or "party" mean the real party in interest.
- (f) "Party" includes the petitioner, respondent, department, appellant or director.
- (g) "Petitioner" means any person, including a board member seeking consideration by the board under subsection (c) of section 3050 of the Vehicle Code of a matter involving a person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative.
- (h) "Respondent" means any licensed new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative as defined in sections 426, 672, 389, 296, 297 and 512, respectively, of the Vehicle Code.
- (i) "Manufacturer" means any new motor vehicle manufacturer or manufacturer branch required to be licensed pursuant to Article 1 (commencing with section 11700) of Chapter 4 of Division 5 of the Vehicle Code.
- (j) "Distributor" means any new motor vehicle distributor or distributor branch required to be licensed pursuant to Article 1 (commencing with section 11700) of Chapter 4 of Division 5 of the Vehicle Code.
- (k) "Protestant" means any licensed new motor vehicle dealer as defined in section 426 of the Vehicle Code.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050–3058, Vehicle Code; and Section 472(b), Business and Professions Code.

HISTORY

1. New subchapter 2 (sections 550 through 590, not consecutive), filed 1–17–69 as procedural and organizational; effective upon filing (Register 69, No. 3).
2. Amendment filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).
3. Amendment of subsections (g) and (h) and NOTE filed 10–16–89; operative 11–15–89 (Register 89, No. 44).
4. Amendment filed 12–21–90; operative 12–21–90 (Register 91, No. 7).
5. Change without regulatory effect amending subsection (h) and NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).
6. Change without regulatory effect amending subsection (d) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
7. Amendment of subsections (i)–(j) and new subsection (k) filed 11–8–2005; operative 12–8–2005 (Register 2005, No. 45).

§ 550.10. Application of Subchapter.

Application of this subchapter is subject to the limitations as set forth in section 3051 of the Vehicle Code.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3051, Vehicle Code.

HISTORY

1. New section filed 12–21–90; operative 12–21–90 (Register 91, No. 7).

§ 550.20. Use of Certified Mail in Lieu of Registered Mail.

Any notice or other communication required by Chapter 6 of Division 2 of the Vehicle Code to be mailed by registered mail shall be deemed to be in compliance with the requirements of said Chapter if mailed by certified mail.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 29, 3052, 3057, 3058 and 3066–3068, Vehicle Code.

HISTORY

1. New section filed 5–18–2006; operative 6–17–2006 (Register 2006, No. 20).

§ 551. Authority.

The powers and duties of this board are set forth in Chapter 6 (commencing at Section 3000) of Division 2 of the Vehicle Code. Persons having matters to be considered by the board, or appeals to the board from actions or decisions of the Department of Motor Vehicles should refer to said Vehicle Code provisions under which these rules are adopted to govern procedural matters of the board. Reference is also made to the General Provisions of the Vehicle Code (commencing at Section 1), and Division 1 thereof (commencing at Section 100), and to the provisions of Chapter 5, Division 3, Title 2 of the Government Code (commencing with Section 11500 thereof).

HISTORY

1. Amendment filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).

§ 551.1. Challenge.

An administrative law judge or board member shall voluntarily disqualify himself or herself and withdraw from any hearing or deliberation in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any administrative law judge or board member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request concerns a board member, the issue shall be determined by the other members of the board. Where the request concerns the administrative law judge, the issue shall be determined by the board if the board itself hears the case with the administrative law judge, otherwise the issue shall be determined by the administrative law judge.

NOTE: Authority cited: Section 3050, Vehicle Code. Reference: Section 11723, Vehicle Code.

HISTORY

1. New section filed 1–28–76 as an emergency; effective upon filing (Register 76, No. 5).
2. Certificate of Compliance filed 5–28–76 (Register 76, No. 22).
3. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
4. Change without regulatory effect amending section filed 5–31–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 551.2. Subpoenas.

(a) Upon the request of any party, the executive director may, and at the direction of the board the executive director shall, issue a subpoena for the attendance of any person before the board, for the attendance and testimony of a deponent, or a subpoena duces tecum for the production of papers, records, and books by a witness or a deponent.

(b) The issuance of a subpoena for the attendance and testimony of a witness or for a subpoena duces tecum for the production of papers, records, and books for hearing shall be governed by the requirements set forth in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of subsection (c) of Section 1985, of that code. A copy of an affidavit shall be served with a subpoena duces tecum for hearing containing the information required by Code of Civil Procedure Section 1985(b).

(c) The issuance of a subpoena for the attendance and testimony of a non-party deponent or for a subpoena duces tecum for the production of papers, records, and books for deposition of a non-party shall be governed by the requirements set forth in Article 3 (commencing with Section 2016.010) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of Section 2020.210, subdivisions (a) and (b) of that code. A subpoena duces tecum issued to a non-party deponent need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it.

(d) Following service of the subpoena upon the witness or deponent, the original subpoena and an executed proof of service shall be filed with the Board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050.1(a), Vehicle Code.

HISTORY

1. Renumbering of former Section 579 to Section 551.2 filed 10–16–89; operative 11–15–89 (Register 89, No. 44). For prior history, see Register 79, No. 28.
2. Amendment filed 10–9–98; operative 11–8–98 (Register 98, No. 41).
3. Change without regulatory effect amending subsection (a) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
4. Change without regulatory effect amending subsection (c) filed 8–24–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 34).

§ 551.5. Depositions.

NOTE: Authority cited: Section 3050, Vehicle Code. Reference: Section 11723, Vehicle Code.

HISTORY

1. New section filed 1–28–76 as an emergency; effective upon filing (Register 76, No. 5).
2. Repealed by operation of Section 11422.1(c), Government Code (Register 76, No. 22).

§ 551.6. Testimony by Deposition.

On verified petitions of any party, the board may order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions. Petition shall set forth the nature of the pending proceedings; the name and address of the witness whose testimony is desired; the showing of the materiality of his or her testimony; a showing that the witness shall be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside the state and where the board has ordered the taking of his or her testimony by deposition, the board shall obtain an order of court to that effect by filing a petition therefor in the Superior Court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189 of the Government Code.

NOTE: Authority cited: Section 3050, Vehicle Code. Reference: Section 11723, Vehicle Code.

HISTORY

1. New section filed 1–28–76 as an emergency; effective upon filing (Register 76, No. 5).
2. Certificate of Compliance filed 5–28–76 (Register 76, No. 22).
3. Change without regulatory effect amending section filed 5–31–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 551.7. Reporting of Proceedings.

The board may, at its discretion, assign the cost of reporting any proceedings before the board, including, but not limited to, transcript fees, reporter's per diem costs, exhibits, pleadings, and reproduction of board files as follows:

- (a) Allocated entirely to one of the parties; or apportioned among the various parties at the discretion of the board; or
- (b) Assumed by the board, in whole or in part.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. New section filed 3–6–79 as an emergency; effective upon filing (Register 79, No. 10).
2. Certificate of Compliance transmitted to OAH 7–3–79 and filed 7–10–79 (Register 79, No. 28).
3. Change without regulatory effect amending HISTORY 2. filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 551.8. Dismissals of Petitions, Appeals, and Protests.

(a) The board may, at its discretion, dismiss a petition for good cause shown. Good cause may include, but shall not be limited to, failure by the petitioner to comply with any of the following sections of Article 2: 554, 555, 556.

(b) The board may, at its discretion, dismiss an appeal from decisions of the department for good cause shown. Good cause may include, but

shall not be limited to, failure by the appellant to comply with any of the following sections of Article 3: 566, 567, 568, 569, 570, 571(a), 571(b), 571(d), 572(a), 572(b), 572(c), 573(a), 573(d).

(c) The board may, at its discretion, dismiss a protest for good cause shown. Good cause may include, but shall not be limited to, failure by the protestant to comply with any of the following sections of Article 5: 583, 585, 586, 589.

(d) The board may, at its discretion, dismiss a petition, an appeal or a protest, if additional information requested by the board is not supplied within the time specified by the board.

(e) An order of dismissal of a petition, an appeal or a protest shall be a final order pursuant to Vehicle Code sections 3057 or 3067, and no reconsideration or rehearing shall be permitted.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(a), 3050(c), 3050(d) and 3066, Vehicle Code; *Automotive Management Group Inc. [Santa Cruz Mitsubishi] v. New Motor Vehicle Board: Real Party in Interest, Mitsubishi Motor Sales of America, Inc.* (1993) 20 Cal.App.4th 1002; 24 Cal.Rptr.2d 904; *Duarte & Witting, Inc. v. New Motor Vehicle Board, Defendant and Respondent; DaimlerChrysler Motors Corp., Real Party in Interest and Respondent* (2002), 104 Cal.App.4th 626; 128 Cal.Rptr.2d 501.

HISTORY

1. New section filed 3–6–79 as an emergency; effective upon filing (Register 79, No. 10).
2. Certificate of Compliance transmitted to OAH 7–3–79 and filed 7–10–79 (Register 79, No. 28).
3. Amendment of subsections (a) and (b) filed 7–10–79 as an emergency; effective upon filing. Certificate of Compliance included (Register 79, No. 28).
4. Editorial correction (Register 79, No. 38).
5. Amendment of section heading, section and NOTE filed 8–21–2003; operative 9–20–2003 (Register 2003, No. 34).

§ 551.10. Costs for Changes in Venue.

A party to a proceeding before the board may request a change in venue. The board or an administrative law judge designated by the board or its executive director may assess board costs to the requesting party if the requesting party cancels the proceedings at the new location without good cause or sufficient notice to the board to allow the board to avoid costs incurred in changing the venue.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3015 and 3050(a), Vehicle Code.

HISTORY

1. New section filed 8–21–2003; operative 9–20–2003 (Register 2003, No. 34). For prior history, see Register 92, No. 52.

§ 551.11. Settlement Conference: Separation of Powers.

(a) The administrative law judge at the settlement conference shall not preside at the hearing on the merits or in any proceeding relating to motions for temporary relief or interim orders unless otherwise stipulated by the parties. Nothing in this regulation shall affect or limit the provisions of Vehicle Code § 3050.4.

(b) The parties shall file a written settlement conference statement that contains a detailed statement of facts, a statement of issues, and a good faith settlement proposal. The settlement conference statement and the original proof of service shall be received by the Board and copies served on opposing party or parties no later than five business days before the settlement conference.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050 and 3050.4, Vehicle Code.

HISTORY

1. New section filed 8–10–98; operative 9–9–98 (Register 98, No. 33).
2. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
3. Amendment of section heading, redesignation of existing section as subsection (a) and new subsection (b) filed 11–8–2005; operative 12–8–2005 (Register 2005, No. 45).
4. Amendment of section heading and subsection (b) filed 5–18–2006; operative 6–17–2006 (Register 2006, No. 20).

§ 551.12. Notice of Assignment of Administrative Law Judges; Peremptory Challenges.

(a) The assigned administrative law judge in a protest or petition proceeding will be noted on the order of time and place of hearing. If there

is a subsequent assignment, an amended order or notice will be issued identifying the new administrative law judge.

(b) In any proceeding other than those relating to applications for temporary relief or interim orders, each party is entitled to a peremptory challenge of one administrative law judge, based solely upon satisfying all of the following requirements:

(1) The peremptory challenge shall be filed with the Board no later than either 20 days from the date of the order of time and place of hearing or 20 days prior to the date scheduled for commencement of the hearing, whichever is earlier.

(2) The peremptory challenge shall be made by the party, the party's attorney, or authorized representative appearing in any proceeding by written declaration consistent with the requirement of subsection (e), below; and

(3) Notice of a peremptory challenge shall be served on opposing parties.

(c) If a party obtains the removal of the assigned administrative law judge, either by way of peremptory challenge, or for cause under Section 551.1, any other party shall have the right to a peremptory challenge of the subsequently assigned administrative law judge provided that the party complies with subparagraphs (b)(2)–(3), above. This latter peremptory challenge shall be filed with the Board no later than either 20 days from the date of the notice or order identifying the subsequent administrative law judge or 10 days prior to the date scheduled for the hearing, whichever is earlier.

(d) No peremptory challenge shall be considered or granted if it is not made within the time limits set forth above.

(e) Any declaration filed pursuant to this regulation shall be in substantially the following form:

I, _____ (name) _____, declare: That I am a party (or attorney or authorized representative for a party) in the pending matter. That the administrative law judge assigned to the hearing is prejudiced against the party (or his or her attorney or authorized representative of record) or the interest of the party (or his or her attorney or authorized representative) so that the declarant cannot or believes that he or she cannot have a fair and impartial hearing before the administrative law judge.

This declaration is made under penalty of perjury under the laws of the state of California and is signed _____ (date) _____ at _____ (city and state) _____.

(f) Unless required for the convenience of the board or good cause is shown, a continuance of the hearing shall not be granted by reason of a peremptory challenge. If a continuance is granted, the matter shall be continued to the first convenient day for the board and shall be reassigned or transferred for hearing as promptly as possible. Nothing in this regulation shall affect or limit the provisions of Vehicle Code § 3066(a).

(g) Nothing in this regulation shall affect or limit the provisions of a challenge for cause under Article 1, section 551.1.

NOTE: Authority cited: Sections 3050(a) and 3066, Vehicle Code. Reference: Section 3050(a), Vehicle Code; and Section 11425.40, Government Code.

HISTORY

1. New section filed 9–23–98; operative 10–23–98 (Register 98, No. 39).
2. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
3. Amendment of first paragraph and subsections (e) and (h) filed 11–8–2005; operative 12–8–2005 (Register 2005, No. 45).
4. Amendment of section heading, section and NOTE filed 5–18–2006; operative 6–17–2006 (Register 2006, No. 20).

§ 551.13. Intervention; Grant of Motion; Conditions.

Any person, including a board member, concerned with the activities or practices of any person applying for or holding a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, may file a motion with the executive director of the board (or designee) requesting that the movant be allowed to intervene in a pending proceeding. The motion to intervene may be granted subject to the following:

(a) The motion shall be submitted in writing, with copies served on all parties named in the pending proceeding.

(b) The motion shall be filed as early as practicable in advance of the hearing.

(c) The motion shall state facts demonstrating that the applicant's legal rights, duties, privileges, or immunities will be substantially affected by the proceeding.

(d) The board, its executive director, or an administrative law judge designated by the board or its executive director, shall determine that the interests of justice and the orderly and prompt conduct of the proceeding will not be impaired by allowing the intervention.

(e) The board, its executive director, or an administrative law judge designated by the board or its executive director, may impose conditions on the intervenor's participation in the proceeding, either at the time that intervention is granted or at a subsequent time. Such conditions shall be at the sole discretion of the board, its executive director, or an administrative law judge designated by the board or its executive director, based on the knowledge and judgment at that time, so as to promote the interests of justice. Conditions include, but are not limited to, the following:

- (1) Limiting the intervenor's participation to designated issues;
- (2) Limiting or excluding the intervenor's participation in discovery and cross-examination; and
- (3) Limiting or excluding the intervenor's participation in settlement negotiations.

(f) The board, its executive director, or an administrative law judge designated by the board or its executive director, shall issue an order granting or denying the motion for intervention as early as practicable in advance of the hearing, specifying any conditions, and briefly stating the reasons for the order. The board, its executive director, or an administrative law judge designated by the board or its executive director, may modify the order at any time by giving notice to all parties, stating the reasons for the modification. The determination of the board, its executive director, or an administrative law judge designated by the board or its executive director, in granting or denying the motion for intervention, or the determination modifying the order previously issued, is not subject to administrative or judicial review.

The board, its executive director, or an administrative law judge designated by the board or its executive director, may, in his or her discretion, allow the filing of amicus curiae briefs.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code; and Section 11440.50, Government Code.

HISTORY

1. New section filed 6–3–99; operative 7–3–99 (Register 99, No. 23).
2. Change without regulatory effect amending first paragraph and subsections (d)–(f) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 551.14. Request for Informal Mediation.

(a) Prior to initiating a petition pursuant to section 3050(c) of the Vehicle Code, either party may request that the board mediate any honest difference of opinion or viewpoint existing between any member of the public and any new motor vehicle dealer, manufacturer branch, distributor, distributor branch, or representative.

(b) Participation in informal mediation is voluntary, informal, and nonadversarial.

(c) The request for informal mediation shall set forth the nature of the matter which the board is requested to mediate. The request for informal mediation shall comply substantially with the following requirements:

(1) Include the name, mailing address and telephone number of the person requesting informal mediation; the name, mailing address and telephone number of his or her attorney or authorized agent if any, and the name and address of the licensee or applicant for license whose activities or practices are in question.

(2) Insofar as is known to the person requesting informal mediation, include the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter.

(3) Describe the relief or disposition of the matter which the person requesting informal mediation would consider acceptable.

(d) A copy of the request for informal mediation shall be served on the licensee or applicant for license whose activities or practices are in question and proof of service (in compliance with Sections 1013(a) and 2115.5, Code of Civil Procedure) thereof shall accompany the request for informal mediation filed with the executive director of the board.

(e) The form of the request for informal mediation shall substantially conform with the provisions of Article 6 hereof.

(f) Article 1, section 553.40 shall apply to all requests for informal mediation.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. New section filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).
2. Change without regulatory effect amending subsection (d) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 551.15. Request for Discovery; Informal Mediation.

For purposes of discovery, the board or its executive director, or an administrative law judge designated by the board or its executive director may, if deemed appropriate and proper under the circumstances, authorize the parties to engage in such discovery procedures as are provided for in civil actions in Article 3 (commencing with Section 2016.010) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure, excepting the provisions of Chapter 13, Sections 2030.010 through 2030.410 of that code.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. New section filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).
2. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
3. Change without regulatory effect amending section filed 8-24-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 34).

§ 551.16. Informal Mediation Process.

(a) Upon receipt of the request for informal mediation, the Board staff will initiate a conference call with the parties to ascertain whether the licensee or applicant for license whose activities or practices are in question is agreeable to participating in informal mediation.

(b) If the licensee or applicant for license whose activities or practices are in question is not agreeable to participating in informal mediation, either party may request that this matter be converted to a petition proceeding pursuant to Article 1, section 551.17.

(c) If the licensee or applicant for license whose activities or practices are in question is agreeable to participating in informal mediation, a mutually agreeable date for informal mediation will be calendared.

(1) Upon order of the board, and at least five business days prior to participating in informal mediation, the parties shall file and serve a pre-mediation statement which includes a detailed statement of facts, statement of issues, and a realistic proposal for resolving the dispute.

(2) The board, its executive director, or an administrative law judge designated by the board or its executive director, shall preside over the informal mediation.

(3) Evidence set forth in declarations of expert or percipient witnesses made under penalty or perjury may be considered by the board, its executive director, or an administrative law judge designated by the board or its executive director, in his or her discretion.

(4) At any time during informal mediation, either party may request that this matter be converted to a petition proceeding pursuant to Article 1, section 551.17.

(5) All communications, negotiations, or settlement discussions by and between participants in the course of informal mediation shall remain confidential.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. New section filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).

2. Change without regulatory effect amending subsections (c)(2)-(3) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 551.17. Conversion of Informal Mediation to Petition; Confidentiality.

(a) The board or its executive director, upon the request of either party, or upon its own motion, may convert an informal mediation to a petition under section 3050(c) of the Vehicle Code. The respondent shall be an applicant for or holder of a license as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative.

(b) Within 10 days of approval to convert the proceeding, the petitioner shall file and serve a petition with the board which substantially complies with Article 2, section 555 *et seq.*

(c) Upon receipt of the petition, a copy shall be transmitted by the executive director of the board to each member of the board for consideration in accordance with Section 557 hereof.

(d) If the filing fee was paid by both parties in the informal mediation proceeding, no additional filing fee is required for conversion to a petition.

(e) In accordance with Section 558 hereof, the respondent shall file with the executive director of the board a written answer to the petition.

(f) Chapter 6 (commencing with Section 3000) of Division 2 of the Vehicle Code, and Chapter 2 (commencing with Section 550) of Division 1 of Title 13 of the California Code of Regulations shall apply.

(g) Notwithstanding any other provision of law, a communication made in informal mediation is protected to the following extent:

(1) Anything said, any admission made, and any document prepared in the course of, or pursuant to, informal mediation is a confidential communication, and a party to the informal mediation has a privilege to refuse to disclose and to prevent another from disclosing the communication, whether in an adjudicative proceeding, civil action, or other proceeding. This subsection does not limit the admissibility of evidence if all parties to the proceeding consent.

(2) No reference to the informal mediation proceedings, the evidence produced, or any other aspect of the informal mediation may be made in an adjudicative proceeding or civil action, whether as affirmative evidence, by way of impeachment, or for any other purpose.

(3) No informal mediation administrative law judge is competent to testify in a subsequent administrative or civil proceeding as to any statement, conduct, decision, or order occurring at, or in conjunction with, the informal mediation.

(4) Evidence otherwise admissible outside of informal mediation is not inadmissible or protected from disclosure solely by reason of its introduction or use in informal mediation.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code; and Sections 11420.30 and 11470.50, Government Code.

HISTORY

1. New section filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).
2. Change without regulatory effect amending subsection (a) filed 2-6-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 6).
3. Change without regulatory effect amending subsections (a), (c), (e) and (g)(3) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 552. Records.

(a) Place of Keeping. The records of the board shall be maintained at its principal office at Sacramento in the custody of the executive director. The executive director may certify to any of the board's official acts and may certify copies of all official documents and orders of the board.

(b) Sale of Copies of Records. The executive director shall sell copies of all or any part of the records of the board at a charge sufficient to pay at least the cost of the copies.

(c) Preparation of Certified Copies Without Charge. The board for good cause shown may direct the executive director to certify copies without charge.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 3–6–79 as an emergency; effective upon filing (Register 79, No. 10).
2. Certificate of Compliance transmitted to OAH 7–3–79 and filed 7–10–79 (Register 79, No. 28).
3. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 553. Annual Board Fee.

(a) Pursuant to section 11723 of the Vehicle Code, every applicant for a license as a new motor vehicle dealer or dealer branch, and every applicant for renewal of a license as a new motor vehicle dealer or dealer branch, shall pay to the department for each issuance or renewal of such license, the sum of \$225.00, per year of licensure, in addition to all other fees now required by the Vehicle Code.

For the purposes of this section, a dealer or dealer branch which is enfranchised to sell both new motorcycles and new motor vehicles other than motorcycles shall be subject to a licensing fee for sales of motorcycles and a licensing fee for sales of motor vehicles other than motorcycles.

(b) Pursuant to section 3016 of the Vehicle Code, every new motor vehicle manufacturer and distributor shall pay to the Board an annual fee of \$.338 per new motor vehicle distributed by the manufacturer or distributor which was sold, leased, or otherwise distributed in California to a consumer of such new motor vehicles during the preceding calendar year, provided, however, that the fee to be paid by each manufacturer or distributor shall not be less than \$225.00.

The board may waive fees for a new motor vehicle manufacturer or distributor licensed in California, based on a determination that the manufacturer or distributor either does not sell vehicles in California or does not have an independent dealer or dealer branch in California.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 11723 and 3016, Vehicle Code; and Section 472.5(b), Business and Professions Code.

HISTORY

1. Amendment filed 10–14–76 as an emergency; effective upon filing (Register 76, No. 42). For prior history, see Register 76, No. 1.
2. Certificate of Compliance filed 12–15–76 (Register 76, No. 51).
3. Amendment filed 3–6–79 as an emergency; effective upon filing (Register 79, No. 10).
4. Certificate of Compliance transmitted to OAL 7–3–79 and filed 7–10–79 (Register 79, No. 28).
5. Amendment filed 2–4–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 6).
6. Amendment filed 11–4–82; designated effective 11–5–82 pursuant to Government Code section 11346.2(d) (Register 82, No. 45).
7. Amendment filed 6–17–85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 25).
8. Amendment filed 12–21–90; operative 12–21–90 (Register 91, No. 7).
9. Amendment filed 12–19–91; operative 12–19–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 11).
10. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).
11. Amendment filed 7–22–93 as an emergency; operative 7–22–93 (Register 93, No. 30). A Certificate of Compliance must be transmitted to OAL 11–18–93 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 7–22–93 order transmitted to OAL 8–10–93 and filed 9–14–93 (Register 93, No. 38).
13. Editorial correction of printing error in HISTORY 12 (Register 93, No. 39).
14. Amendment filed 7–1–94; operative 7–1–94 (Register 94, No. 26).
15. Amendment filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).
16. Amendment filed 9–27–2000; operative 12–31–2000 (Register 2000, No. 39).
17. Amendment filed 10–30–2001; operative 12–31–2001 (Register 2001, No. 44).
18. Amendment of subsection (b) filed 8–21–2003; operative 9–20–2003 (Register 2003, No. 34).
19. Amendment of subsection (a) filed 3–23–2006; operative 4–22–2006 (Register 2006, No. 12).

§ 553.1. Filing Fees.

NOTE: Authority cited: Section 3016, 3050(a) and 3050.5, Vehicle Code. Reference: Section 3060 and 3062, Vehicle Code.

HISTORY

1. New section filed 4–9–85; effective thirtieth day thereafter (Register 85, No. 15).
2. Renumbering former section 553.1 to section 553.40 filed 12–21–90; operative 12–21–90 (Register 91, No. 7).

§ 553.10. Statement of Number of Vehicles Distributed.

(a) All manufacturers and distributors of new vehicles (as defined in section 430 of the Vehicle Code) are required to file a written statement with the Board on or before May 1 of each calendar year. The statement shall include:

(1) The number of new motor vehicles distributed by the manufacturer or distributor which were sold, leased, or otherwise distributed in California to a consumer of such new motor vehicles during the preceding calendar year;

(2) The name and business address of other manufacturers and distributors who are required to submit a statement reporting the distribution of the same new motor vehicles;

(3) The name and business address of the person or persons authorized to receive notices on behalf of the manufacturer or distributor.

(b) If the information required by subdivision (a) is not received by the Board within the applicable time period or it is determined by the Board that the information that is received is substantially inaccurate as compared to the registration information derived from the records of the Department of Motor Vehicles, it shall be presumed that the number of new motor vehicles sold, leased, or otherwise distributed in this state by or on behalf of the non-reporting entity during the preceding calendar year is equal to the total number of new registrations during the period in question of all vehicles manufactured or distributed by the non-reporting entity as derived from the records of the Department of Motor Vehicles.

NOTE: Authority cited: Section 3050(a) and 3016, Vehicle Code. Reference: Section 472.5(b) and (c)(2), Business and Professions Code.

HISTORY

1. New section filed 12–21–90; operative 12–21–90 (Register 91, No. 7).
2. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.20. Determination of Annual Board Fee.

Upon receipt of the information required by section 553.10(a), or as determined by section 553.10(b), the Board shall calculate the Annual Board Fee to be paid by each manufacturer, and distributor by multiplying the annual fee per vehicle (as set forth in section 553(b)) by the number of new motor vehicles distributed by the manufacturer or distributor in the preceding calendar year. The Board shall thereafter send a written notice by certified mail, return receipt requested, to each manufacturer and distributor stating the number of new motor vehicles distributed by the manufacturer or distributor and the amount of the fee to be paid.

Payment of the fee shall be made to the New Motor Vehicle Board no later than thirty (30) days after the date of receipt of the notice.

NOTE: Authority cited: Section 3050(a) and 3016, Vehicle Code. Reference: Section 472.5(b), (c)(1) and (c)(2), Business and Professions Code.

HISTORY

1. New section filed 12–21–90; operative 12–21–90 (Register 91, No. 7).
2. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.40. Filing Fees.

A party filing a request for informal mediation, petition, appeal, or protest pursuant to the provisions of this subchapter shall simultaneously deliver to the board a filing fee of \$200, which is to be in the form of a check or money order payable directly to the board, or a credit card payment. The initial pleading filed in response to such request for informal mediation, petition, appeal, or protest shall also be accompanied by a \$200 filing fee. The board, in the discretion of the executive director, may refuse to accept for filing any pleading subject to this section that is not accompanied by the requisite fee. The executive director may, upon showing of good cause, waive any such fee.

NOTE: Authority cited: Section 3016, 3050(a) and 3050.5, Vehicle Code; and Section 6163, Government Code. Reference: Sections 3060 and 3062, Vehicle Code.

HISTORY

1. Renumbering former section 553.1 to section 553.40 filed 12–21–90; operative 12–21–90 (Register 91, No. 7). For prior history, see Register 85, No. 15.
2. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

3. Amendment filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).
4. Amendment of section and NOTE filed 8-21-2003; operative 9-20-2003 (Register 2003, No. 34).
5. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

Article 1.5. Administration of Fee Collection for Certification Account

§ 553.50. Obligation to Comply.

(a) All manufacturers, manufacturer branches, distributors and distributor branches of new motor vehicles (as defined in Business and Professions Code Section 472(a)) are required to file a written statement with the New Motor Vehicle Board on or before May 1 of each calendar year. The statement shall include:

(1) The number of new motor vehicles distributed by the manufacturer or distributor which were sold, leased, or otherwise distributed in California to a consumer of such new motor vehicles during the preceding calendar year;

(2) The name and business address of other manufacturers and distributors who are required to submit a statement reporting the distribution of the same new motor vehicles; and

(3) The business address and name of the person or persons authorized to receive notices on behalf of the manufacturer or distributor.

(b) Payment of the fees pursuant to Business and Professions Code Section 472.5 shall be the responsibility of the manufacturer or distributor which authorizes a retail seller, including a dealer, franchisee, or lessor (as those terms are defined in the Vehicle Code), to sell, lease, or otherwise distribute the new motor vehicles.

NOTE: Authority cited: Section 472.5(f), Business and Professions Code. Reference: Sections 472.5(b) and (f), Business and Professions Code; and Sections 285, 331.1 and 372, Vehicle Code.

HISTORY

1. New section filed 8-26-88; operative 8-26-88 (Register 88, No. 36).
2. Change without regulatory effect amending subsections (a) and (b) and NOTE filed 12-24-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.60. Presumption of Liability.

If the information required by Section 553.50 is not received by the Board within the applicable time period or it is determined by the Board that the information that is received is substantially inaccurate as compared to the registration information derived from the records of the Department of Motor Vehicles, it shall be presumed that the number of new motor vehicles sold, leased, or otherwise distributed in this state by or on behalf of the non-reporting entity during the preceding calendar year is equal to the total number of new registrations during the period in question of all vehicles manufactured or distributed by the non-reporting entity as derived from the records of the Department of Motor Vehicles.

NOTE: Authority cited: Section 472.5(f), Business and Professions Code. Reference: Section 472.5(c), Business and Professions Code.

HISTORY

1. New section filed 8-26-88; operative 8-26-88 (Register 88, No. 36).
2. Change without regulatory effect amending NOTE filed 12-24-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.70. Payment of Fees.

The New Motor Vehicle Board shall determine the fee to be assessed per vehicle by dividing the dollar amount necessary to fully fund the certification program for the Arbitration Certification Program by the number of new motor vehicles sold, leased, or otherwise distributed in California during the preceding calendar year. For calendar year 2006, the fee shall be \$.497 per vehicle.

Upon receipt of the information required by Section 553.50(a), or as determined by section 553.60, the New Motor Vehicle Board shall send a written notice by certified mail, return receipt requested, to manufacturers and distributors subject to the fee assessment stating the number of new motor vehicles distributed by the manufacturer or distributor and the amount of the fee to be paid.

Payment of the fee shall be made to the New Motor Vehicle Board no later than thirty (30) days after the date of receipt of the notice.

NOTE: Authority cited: Section 472.5(f), Business and Professions Code. Reference: Sections 472.5(b), (c) and (e), Business and Professions Code.

HISTORY

1. New section filed 8-26-88; operative 8-26-88 (Register 88, No. 36).
2. Change without regulatory effect amending first paragraph filed 9-15-89 pursuant to section 100, title 1, California Code of Regulations; operative 10-15-89 (Register 89, No. 40).
3. Change without regulatory effect amending section filed 8-17-90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 41).
4. Editorial correction of printing error restoring first paragraph (Register 91, No. 30).
5. Change without regulatory effect amending section filed 9-6-91, pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 52).
6. Change without regulatory effect amending first paragraph and NOTE filed 12-24-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).
7. Change without regulatory effect amending section filed 2-25-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 9).
8. Change without regulatory effect amending section filed 10-18-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 43).
9. Change without regulatory effect amending section filed 1-26-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 4).
10. Change without regulatory effect amending first paragraph of section filed 2-8-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 6).
11. Change without regulatory effect amending first paragraph of section filed 2-7-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 6).
12. Change without regulatory effect amending first paragraph of section filed 4-29-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).
13. Change without regulatory effect amending first paragraph of section filed 3-18-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 12).
14. Change without regulatory effect amending first paragraph filed 3-6-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 10).
15. Change without regulatory effect amending first paragraph filed 1-25-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 4).
16. Change without regulatory effect amending first paragraph filed 1-30-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 5).
17. Change without regulatory effect amending first paragraph filed 3-6-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 10).
18. Change without regulatory effect amending first paragraph filed 1-26-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 5).
19. Change without regulatory effect amending first paragraph filed 1-4-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 1).
20. Change without regulatory effect amending first paragraph filed 1-18-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 3).
21. Editorial correction of HISTORY 2 (Register 2006, No. 50).
22. Change without regulatory effect amending first paragraph filed 12-13-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 50).
23. Change without regulatory effect amending first paragraph filed 12-10-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 50).

§ 553.71. Delinquency of Payment.

If the fee is not paid within the time period specified in Section 553.70 such fee is delinquent. If the fee is not paid within thirty (30) days after it becomes delinquent, a penalty of ten (10) percent of the amount delinquent shall be added thereto.

NOTE: Authority cited: Section 472.5(f), Business and Professions Code. Reference: Sections 472.5(b), (c) and (d), Business and Professions Code.

HISTORY

1. New section filed 8-26-88; operative 8-26-88 (Register 88, No. 36).
2. Change without regulatory effect amending NOTE filed 12-24-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.72. Transmittal of Fees by Mail.

No penalty shall be imposed for delinquent payment of any fee required to be paid under this article in the event any instrument for effective payment of such fee is placed in the United States mail or in any postal box maintained by the United States Postal Service with sufficient identification, in an envelope with postage thereon prepaid and addressed to the New Motor Vehicle Board, 1507 21st Street, Suite 330,

Sacramento, California, 95814 prior to the date the fee becomes delinquent.

NOTE: Authority cited: Section 472.5(f), Business and Professions Code. Reference: Sections 472.5(b) and (d), Business and Professions Code.

HISTORY

1. New section filed 8–26–88; operative 8–26–88 (Register 88, No. 36).
2. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 553.75. Noncompliance.

The New Motor Vehicle Board may consider any failure of a manufacturer or distributor to comply with any provisions of this Chapter to be good cause to exercise its authority pursuant to Vehicle Code Section 3050(c).

NOTE: Authority cited: Section 472.5(f), Business and Professions Code; and Section 3050, Vehicle Code. Reference: Sections 472.5(b) and (f), Business and Professions Code; and Section 3050(c), Vehicle Code.

HISTORY

1. New section filed 8–26–88; operative 8–26–88 (Register 88, No. 36).
2. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

Article 2. Filing of Petition

§ 554. Petitioners.

Any person, including a board member, concerned with the activities or practices of any person applying for or holding a license as a new mo-

tor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, may file a written petition with the board requesting that the board consider such matter and take an action thereon.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment and new NOTE filed 10–16–89; operative 11–15–89 (Register 89, No. 44).

§ 555. Contents.

The petition shall set forth in clear and concise language the nature of the matter which the petitioner wishes the board to consider. The petition shall comply substantially with the following requirements:

(a) Include the name, mailing address and telephone number of the petitioner; the name, mailing address and telephone number of his or her attorney or authorized agent if any, and the name and address of the licensee or applicant for license (hereinafter referred to as “respondent”) whose activities or practices are in question. All correspondence with petitioner and notices to petitioner shall be addressed to petitioner’s said address, if he or she appears in person, or to the address of his or her attorney or agent, if he or she is represented by an attorney or agent. Petitioner shall promptly give the executive director and respondent written notice by mail of all subsequent changes of address or telephone number.

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(b) Insofar as is known to petitioner, include the names, residence addresses and business addresses of persons and the dates, places and specific actions or practices involved in the matter.

(c) If the actions or practices described in the petition are believed to be in violation of law, a concise recitation of applicable law and citation to the applicable statutes or other authorities.

(d) If the petitioner desires that the board mediate, arbitrate or resolve a difference between the petitioner and respondent, recite that fact and describe the relief or disposition of the matter which petitioner would consider acceptable.

(e) The petitioner may submit, as exhibits to the petition, photographic, documentary or similar physical evidence relevant to the matter referred to in the petition, in which event an appropriate description of the exhibits shall be set forth in the petition sufficient to identify them and to explain their relevancy.

(f) The petitioner shall set forth in the petition an estimate of the number of days required to complete the hearing.

(g) The petitioner shall set forth in the petition a request for a prehearing conference if one is desired.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. New subsections (f) and (g) filed 3-6-79 as an emergency; effective upon filing (Register 79, No. 10).
2. Certificate of Compliance transmitted to OAH 7-3-79 and filed 7-10-79 (Register 79, No. 28).
3. Amendment of subsection (d) and NOTE filed 10-16-89; operative 11-15-89 (Register 89, No. 44).
4. Change without regulatory effect amending subsection (a) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
5. Change without regulatory effect amending subsection (a) filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 555.1. Service of Petition upon Respondent(s).

A copy of the petition shall be served upon the respondent(s) and proof of service (in compliance with Sections 1013(a) and 2015.5, Code of Civil Procedure) thereof shall accompany the petition filed with the executive director of the board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. New section filed 10-16-89; operative 11-15-89 (Register 89 No. 44).
2. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 556. Form and Filing of Petition.

The form of the petition shall conform with the provisions of Article 6 hereof. The petition shall be filed with the executive director of the board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment and new NOTE filed 10-16-89; operative 11-15-89 (Register 89, No. 44).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 557. Notice to Respondent: First Consideration.

(a) Upon the filing of a petition with the board, a copy of the petition shall be transmitted by the executive director of the board to each member of the board for consideration. Unless, within 10 days of receipt of a copy of the petition, any member of the board notifies the executive director of an objection, the executive director shall set the matter for a hearing before an administrative law judge designated by the board.

(b) If any member of the board gives notice of objection within 10 days of receipt of a copy of a petition, the petition shall be first considered by the board at its next meeting to determine what action shall be taken in regards to the petition. Upon receipt by the executive director of a notice of objection, the executive director shall notify the parties named in the

petition that there has been an objection and that the matter will be considered by the board at its next meeting. The parties shall also be given a minimum of 10 days prior notice of the time, date, and location of the board meeting at which the petition will be considered.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Repealer and new section filed 10-16-89; operative 11-15-89 (Register 89, No. 44).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 558. Answer-Time of Filing; Form and Content.

(a) The respondent shall file with the executive director of the board a written answer to the petition, in the form prescribed by Article 6 hereof. The answer shall be filed within 30 days of the date of service of the petition on the respondent.

(b) The answer shall be responsive to the allegations of the petition and shall set forth in clear and concise language the factual contentions of the respondent with respect to the matter referred to in the petition.

(c) The respondent may submit, as exhibits to the answer, photographic, documentary or similar physical evidence relevant to the matter in support of the answer with an appropriate description thereof in the answer sufficient to identify them and to explain their relevancy.

(d) The respondent shall set forth in the answer its mailing address and telephone number and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence with respondent and notices to respondent shall thereafter be addressed to said address, if it appears in person, or to the address of its attorney or agent, if it is represented by an attorney or agent. Respondent shall promptly give the executive director and petitioner written notice by mail of all subsequent changes of address or telephone number.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment of subsection (a), repealer of subsection (c), relettering of former subsections (d) and (e) to subsections (c) and (d), and new NOTE filed 10-16-89; operative 11-15-89 (Register 89, No. 44).
3. Change without regulatory effect amending subsections (a) and (d) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
4. Change without regulatory effect amending subsection (d) filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 559. Shortening Time.

HISTORY

1. Repealer filed 10-16-89; operative 11-15-89 (Register 89, No. 44).

§ 560. Extension of Time and Continuances.

(a) In the event a party desires additional time for the performance of any act, or a continuation of any proceeding contemplated by these rules, the party shall either make application in writing to the board for such extension or continuance, stating the reason therefor and the additional time requested, or the date to which the continuance is requested, or shall obtain from the other party a written stipulation for the extension or continuance which shall also set forth the reasons therefor and the time requested. The application or stipulation shall be filed with the executive director at least two days prior to the expiration of the period of time in question or the date fixed for the proceeding sought to be continued. If good cause appears therefor, the executive director shall grant the extension or continuance and shall forthwith give notice thereof to the parties by mail; if the extension or continuance is denied, the executive director shall give notice thereof to the parties by mail.

(b) The party applying for an extension or continuance shall serve a copy of the application upon the opposing party, personally or by mail, and shall file with the application an affidavit or certificate of personal

service or of mailing of the copy to the opposing party evidencing such service. If the other party wishes to oppose the application, it shall communicate such opposition to the executive director, either orally or in writing, stating its reasons for opposition. The executive director shall consider the reasons stated in opposition in determining whether the application should be granted or denied.

HISTORY

1. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
2. Change without regulatory effect amending subsection (b) filed 5–31–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 561. Additional Evidence and Argument in Support of Petition.

(a) A party wishing to present to the board evidence and/or arguments in addition to that submitted in accordance with Section 555 hereof may, prior to the first consideration of the petition by the board, advise the executive director in writing of its desire to do so by filing with the board not later than ten days before the date set for the first consideration of the petition a request to present such additional evidence and/or arguments.

(b) The request to present additional evidence and/or argument filed pursuant to Section 561(a) hereof shall contain, as applicable:

- (1) The names and addresses of witnesses together with a brief statement summarizing their expected testimony;
- (2) Copies or reproduction of all documentary or physical evidence, in addition to that already furnished pursuant to Section 555(e) hereof;
- (3) A summary of the subject or subjects expected to be covered by argument;
- (4) A statement of the reason or reasons why it is desirable for the board to grant the request.

(c) The board may grant a request filed pursuant to Section 561(a) hereof if it determines that its first consideration of the petition would be assisted by such evidence and more argument.

(d) Upon the filing of the request pursuant to Section 561(a) hereof, the board shall, prior to proceeding with the first consideration of the matter, decide whether to grant the request. If the request is granted, the board shall:

- (1) Set a time and place for the hearing where the oral or documentary or physical evidence may be heard and presented. Hearings set pursuant to this provision shall be conducted in accordance with Sections 589, 590 and 592 hereof;
- (2) Set the time and place where the argument shall be heard by the board.

(e) The Board shall in no event proceed with the first consideration of a petition unless it has reviewed the additional evidence and/or argument submitted pursuant to the provisions of Section 561(d) hereof.

NOTE: Authority cited: Section 3050, Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment filed 7–8–77; effective thirtieth day thereafter (Register 77, No. 28).
2. Change without regulatory effect amending subsection (a) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
3. Change without regulatory effect amending subsection (a) filed 5–31–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 562. Action by the Board.

After considering the matter, the board may do any one or any combination of the following:

(a) Prior to taking final action, direct the executive director to request the petitioner or the respondent, or both, to augment the record, or to appear to offer evidence or oral argument, or both, or to file briefs, in which event the executive director shall give written notice by mail to the parties of the action by the board, the time within which such augmented pleadings or such briefs are to be submitted or the time and place of further hearing.

(b) Prior to taking final action, direct the department to conduct an investigation and submit a written report within thirty days with or without notice thereof to the parties.

(c) Undertake to mediate, arbitrate, or otherwise resolve any honest difference of opinion or viewpoint existing between the petitioner and respondent.

(d) Direct that the department exercise any and all authority or power that it may have with respect to the issuance, renewal, refusal to renew, suspension or revocation of the license and certificate of the respondent as such license and certificate are required under Chapter 4, Division 5 of the Vehicle Code.

(e) Order the petition dismissed, with or without prejudice to the filing of another petition with respect to the same matter, upon such terms or conditions as it may deem just.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (c) and new NOTE filed 10–16–89; operative 11–15–89 (Register 89, No. 44).
2. Change without regulatory effect amending subsection (a) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 563. Voluntary Dismissal.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. Repealer filed 3–6–79 as an emergency; effective upon filing (Register 79, No. 10).
2. Certificate of Compliance transmitted to OAH 7–3–79 and filed 7–10–79 (Register 79, No. 28).

§ 564. Decision.

The decision shall be in writing. Copies of the decision shall be served on the parties personally or sent to them by certified or registered mail. The decision shall be final upon its delivery or mailing and no reconsideration or rehearing shall be permitted.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(c), Vehicle Code.

HISTORY

1. Amendment filed 12–19–91; operative 12–19–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 11).

§ 565. Request for Extension of Time; Temporary Ownership or Operation of a Dealership by a Manufacturer, Branch, or Distributor.

(a) After a showing of good cause by a manufacturer, branch, or distributor that it needs additional time to own and operate a dealership within the relevant market area of an independent dealer of the same line—make in preparation for sale to a successor independent franchisee, the board may extend the time period beyond one year.

(b) When a manufacturer, branch, or distributor seeks to request an extension of time, it shall first give notice in writing of that intention to the board and to each franchisee operating a dealership of the same line—make within the relevant market area.

(c) The written notice shall contain, on the first page thereof in at least 12–point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

“NOTICE TO DEALER: If you oppose this request, you may send a letter to the NEW MOTOR VEHICLE BOARD in Sacramento and have your opposition considered by the board. You must file your opposition with the board within 20 days of your receipt of this notice.”

(d) When a request for extension of time has been received, the board shall notify each franchisee of the same line—make within the relevant market area, as provided by the manufacturer pursuant to subsection (g)(1) below, that a timely request has been received, that the franchisee has the opportunity to send a letter to the board opposing the request and have that opposition considered by the board at its next scheduled meeting, and that the status quo will be maintained until the board acts upon the request for extension.

(e) In determining whether good cause has been shown for granting the request for an extension of time, the board shall take into consideration the existing circumstances, including, but not limited to, all of the following:

(1) The written request of the manufacturer, branch, or distributor;

(2) Written responses in opposition to the request received from any franchisee operating a dealership of the same line—make within the relevant market area; and,

(3) Comments of other interested parties.

(f) Upon the filing of a timely request for an extension of time, a copy of the request for extension shall be transmitted by the executive director of the board to each member of the board for consideration.

(g) The written request for an extension of time shall be accompanied by all of the following:

(1) A list of all franchisees operating a dealership of the same line—make within the relevant market area.

(2) A statement of facts detailing the specific need for the extension of time.

(3) The requested expiration date of the extension.

(4) A chronology of the actions both taken and planned by the manufacturer, branch, or distributor to prepare for the sale of the franchise to a successor independent franchisee.

(5) A statement to the effect that the information required in subsections (g)(2)–(4) above has been provided to each franchisee operating a dealership of the same line—make within the relevant market area.

(6) A statement that the requesting party does or does not agree that the dealer members of the board may participate in the consideration of the request.

(h) The executive director shall grant the extension unless, within 30 days from receipt of the request for extension, any member of the board notifies the executive director of an objection or the board receives a written response in opposition to the request from any franchisee operating a dealership of the same line—make in the relevant market area.

(i) If any member of the board gives notice of objection within 30 days of receipt of a copy of the request for extension, or if the board receives a timely written opposition to the request from any franchisee operating a dealership of the same line—make within the relevant market area, this matter shall be considered by the board at its next scheduled meeting.

(j) Upon receipt by the executive director of a notice of objection and/or a written opposition from any franchisee operating a dealership of the same line—make within the relevant market area, the executive director shall notify the manufacturer, branch, or distributor that there has been an objection and/or opposition, that the matter will be considered by the board at its next scheduled meeting, and that the status quo will be maintained until the board acts upon the request for extension. The manufacturer, branch, or distributor, and opposing franchisee(s), if any, operating a dealership of the same line—make within the relevant market area shall be given a minimum of 10 days' prior notice of the time, date, and location of the board meeting at which the request for extension will be considered.

(k) Notwithstanding subsections (h), (i) and (j) above, a member of the board who is a new motor vehicle dealer may not participate in, hear, comment, advise other members upon, or decide any matter involving a request subject to this subsection, unless the requesting party to the proceeding has had full disclosure and agrees to such participation by the dealer board member.

(l) On or before 60 days prior to the expiration of the one year period, the manufacturer, branch, or distributor may request an extension of time for good cause shown which shall be in writing. Requests received with less than 60 days' prior notice will not be considered by the board and shall be deemed denied.

(m) Within 20 days of receiving the notice, any franchisee required to be given notice may file an opposition to the request for an extension of time.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050 and 11713.3, Vehicle Code.

HISTORY

1. New section filed 4–4–2002; operative 5–4–2002 (Register 2002, No. 14).
2. Change without regulatory effect amending subsections (h) and (j)–(l) filed 6–3–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 23).
3. Change without regulatory effect amending subsections (f), (h) and (j) filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

Article 3. Appeals from Decisions of the Department

§ 566. Time of Filing Notice of Appeal.

Notice of appeal shall be filed with the executive director of the board on or before:

(a) Forty days after delivery or registered mailing to appellant the decision appealed from, if its effective date is thirty days following service upon the appellant; or

(b) Ten days after the effective date of the decision appealed from, if such date is prior to the expiration of the 30-day period; or

(c) Ten days after the expiration of any stay of execution of the entire decision granted by the department.

HISTORY

1. Amendment filed 3–20–73; effective thirtieth day thereafter (Register 73, No. 12).
2. Change without regulatory effect amending first paragraph filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 567. Form.

Notice of appeal shall be in writing and signed by appellant or appellant's attorney. It shall conform with the provisions of Article 6 hereof.

HISTORY

1. Amendment filed 3–20–73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).

§ 568. Contents of Notice of Appeal.

Notice of appeal shall set forth in concise language the following:

(a) That appellant is an applicant for, or a holder of, a license as a new car dealer, manufacturer, manufacturer branch, distributor, distributor branch or representative, as defined in Sections 426, 672, 389, 296, 297 and 512 Vehicle Code, respectively.

(b) Those portions of Sections 3054 or 3055 Vehicle Code providing basis for appeal.

(c) That appellant has applied to the Office of Administrative Hearings for the complete administrative record or those portions that appellant desires to file with the board and has advanced costs of preparation thereof; or, in lieu thereof, that the case is being submitted on an agreed statement.

(d) If the appeal is based in whole or in part on Section 3054(e), Vehicle Code, a statement that appellant desires to produce before the board relevant evidence which in the exercise of reasonable diligence could not have been produced or which was improperly excluded at the hearing.

(e) That appellant either does or does not desire to appear before the board.

HISTORY

1. Amendment filed 3–20–73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).
3. Change without regulatory effect amending subsection (b) filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).

§ 569. Affidavit in Support of Appeal Based on Section 3054(e), Vehicle Code.

Where the notice of appeal contains the statement required by Section 568(d), the notice of appeal shall be supported by an affidavit of the ap-

pellant setting forth the matters in either (a) or (b) of this section, or both, as appropriate:

(a) A statement that there is evidence which was not available at the administrative hearing through the exercise of reasonable diligence; the substance of the evidence; the relevance of the evidence to a disputed issue; and a full explanation of why the evidence was not produced at the administrative hearing.

(b) A statement that there is evidence which was rejected at the administrative hearing; the substance of the evidence; the relevance of the evidence to a disputed issue; and a statement of the evidence establishing that the proffered evidence was, in fact, presented at the administrative hearing and was rejected despite a duly made offer of proof.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

§ 570. Service of Notice upon Department.

(a) A copy of the notice of appeal and all supporting affidavits shall be served upon the department and proof of service shall accompany the notice filed with the executive director of the board.

HISTORY

1. Renumbering from Section 569 and amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 571. Filing with Board the Administrative Record.

(a) Upon receipt from the Office of Administrative Hearings, appellant shall forward forthwith to the executive director the original and three copies of the complete administrative record which shall consist of the reporter's transcript and all the pleadings and exhibits received at the administrative hearing. In lieu thereof, appellant may forward those parts of the administrative record which appellant deems necessary to support its appeal. If the case is being submitted on an agreed statement, only the accusation and director's decision need be forwarded.

(b) If appellant files a partial administrative record, it shall serve, prior to or at the time of filing such partial record, written notice on the department of those portions of the record that appellant will file with the board and proof of service of such notice shall be filed with the executive director.

(c) The department may file any additional portions of the administrative record that it deems necessary to make an adequate presentation of its case. Such filing shall consist of the original and three copies and shall be no later than ten (10) days after notification by appellant of those portions of the record that appellant is filing unless, for good cause shown, the executive director grants additional time. Prior to or at the time the department files additional portions of the administrative record with the board, notice shall be served by the department on appellant of such additional portions and proof of service of such notice shall be filed with the executive director.

(d) If the complete administrative record has not been filed, the board may order additional portions of such record to be filed at any time during the pendency of the appeal. The board may order prior payment of the cost of providing the additional administrative record so ordered to be filed.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Renumbering from Section 570 and amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
3. Change without regulatory effect amending subsections (a)-(c) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 572. Agreed Statement.

(a) An appeal may be presented on a record consisting in whole or in part of an agreed statement. Within thirty days after receiving the admin-

istrative record, the appellant shall file with the executive director of the board the original and nine copies of such statement signed by the parties.

(b) The statement shall show the nature of the controversy, identify the questions of law, and set forth only those facts alleged and proved, or sought to be proved, as are necessary to a determination of the questions on appeal.

(c) Ten copies of any such exhibits admitted at the administrative hearing as the parties may desire shall accompany the statement.

(d) For good cause shown, the executive director may grant a continuance of not more than fifteen days for the filing of an agreed statement. Application for a continuance shall be in writing and shall be filed with the executive director at least ten days prior to the date the agreed statement was to be filed. No continuance otherwise requested shall be granted except in extreme emergencies such as serious accident or death. NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Renumbering from Section 571 and amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
3. Amendment of subsection (d) filed 3-6-79 as an emergency; effective upon filing (Register 79, No. 10).
4. Certificate of Compliance transmitted to OAH 7-3-79 and filed 7-10-79 (Register 79, No. 28).
5. Change without regulatory effect amending subsections (a) and (d) filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 573. Briefs.

(a) Upon receiving the administrative record or agreed statement of facts from appellant, the executive director shall inform the parties in writing of the date by which their briefs must be filed with the board. The parties shall comply with the briefing schedule as established by the executive director.

(b) For good cause shown, the executive director may grant continuances for the filing of briefs making adequate allowance for the 60-day time limitation prescribed in Vehicle Code Section 3056. Application for a continuance shall be in writing and shall be filed with the executive director at least ten days prior to the date the brief was to be filed. No continuance shall be granted except in extreme emergencies such as serious accident or death.

(c) Any party to the appeal desiring to file a brief must submit the original and nine copies for such filing. A copy shall be served upon the opposing party and proof of service thereof shall accompany the original filed with the executive director.

(d) The board may require the parties to file anytime during the pendency of the appeal briefs on matters determined by the board.

(e) A brief of amicus curiae may be filed on permission of the board and subject to conditions prescribed by the board. To obtain permission, the applicant shall file with the executive director a signed request specifying the points to be argued in the brief and containing a statement that the applicant is familiar with the questions involved in the case and the scope of their presentation and believes there is a necessity for additional arguments on the points specified.

(f) If the application for filing amicus curiae briefs is granted, the original and nine copies shall be filed with the executive director. A copy shall be served on the appellant and the department and proof of service thereof shall accompany the original filed with the executive director.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Renumbering from Section 572 and amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29). For history of former Section 573, see Register 73, No. 12.
3. Amendment of subsections (a) and (b) filed 3-6-79 as an emergency; effective upon filing (Register 79, No. 10).
4. Certificate of Compliance transmitted to OAH 7-3-79 and filed 7-10-79 (Register 79, No. 28).

5. Amendment of subsection (a) filed 7-10-79 as an emergency; effective upon filing. Certificate of Compliance included (Register 79, No. 28).
6. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 574. Notice of Hearing.

At least 20 days prior to the hearing date, the executive director shall serve notice of date, time and place of hearing upon the department, the appellant, the members of the board and any other party making a written request for such notice.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 575. Continuances.

For good cause shown, the executive director may continue the date fixed for the hearing. Applications for continuance shall be in writing and shall be filed with the executive director at least ten days prior to the hearing. No continuance otherwise requested shall be granted except in extreme emergencies such as serious accident or death.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 576. Conduct of Hearing.

Unless otherwise ordered by the board, counsel for each party shall be allowed 20 minutes for oral argument. Not more than one counsel for a party may be heard except that different counsel for appellant may make opening and closing arguments.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).

§ 577. Costs of Appeal.

Each party shall bear its own costs on appeal; costs for preparation of the administrative record and copies thereof shall be borne by the party ordering the same, or if ordered by the board pursuant to Section 571, shall be borne by appellant or the board as determined by the board.

All proceedings before the board predicated on or pursuant to Section 568(d), except deliberations in executive session, shall be reported and transcribed by a certified shorthand reporter arranged for by the executive director. Costs for reporting and for preparation of the original transcript shall be borne by the appellant.

HISTORY

1. New section filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

Article 4. Hearings on Petitions and Appeals

§ 578. Reporting of Proceedings.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Repealer filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

§ 579. Subpoenas.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050.1(a), Vehicle Code.

HISTORY

1. Renumbering of Section 579 to Section 551.2 filed 10-16-89; operative 11-15-89 (Register 89, No. 44).

§ 580. Procedure at Hearings.

(a) Evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Evidence that is irrelevant or unduly repetitious shall be excluded.

(b) Official Notice. Before or after submission of a matter for decision, official notice may be taken by the board of any generally accepted technical or scientific matter within the board's special area of competence or of such facts as may be judicially noticed by the courts of this state.

(c) Examination of Witnesses. Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses; to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party called him or her to testify; to rebut the evidence against him; and to call and examine an adverse party or adverse witness as if under cross-examination without being bound by his or her testimony. Board members and, at the direction of the chairman of the board presiding at the hearing or of any member of the board, representatives of the staff of the board, may participate as appropriate, using their knowledge and experience for the primary purpose of developing a full, fair and accurate record. Questioning of witnesses will be controlled by the board and will generally be permitted only by the attorneys or agents of parties so represented, or by the parties who appear on their own behalf, members of the board and its staff. The board may in its discretion, during the examination of a witness, exclude from the hearing, any or all other witnesses in the same matter.

HISTORY

1. Amendment filed 3-20-73; effective thirtieth day thereafter (Register 73, No. 12).
2. Change without regulatory effect amending subsection (c) filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 581. Deliberations of the Board.

When matters are finally submitted to the board for decision, the board shall take the same under submission and shall conduct its deliberations in executive session. The deliberations of the board shall be in private and shall not be reported.

HISTORY

1. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

§ 582. Failure to Appear.

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the board within five days thereafter. The lack of such showing of good cause may, in the discretion of the board, be interpreted as an abandonment of interest by such party in the subject matter of the proceeding.

HISTORY

1. Amendment filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

Article 5. Protests

§ 583. Form.

A protest shall be in writing and shall be signed by a franchisee or its attorney. It shall conform with the provisions of Article 6 hereof.

NOTE: Authority cited: Section 3050, Vehicle Code. Reference: Sections 3050 (b), (c) and (d), Vehicle Code.

HISTORY

1. New Article 5 (Sections 583-592) filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

2. Amendment filed 4-12-77 as an emergency; effective upon filing (Register 77, No. 16).
3. Reinstatement of section as it existed prior to emergency amendment filed 4-12-77 by operation of Section 11422.1(b), Government Code (Register 78, No. 32).
4. Change without regulatory effect amending section filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 584. Service of Protest upon Franchisor.

A copy of the protest shall be served upon the franchisor and proof of service (in compliance with Sections 1013(a) and 2015.5, Code of Civil Procedure) thereof shall accompany the protest filed with the executive director of the board.

HISTORY

1. Amendment filed 4-12-77 as an emergency; effective upon filing (Register 77, No. 16). For prior history, see Register 76, No. 22.
2. Reinstatement of section as it existed prior to emergency amendment filed 4-12-77 by operation of Section 11422.1(b), Government Code (Register 78, No. 32).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 585. Time of Filing and Content of Protests Pursuant to Sections 3060, 3062, 3070, and 3072, Vehicle Code.

(a) The protest shall be considered received on the date of receipt by the executive director of the board or on the date of certified or registered mailing.

(b) The protest shall be responsive to the specific grounds as set forth in the notice and shall set forth in clear and concise language the factual contentions of the franchisee with respect to the matter referred to in the notice.

(c) The franchisee may submit, as exhibits to the protest, photographic, documentary or similar physical evidence relevant to the matter in support of the protest with an appropriate description thereof in the protest sufficient to identify them and to explain their relevancy.

(d) The franchisee shall set forth in the protest its mailing address and telephone number and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence with franchisee and notices to franchisee shall thereafter be addressed to said address, if it represents itself, or to the address of its attorney or agent, if it is represented by an attorney or agent.

(e) Franchisee shall indicate either that it does or does not desire to appear before the board.

(f) The franchisee shall set forth in the protest an estimate of the number of days required to complete the hearing.

(g) The franchisee shall set forth in the protest a request for a prehearing conference if one is desired.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3060, 3062, 3070 and 3072, Vehicle Code.

HISTORY

1. Amendment filed 1-28-76 as an emergency; effective upon filing (Register 76, No. 5).
2. Certificate of Compliance filed 5-28-76 (Register 76, No. 22).
3. Amendment filed 4-12-77 as an emergency; effective upon filing (Register 77, No. 16).
4. Reinstatement of section as it existed prior to emergency amendment filed 4-12-77 by operation of section 11422.1(b), Government Code (Register 78, No. 32).
5. New subsections (i) and (j) filed 3-6-79 as an emergency effective upon filing (Register 79, No. 10).
6. Certificate of Compliance transmitted to OAL 7-3-79 and filed 7-10-79 (Register 79, No. 28).
7. Amendment filed 4-9-85; effective thirtieth day thereafter (Register 85, No. 15).
8. Amendment of subsection (a) filed 10-21-94; operative 10-21-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).
9. Change without regulatory effect amending section heading, subsection (a) and NOTE filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
10. Change without regulatory effect amending subsections (d)-(e) filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 585.1. Time of Filing and Content of Notice of Appearance.

The respondent shall file a notice of appearance with the board within 15 days of receipt of the protest. Failure to file a timely notice of appearance shall result in the proceedings being suspended until such time as a notice of appearance is filed. The notice shall contain language indicating whether the party desires to appear at the hearing for purposes of submitting evidence and oral argument and whether the respondent contends the protest was submitted in a timely manner.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050(a), Vehicle Code.

HISTORY

1. New section filed 8-6-98; operative 9-5-98 (Register 98, No. 32).

§ 586. Filing of Protest, Schedules of Compensation for Preparation and Delivery Obligations, Warranty Reimbursement Schedules or Formulas, and Franchisor Incentive Program Reimbursement Pursuant to Sections 3064, 3065, 3065.1, 3074, 3075, and 3076 V.C.

(a) Protests filed with the board under any of these sections of the Vehicle Code shall be filed as follows:

(1) The protest shall set forth in clear and concise language the factual contentions of the franchisee with respect to the protest.

(2) The franchisee may submit, as exhibits to the protest, photographic, documentary or similar physical evidence relevant to the matter in support of the protest with an appropriate description thereof in the protest sufficient to identify them and to explain their relevancy.

(3) The franchisee shall set forth in the protest its mailing address and telephone number and the name, mailing address and telephone number of its attorney or authorized agent, if any. All correspondence with franchisee and notices to franchisee shall thereafter be addressed to said address, if it represents itself, or to the address of its attorney or agency, if it is represented by an attorney or agent.

(4) Franchisee shall indicate either that it does or does not desire to appear before the board.

(b) Schedule of compensation for preparation and delivery obligation and warranty reimbursement schedule or formula shall be filed by the franchisor with the board no later than 30 days after date license is issued or within 30 days after date of renewal of license if no schedule or formula has previously been filed with the board.

(c) The franchisor shall file with the board any addition, deletion, change or modification to the schedule of compensation or reimbursement schedule or formula on file with the board on or before the date such addition, deletion, change or modification becomes effective.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(a) and (d), 3064, 3065, 3065.1, 3074, 3075, and 3076, Vehicle Code.

HISTORY

1. Amendment of section heading and subsection (a) and new NOTE filed 9-29-99; operative 10-29-99 (Register 99, No. 40).
2. Change without regulatory effect amending section heading and NOTE filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
3. Change without regulatory effect amending subsections (a)(3)-(4) filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 587. Stipulation of Fact.

(a) A hearing initiated by the filing of a protest with the board pursuant to Sections 3060, 3062, 3064, 3065, 3065.1, 3070, 3072, 3074, 3075, and 3076 may be held based in whole or in part on a stipulation of fact. Within 45 days after filing a protest, the franchisee shall file with the executive director of the board the original and 10 copies of such statement signed by the parties.

(b) The statement shall show the nature of the controversy, identify the questions of law, if any, and set forth only those facts alleged or sought to be proved, as are necessary to a determination of the issues raised by the protest.

(c) For good cause shown, the executive director may grant a continuance for the filing of a stipulation of fact of not more than fifteen days.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(a) and (d), 3060, 3062, 3064, 3065, 3065.1, 3070, 3072, 3074, 3075 and 3076, Vehicle Code.

HISTORY

1. Amendment of subsection (a) and new NOTE filed 9–29–99; operative 10–29–99 (Register 99, No. 40).
2. Change without regulatory effect amending subsections (a) and (c) and NOTE filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 588. Deliberations of the Board.

When matters are finally submitted to the board for decision, or the board receives a proposed decision of an administrative law judge, the board shall take the same under submission and shall conduct its deliberations in executive session. The deliberations of the board shall be in private and shall not be reported.

HISTORY

1. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 589. Failure to Appear.

Any party who fails to appear at a hearing will not be entitled to a further opportunity to be heard unless good cause for such failure is shown to the board or to the administrative law judge within five days thereafter. The lack of such showing of good cause may, in the discretion of the board or the administrative law judge, be interpreted as an abandonment of interest by such party in the subject matter of the proceeding.

HISTORY

1. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 590. Hearings by Board or by Administrative Law Judge.

All hearings on protests filed pursuant to Sections 3060, 3062, 3064, 3065, 3065.1, 3070, 3072, 3074, 3075, or 3076 may be considered by the entire board or may, at its discretion, be conducted by an administrative law judge designated by the board who shall either be a member of the board, an administrative law judge on the staff of the Office of Administrative Hearings, or any person specifically designated by the board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(a) and (d), 3060, 3062, 3064, 3065, 3065.1, 3066, 3070, 3072, 3074, 3075 and 3076, Vehicle Code.

HISTORY

1. Amendment filed 9–23–76 as an emergency; effective upon filing (Register 76, No. 39).
2. Certificate of Compliance filed 12–15–76 (Register 76, No. 51).
3. Amendment of section and new NOTE filed 9–29–99; operative 10–29–99 (Register 99, No. 40).
4. Change without regulatory effect amending section heading, section and NOTE filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
5. Amendment filed 3–24–2006; operative 4–23–2006 (Register 2006, No. 12).

§ 591. Notice of Hearing.

The board shall, by an order, fix the time and place of hearing. The hearing shall be within 60 days of the date of such order. A copy of the order giving notice of the time and place of hearing shall be sent by registered mail to the franchiser, the protesting franchisee and to all individuals and groups which have requested such notice.

§ 592. Continuances.

Within the time limitation fixed by Section 3066(a), the board, or the administrative law judge, for good cause shown, may continue the date fixed for the hearing. Application for continuance shall be in writing and filed with the executive director at least 10 days prior to the date of hearing. No continuances otherwise requested shall be granted except in extreme emergencies such as serious accident or death.

HISTORY

1. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

Article 6. Form of Filings and Notices

§ 593. Papers Defined—Approved Forms.

The word “papers” means all documents, except exhibits or copies of documents, which are offered for filing to the executive director in any proceeding before the board; provided, however, that it does not include any printed forms approved by the board. Approved forms shall be furnished by the executive director to the public on request, and, unless it is impracticable to do so, the parties to proceedings before the board shall use approved forms.

HISTORY

1. Renumbering from section 585 filed 7–19–74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment of article heading filed 10–21–94; operative 10–21–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).
3. Change without regulatory effect amending section filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 593.1. Notices.

All written notices pursuant to Vehicle Code section 3062 or 3072 shall be textually segregated in a separate paragraph such that the language informing the recipient of the intention of the franchisor to establish or relocate a dealership is not intermingled with or obscured by the surrounding text.

NOTE: Authority cited: Sections 3062 and 3072, Vehicle Code. Reference: Section 3014, Vehicle Code.

HISTORY

1. New section filed 10–21–94; operative 10–21–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).
2. Change without regulatory effect amending section and NOTE filed 12–31–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

§ 593.2. Briefs.

Any brief filed with the board in support or opposition to any application, motion, memorandum of points and authorities or other position paper, shall include copies of any court decision cited within that brief which decision is not taken from an official reporter.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3050, Vehicle Code.

HISTORY

1. New section filed 8–10–98; operative 9–9–98 (Register 98, No. 33).

§ 593.3. Failure to File or to Timely File Statutorily Required Notices, Schedules, or Formulas.

Failure to file or to timely file the statutorily required notices, schedules, or formulas required by the Vehicle Code may result in the board ordering the department to exercise any and all authority or power that the department may have with respect to the issuance, renewal, refusal to renew, suspension, or revocation of the license of any new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative as that license is required under Chapter 4 (commencing with Section 11700) of Division 5.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3060, 3062, 3064, 3065 and 11713.3, Vehicle Code; and Section 1795.92, Civil Code.

HISTORY

1. New section filed 3–8–2002; operative 4–7–2002 (Register 2002, No. 10).

§ 594. Size of Paper, Pagination, Etc.

All papers shall be typewritten or printed on opaque, unglazed, white paper, not less than twenty pound weight, standard quality letter size (8 1/2 x 11 inches in size). Only one side of the paper shall be used and the margins shall be not less than 1 inch on the left hand side of the page and 1/2 inch on the top, bottom and right hand sides of the page. Headings shall be either capitalized or underscored, or both, and all quotations shall be indented. The type shall be not smaller than 12 points. The lines on each page shall be double spaced. Line numbers shall be placed at the left margin and separated from the text of the paper by a vertical column of space at least one-fifth inch wide or a single or double vertical line. The line number either shall be placed on the same line as a line of type or shall

be evenly spaced vertically on the page. Line numbers shall be consecutively numbered beginning with the number 1 on each page. There shall be at least three line numbers for every vertical inch on the page. The pages shall be numbered consecutively at the center of the page at the bottom. All papers shall consist entirely of original pages without riders and shall be firmly bound together at the top. Exhibits may be fastened to pages of the specified sizes and, when prepared by a machine copying process, shall be equal to typewritten material in legibility and permanency of image.

NOTE: Authority cited: Sections 3050(a), Vehicle Code. Reference: Sections 3050(c) and 3051, Vehicle Code.

HISTORY

1. Renumbering from Section 586 filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment of section and new NOTE filed 9-5-2000; operative 10-5-2000 (Register 2000, No. 36).

§ 595. Format of First Page.

The first page of all papers shall be in the following form: Commencing in the upper left hand corner and to the left of the center of the page, the name, office address (or if none, the residence address), mailing address (if different from the office or residence address), electronic-mail (e-mail) address, if available, and the telephone number of the attorney or agent for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person. If the party is represented by an attorney, provide the state bar number of the attorney beside the name of the attorney. Below the name, address and telephone number, and centered on the page, the title of the board. Below the title of the board, in the space to the left of the center of the page, the title of the proceeding, e.g., John Doe, petitioner (or protestant, or appellant) vs. Richard Roe (or Department of Motor Vehicles), respondent, as the case may be. To the right of and opposite the title, the number of the proceeding, which shall be assigned consecutively by the executive director in the order of filing in petition and appeal proceedings. Numbers in protest proceedings shall be assigned consecutively by the executive director following receipt of a notice of appearance from the respondent and upon payment of all filing fees as required by section 553.40 of Title 13 of the California Code of Regulations. No number shall be assigned to more than one proceeding. Immediately below the number of the proceeding, the nature of the paper, e.g., "Request for Informal Mediation," "Petition," "Protest," "Answer," "Appeal," "Request for Hearing," "Petitioner's Opening Brief," etc. The first allegation of the petition shall state the name and address of the respondent and whether the respondent is the holder of or an applicant for an occupational license of the type issued by the Department of Motor Vehicles such that the respondent is subject to the jurisdiction of the board.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Sections 3050(c) and 3051, Vehicle Code.

HISTORY

1. Renumbering from Section 587 filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment and new NOTE filed 10-16-89; operative 11-15-89 (Register 89, No. 44).
3. Amendment filed 9-15-98; operative 10-15-98 (Register 98, No. 38).
4. Amendment filed 9-19-2000; operative 10-19-2000 (Register 2000, No. 38).
5. Amendment filed 2-4-2003; operative 3-6-2003 (Register 2003, No. 6).
6. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).
7. Change without regulatory effect amending section filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 596. Conformance of Copies.

All copies shall conform to the original filed.

HISTORY

1. Renumbering from Section 588 filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).

§ 597. Last Page.

Every paper shall be dated and signed. At the end of each paper, the date shall appear on the left of the center of the page. Petitions, answers

and appeals shall be subscribed by the party and by his or her attorney or agent, if he or she is represented. All other papers shall be subscribed by the party's attorney or agent, if he or she is represented, or by the party, if he or she appears in person. The signature shall appear at the end of the paper on the right hand side.

HISTORY

1. Renumbering from Section 589 filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Change without regulatory effect amending section filed 5-31-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 22).

§ 598. Acceptance of Filing.

(a) A document which purports to be a protest pursuant to Vehicle Code section 3060, 3062, 3070, or 3072, which is received at the offices of the Board shall not be filed until the executive director has reviewed it for compliance with the Board's enabling statutes and Title 13, Subchapter 2 of the California Code of Regulations. If the executive director deems the document to comply, said document shall be filed. The executive director may reject any document that does not comply with the Board's enabling statutes and Title 13, Subchapter 2 of the California Code of Regulations.

(b) A protest accepted for filing by the executive director shall be recorded as filed as of the date it was received at the Board's offices or the date of certified or registered mailing.

(c) The executive director may, for good cause shown, accept for filing any papers that do not comply with the Board's enabling statutes and Title 13, Subchapter 2 of the California Code of Regulations. Good cause issues and challenges to the executive director's compliance determinations may be resolved by law and motion proceedings before an administrative law judge.

NOTE: Authority cited: Section 3050(a), Vehicle Code. Reference: Section 3014, Vehicle Code.

HISTORY

1. Renumbering from section 590 filed 7-19-74; effective thirtieth day thereafter (Register 74, No. 29).
2. Amendment and new NOTE filed 12-12-94; operative 12-12-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
3. Change without regulatory effect amending section filed 12-31-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 1).

Article 7. New Motor Vehicle Board—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344(a), that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

NEW MOTOR VEHICLE BOARD
1507 - 21ST STREET, SUITE 330
SACRAMENTO, CALIFORNIA 95814

FAIR POLITICAL PRACTICES COMMISSION
428 J STREET, SUITE 620
SACRAMENTO, CALIFORNIA 95812-0807

ARCHIVES
SECRETARY OF STATE
1020 O STREET
SACRAMENTO, CALIFORNIA 95814

The Conflict of Interest Code is designated as Article 7 of Chapter 2 of Division 1 of Title 13 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Article 7. New Motor Vehicle Board—Conflict of Interest Code

Section 599. General Provisions
Appendix A

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

HISTORY

1. New article 7 (sections 599–606) filed 4–13–78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 9–8–77 (Register 78, No. 15).
2. Renumbering from sections 599–606 to sections 599–599.7 filed 8–11–78 as procedural and organizational; effective upon filing (Register 78, No. 32).
3. Repealer of article 7 (sections 599–599.7) and new article 7 (section 599 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
4. Amendment of agency address filed 4–9–85; effective thirtieth day thereafter (Register 85, No. 15).
5. Change without regulatory effect amending NOTE filed 12–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 52).
6. Amendment of general provisions, section and Appendix A filed 1–18–2002; operative 2–17–2002. Approved by Fair Political Practices Commission 11–30–2001 (Register 2002, No. 3).

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**CALIFORNIA
CODE OF
REGULATIONS**

Title 13. Motor Vehicles

Division 2. Department of the California Highway Patrol

Vol. 17

THOMSON

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Division 2. Department of the California Highway Patrol

Chapter 1. Licensed Stations and Muffler Installers

Article 1. Licensed Muffler Certification Stations

§ 600. Scope.

NOTE: Authority cited: Sections 2402 and 27150.2, Vehicle Code. Reference: Sections 2500–2504, 2540–2549, and 27150.2, Vehicle Code.

HISTORY

1. New Article 1 (Sections 600–608) filed 11–25–75; designated effective 1–1–77 (Register 75, No. 48). For prior history, see Register 72, No. 8.
2. Amendment of Subchapter title filed 3–27–78; designated effective 5–1–78 (Register 78, No. 13).
3. Order of Repeal filed 8–26–82 by OAL pursuant to Government Code Section 11349.7(j) (Register 82, No. 35).

§ 601. Definitions.

The following definitions shall apply when used in this article:

(a) **Licensed Muffler Certification Station.** A “licensed muffler certification station” is an automotive repair facility that meets all requirements of this article and is licensed and equipped to inspect, repair, replace, and certify vehicular exhaust systems.

(b) **Exhaust System.** An “exhaust system” consists of all pipes, converters, and chambers through which the exhaust gas flows from the engine exhaust ports to the end of the tailpipe.

NOTE: Authority cited: Section 27150.2, Vehicle Code. Reference: Sections 2500–2504 and 27150.2, Vehicle Code.

HISTORY

1. Amendment filed 6–16–77; designated effective 7–15–77 (Register 77, No. 25).
2. Amendment of subsection (b) filed 6–28–82; effective thirtieth day thereafter (Register 82, No. 27).

§ 602. General Requirements.

The following general requirements shall apply to licensed muffler certification stations:

(a) **Performance Standards.** Muffler certification stations shall maintain reputable business standards in the performance of work, and the premises shall be maintained in a clean and orderly condition.

(b) **Measurement Areas.** Sound level measurements for exhaust system noise certification shall be made only in areas meeting the requirements of this article.

(c) **Personnel.** The station owner or at least one full-time employee shall be knowledgeable of all regulations applicable to the licensing of muffler certification stations, exhaust noise certification limits, and exhaust system certification. If a station certifies exhaust systems by testing, the owner or employee shall be proficient in the calibration, use, and maintenance of noise measuring instruments. The licensee shall be accountable for the actions of his employees in installing and certifying exhaust systems and parts and shall be responsible for ensuring that untrained employees are not permitted to sign muffler certifications or clear enforcement documents. Trained personnel shall be capable of demonstrating their proficiency to departmental representatives whenever the station is inspected.

(d) **Fleet Owner Station.** Any station operated solely for servicing a licensee’s fleet of 10 or more motor vehicles shall certify the exhaust systems or clear enforcement documents only on the fleet vehicles owned or operated by the licensee.

§ 603. Licensing Procedures.

Muffler certification station licenses shall be issued in accordance with the following procedures:

(a) **Application for Initial or Renewed Station Licenses.** Persons, firms, or agencies shall submit requests for muffler certification station licenses on application forms furnished by the department. Licenses shall be issued only for stations meeting the requirements of this article, and station facilities may be inspected by a representative of the department.

(b) **License Fees.** Each initial, renewal, or duplicate license application shall be accompanied by the appropriate fee as follows:

- (1) Initial license, change of ownership, change of station class: \$10
- (2) Renewal license at same location: \$5
- (3) Duplicate of lost, destroyed, or mutilated license: \$2
- (4) Replacement license issued because of change of name or change in address due to street renumbering: no fee

(c) **Duplicate License.** In the event of loss, destruction, or mutilation of a muffler certification station license, application may be made for a duplicate license. If the original is found after a duplicate has been issued, the original license shall be surrendered to the department.

(d) **Replacement License.** In the event of change of name not involving change of ownership or address (other than that due to street renumbering), the license shall be returned to the department with application for a replacement license.

(e) **License Term.** A muffler certification station license shall expire one year after the date of issue shown on the license.

§ 604. Displays, Maintenance of Equipment, and Records.

Muffler certification stations shall comply with the following provisions governing display of documents, maintenance of equipment, and recordkeeping:

(a) **Display of Station License.** The license of a muffler certification station shall be prominently displayed under glazing material in the customer area of the station.

(b) **Display of Station Sign.** Each muffler certification station, except a fleet owner station that certifies only its own vehicles, shall display a muffler station sign meeting the specifications in Section 606 of this title. The sign shall be displayed where it is clearly visible from outside the station.

(c) **Posting of Prices.** Each muffler certification station, except a fleet owner station that certifies only its own vehicles, shall post conspicuously in the customer area the prices for issuing exhaust certifications and for clearing enforcement documents.

(d) **Care of Equipment.** All adjusting, servicing, and testing equipment shall be maintained in good condition, and instruments and equipment requiring calibration shall be kept in calibration or adjustment in accordance with the instructions and recommendations of the manufacturer.

HISTORY

1. Repealer of subsection (e) filed 6–16–77; designated effective 7–15–77 (Register 77, No. 25).

§ 605. Issuance, Cancellation, or Surrender of License.

The issuance, cancellation, or surrender of any license for a muffler certification station is subject to the following provisions:

(a) **Denial, Suspension, or Revocation of License.** The department may refuse to issue a license to any applicant or may suspend or revoke any license issued to a muffler certification station in accordance with Vehicle Code Sections 2540 through 2549.

(b) **Surrender of License.** A muffler certification station that no longer has trained personnel in its employ shall immediately cease to operate as a licensed station, shall remove or cover the muffler certification station sign, and unless it employs trained personnel within 60 days, shall surrender the station license to the department.

(c) **Return of Forms.** When a station license is surrendered, suspended, or revoked, all forms, bulletins, and supplies issued by the department shall be returned to the department, and the muffler certification station sign shall be removed from display.

§ 606. Muffler Certification Station Signs.

Signs for muffler certification stations, other than fleet owner stations certifying only their own vehicles, shall meet the following specifications:

(a) Dimensions. Signs shall have the dimensions shown in Figure 1.

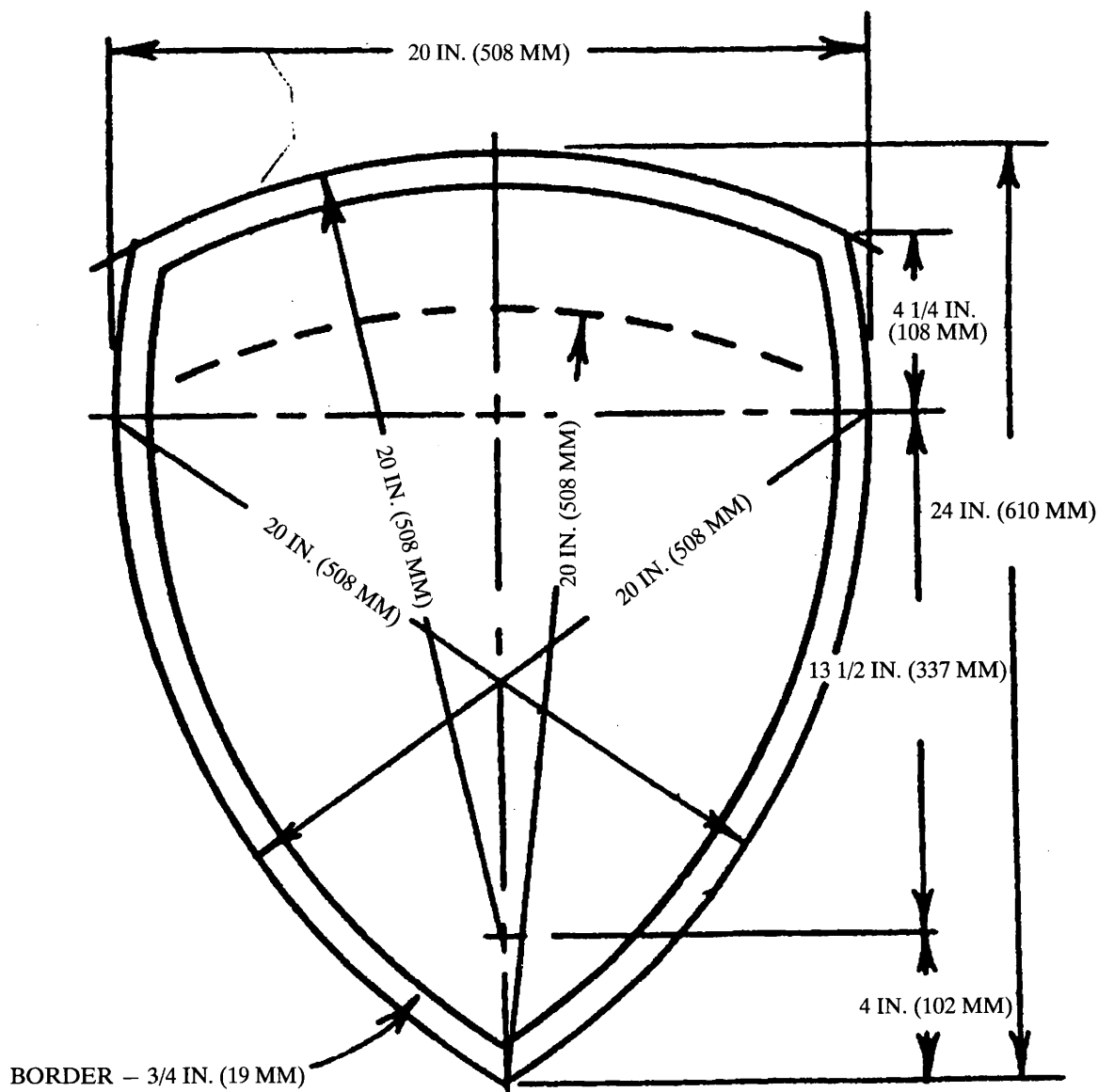


Figure 1. Dimensions for Signs for Muffler Certification Stations

(b) Color. Signs shall be bordered and lettered in light chrome yellow. The background shall be royal blue.

(c) Lettering. Lettering on the signs shall have the dimensions shown in Figure 2.

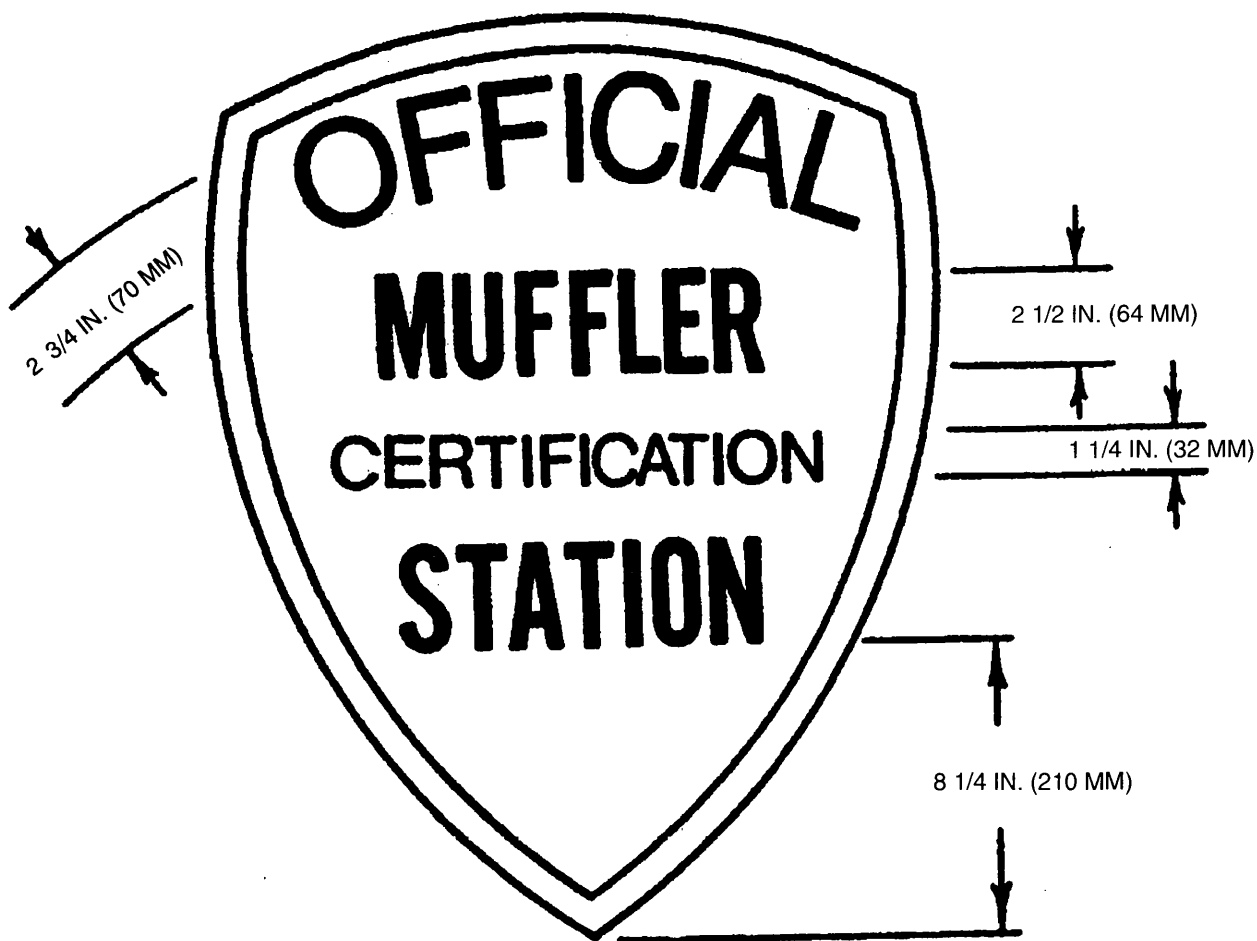


Figure 2. Dimensions for Sign Letters

§ 607. Classes of Muffler Certification Stations.

Muffler certification stations shall be licensed only for the vehicle category specified on the application in accordance with the classes following. Stations shall be licensed to certify systems on the basis of certified parts. A station may, in addition, be licensed to certify on the basis of sound level readings made by the station.

(a) Passenger Car Stations. Passenger car stations shall certify exhaust systems for all motor vehicles, other than motorcycles and motordriven cycles, with a gross vehicle weight rating of less than 6,000 lb (2,722 kg).

(b) Motorcycle Stations. Motorcycle stations shall certify exhaust systems for all motorcycles and motor-driven cycles (when exhaust system regulations are established for these vehicles).

(c) Truck Stations. Truck stations shall certify exhaust systems for all motor vehicles with a gross vehicle weight rating of 6,000 lb (2,722 kg) or more (when exhaust system regulations are established for these vehicles).

§ 608. Station Operation.

The operation of licensed muffler certification stations shall be subject to the following provisions:

(a) Tools and Instruments. Each station, in accordance with its classification, shall be equipped with the tools to test, inspect, and replace the exhaust system parts on vehicles regularly serviced by it. Stations that issue certificates on the basis of sound level readings shall be equipped with the sound measurement instrumentation specified in Section 1032 of this title. Stations not so equipped shall issue certificates only for systems or parts certified by the manufacturer of the system and installed by

the station.

(b) Maintenance of Publications. Each station shall maintain readily accessible and current copies of the following publications:

(1) Muffler certification publications furnished by the department to licensed stations.

(2) Instrument manufacturer's instruction manual and calibration procedure, if the station uses a sound level meter.

(3) Publications, documents, or other means of assuring that an installer can identify the exhaust system part to be installed and determine the make and model of vehicle or engine for which the part is certified. Such publications may include manufacturers' catalogs, certification documents from manufacturers, or other means which meet this requirement.

(c) Purchase of Exhaust System Certificates. Licensed stations shall purchase exhaust system certificates only from the department in books of 50 at a cost of \$.25 per certificate and shall not sell or otherwise transfer unused certificates.

(d) Inspection of Exhaust System. A licensed muffler station, before issuing an exhaust certificate, shall inspect the installed system to determine that it is assembled from parts certified for the particular make and model of vehicle. If the parts cannot be identified, or if uncertified parts are on the vehicle, a station licensed to use a sound level meter shall make sound level tests to determine compliance with the exhaust noise limit for the vehicle. When the original engine has been replaced by a different size engine, the certificate may be issued if the exhaust system is certified for use on any one of the vehicle models in which the engine was originally installed, or if the exhaust system complies with the sound level test limit.

(e) Issuance of Exhaust System Certificates. Licensed stations shall, upon request of the vehicle owner or operator, issue an exhaust system certificate when the exhaust system complies with the pertinent requirements of this title and is not significantly louder than the original muffler for that make and model of vehicle. An exhaust system shall be considered significantly louder than the original when it is obvious to a person with normal hearing that the system produces noise that stands out above that of most vehicles of the same make and model operated on the highway.

(1) The certificate shall be signed by the owner or employee who performed or supervised the work and who is knowledgeable of the exhaust system certification laws and regulations and proficient in determining compliance.

(2) The certificate shall show the manufacturer's or supplier's name and the part number of the components for which the certificate is issued.

(f) Clearance of Enforcement Document. After exhaust system defects stated in an enforcement document are corrected and the system is brought into compliance with the exhaust system laws and regulations, either the person specified in preceding subsection (e) or a peace officer may sign the document and certify that the exhaust system complies.

(1) Documents cleared by licensed stations shall contain the signature of the owner or employee who performed or supervised the work, the station's license number, and the date of correction, with all such entries made in ink.

(2) Failure of the owner or operator of the vehicle to authorize additional suggested repairs shall not be cause for the station to defer certification of correction of the specific defects listed on the enforcement document.

HISTORY

1. Amendment filed 6-16-77; designated effective 7-15-77 (Register 77, No. 25).

Article 2. Exhaust System Sale and Installation

§ 610. Scope.

NOTE: Authority cited: Sections 2402 and 27150.2, Vehicle Code. Reference: Sections 2500-2504, 27150.1, 27150.2 and 27150.5, Vehicle Code.

HISTORY

1. New Article 2 (Sections 610-613) filed 3-27-78; designated effective 5-1-78 (Register 78, No. 13).

2. Order of Repeal filed 8-26-82 by OAL pursuant to Government Code Section 11349.7(j) (Register 82, No. 35).

§ 611. Requirements for Certified Systems.

Persons engaged in a business that involves the selling of motor vehicle exhaust systems or parts shall sell, offer for sale, or install only certified systems or parts on the following year model vehicles after the specified operative dates:

(a) Passenger Cars and Light Trucks. Systems and parts for motor vehicles (other than motorcycles and motor-driven cycles) of less than 6,000 lb (2,722 kg) gross vehicle weight rating shall comply on and after the following dates:

Year Model	Operative Date
1973 and newer	January 1, 1977
1970 and newer	July 1, 1977
1968 and newer	January 1, 1978
1967 and older	January 1, 1979

(b) Motorcycles. (This subsection is reserved until exhaust system regulations are adopted for motorcycles.)

(c) Heavy Trucks. (This subsection is reserved until exhaust system regulations are adopted for trucks with a gross vehicle weight rating of (6,000 lb [2,722 kg] or more.)

§ 612. Sale.

No person engaged in a business that involves the selling of exhaust systems or parts shall sell or offer for sale an exhaust system or part that has not been certified by the exhaust system manufacturer or supplier in

accordance with Article 11 of this title, beginning with Section 1050. This provision applies only to such systems or parts to be used on vehicles specified in Section 611.

(a) Identification Markings. All sound-modifying exhaust system parts, such as mufflers, resonators, chambered pipes, flare tips, and taper tips, sold or offered for sale after the operative dates in Section 611 shall be marked as required in Section 1054 of this title.

(b) Parts Not Required to Be Marked or Certified. Catalytic converters, manifolds, and nonchambered exhaust, tail pipes and tail pipe extensions that do not increase the noise may be sold or installed by any person without being marked or separately certified.

§ 613. Installation.

Except as provided in the following subsections (a) and (b), no person engaged in a business that involves the selling of motor vehicle exhaust systems or parts shall sell or install on a vehicle specified in Section 611 an exhaust system or part that has not been certified for that make and model vehicle under Article 11 of this title, beginning with Section 1050. The installer shall ensure that the total exhaust noise is not significantly louder than that emitted by the exhaust system originally installed by the manufacturer on the vehicle. An exhaust system shall be considered significantly louder than the original when it is obvious to a person with normal hearing that the system produces noise that stands out above that of most vehicles of the same make and model operated on the highway.

(a) Installation on Vehicles for Which System Is Not Certified. A licensed muffler certification station having sound measuring equipment may install a certified system or part on a vehicle required to have a certified replacement system even though that system or part has not been certified for the particular make and model vehicle by the manufacturer, supplier, or seller. Such installation may be made only when the licensed station measures the sound level of the exhaust system and issues a certificate in accordance with the licensed station requirements in Article 1 of this title, beginning with Section 600.

(b) Installation on Vehicles Not Requiring Certified Replacement Systems. Any person may sell or install any certified systems or parts or uncertified systems or parts on vehicles not required by Section 611 of this title to have certified systems. Such installations shall include an adequate muffler, as required by Vehicle Code Section 27150, and shall not be a modification that increases the exhaust noise emitted by the vehicle as prohibited by Vehicle Code Section 27151.

Article 3. Fleet Owner Inspection and Maintenance Stations

§ 615. Scope.

This article shall apply to licenses enabling fleet owners to:

(a) Operate inspection and maintenance stations to certify their vehicles in compliance with applicable provisions of:

(1) This title

(2) The Vehicle Code

(3) U.S. Department of Transportation regulations if the vehicles are engaged in interstate commerce.

(b) Display official stickers on their vehicles as evidence of certification.

NOTE: Authority cited: Sections 2402, 2402.5, 2525.2, 2525.8, 2807, 2807.1, 2807.2, 2808, 31401, 31540, 34501, 34501.5, 34508, Vehicle Code and Section 39831, Education Code. Reference: Sections 2501, 2525, 2525.2, 2525.4, 2525.6, 2525.8, 2525.12, 2807, 2807.1, 2807.2, 2808, 31401, 31403, 31540, 34501, 34501.5, 34508, Vehicle Code and Section 39831, Education Code.

HISTORY

1. New Article 3 (Sections 615-619.1) filed 8-14-78; designated effective 9-18-78 (Register 78, No. 33).

§ 615.1. Definitions.

The following definitions shall apply for the purposes of this article:

(a) Fleet Owner. "Fleet owner" is a person who owns three or more vehicles of any type specified in Section 34500 of the Vehicle Code, who

is engaged in the transportation of persons or property, and who has his vehicles registered in California.

(b) Vehicle. A "vehicle" is one of a fleet of vehicles registered in California by a fleet owner.

(c) Fleet Owner Inspection and Maintenance Station. A "fleet owner inspection and maintenance station" is a facility located in California, operated by a fleet owner and licensed by the department to certify, in accordance with following subsection (d), that the vehicles inspected and maintained on its premises comply with all applicable requirements.

(d) Sticker. A "sticker" is a distinctive label issued by the department to fleet owners, who may affix it to a station-inspected vehicle to attest that the vehicle is regularly maintained in compliance with all applicable laws and regulations.

(e) Superintendent of Maintenance. A "superintendent of maintenance" is a regularly employed station supervisor of experience and demonstrated ability who is responsible for the inspection and maintenance of a fleet owner's vehicles. In his absence, the next ranking employee, if a journeyman truck mechanic, may assume the duties and responsibilities assigned by this article to the regular superintendent.

(f) Journeyman Truck Mechanic. A "journeyman truck mechanic" is an automotive mechanic who has completed an apprenticeship program approved by the Administration of Apprenticeship, Division of Apprenticeship Standards, California Department of Industrial Relations, or can attest to having equivalent work experience.

NOTE: Authority cited: Sections 2525.2 and 2525.8, Vehicle Code. Reference: Sections 2525-2525.12, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 11-24-80; designated effective 1-1-81 (Register 80, No. 48).

§ 616. Qualifications for License.

Each fleet owner inspection and maintenance station shall be equipped to inspect, service, and repair vehicles and related components and equipment as required by laws and regulations related to the safe operation of such vehicles.

(a) Code Publications. Each station shall maintain readily accessible to the superintendent of maintenance at least one current copy of the California Vehicle Code; Chapter 2, Title 13, California Administrative Code; and if the fleet is engaged in interstate transportation, Title 49, Chapter 3, Parts 390 through 397 of the Code of Federal Regulations.

(b) Handbooks and Bulletins. Each station shall maintain in current status and available to the superintendent of maintenance all appropriate publications issued by the department and by manufacturers, including handbooks, bulletins, manuals, and instructions related to safe condition of vehicles, vehicle components, and auxiliary equipment.

(c) Personnel. At least one full-time journeyman truck mechanic, as defined in Section 615.1(f) of this title, shall be regularly employed in each station.

(d) Inspection and Maintenance Program. Systematic inspection and maintenance of vehicles, and records of such inspection and maintenance, shall comply with the provisions of applicable parts of Sections 1232 and 1234 of this title and, if vehicles are engaged in interstate transportation, the requirements of the United States Department of Transportation.

§ 617. Procedures for Licensing.

Fleet owner inspection and maintenance station licenses shall be issued in accordance with the following procedures:

(a) Qualified Applicant. Station licenses shall be issued only to a fleet owner, as defined in Section 615.1 of this title, and a separate license is required for each station.

(b) Application Forms and Fee. Fleet owners shall request station licenses on application forms furnished by the department. Each application shall be accompanied by the appropriate fee. Licenses must be renewed annually.

(c) Initial License or Change of Ownership—\$10 Fee. Licenses will be issued only for stations that meet all the qualifications prescribed in this article. "Change of ownership" means any change in legal ownership of the licensed business, including addition or deletion of a partner, trans-

fer of ownership between members of a family, or disposal of one business in favor of a similar business at a different location.

(d) Renewal of License—\$5 Fee. Application for annual renewal shall be made in accordance with the provisions of Sections 2501 and 2502 of the Vehicle Code.

(e) Duplicate License—\$2 Fee. If a station license is lost, destroyed, or mutilated, application may be made for a duplicate.

(f) Replacement License—No Charge. In the event of a change of address, the license shall be returned to the department with an application for a replacement. "Change of address" means any relocation of a licensed business not involving a change of ownership, and any change in the mailing address, including street renumbering.

NOTE: Authority cited: Section 2525.2, Vehicle Code. Reference: Sections 2525-2525.12, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 11-24-80; designated effective 1-1-81 (Register 80, No. 48).

§ 618. Issuance, Cancellation, or Surrender of License.

The issuance, cancellation, or surrender of a fleet inspection and maintenance station license is subject to the following provisions:

(a) Denial, Suspension, or Revocation. The department may refuse to issue a station license to an applicant or may suspend or revoke a license in accordance with the provisions of Sections 2540 through 2548 of the Vehicle Code.

(b) Surrender of License. A station license shall be surrendered under the following conditions:

(1) A station that does not have a journeyman truck mechanic in its employ shall immediately cease to operate as an official station, and unless it employs a journeyman truck mechanic within 60 days, shall surrender the official station license to the department.

(2) Surrender of a license shall not deprive the department of jurisdiction from carrying out investigative or disciplinary proceedings against the licensee or rendering a decision suspending or revoking such license.

(c) Return of Forms. All forms, stickers, and supplies issued by the department shall be returned to the department when the official station license is surrendered, suspended, or revoked, or is allowed to expire. The purchase price of the stickers is not refundable.

NOTE: Authority cited: Section 2525.2, Vehicle Code. Reference: Sections 2525-2525.12 and 2540-2548, Vehicle Code.

HISTORY

1. Amendment of subsection (b) filed 11-24-80; designated effective 1-1-81 (Register 80, No. 48).

§ 619. Station Operation.

Operation of a fleet inspection and maintenance station shall be subject to the following requirements:

(a) Geographic Location. A fleet owner is required to obtain a separate license for each station he operates.

(b) Display of Station License. An official station license shall be placed under glass or other transparent cover prominently displayed in the station.

(c) Care of equipment. All adjusting, servicing, and testing equipment necessary to the safe operation of a vehicle shall be maintained in good condition and shall be kept in calibration or adjustment in accordance with manufacturer's instructions and recommendations.

(d) Clearance of Enforcement Documents. The superintendent of maintenance shall ensure that vehicle equipment and component defects indicated on an enforcement document are corrected, and shall certify on the document that the fleet owner's vehicle is clear of such violations. Certification shall include date of correction, station license number, and authorized signature.

(e) Vehicle Inspection Stickers. The acquisition and use of stickers by fleet owners shall be in accordance with the following:

(1) Stickers shall be purchased from the Department of the California Highway Patrol, Accounting Section, either by mail addressed to Post Office Box 942898, Sacramento, CA 94298-0001, or in person at 2555 First Avenue, Sacramento. Stickers cost 25 cents each. Payment in full is required at the time of purchase, and no portion is refundable.

(2) A licensed station shall not use, sell, transfer, or otherwise dispose of stickers except as permitted by this article, and reasonable security shall be instituted to prevent theft or misuse of stickers.

(3) At the direction of the superintendent of maintenance, stickers may be affixed only to vehicles belonging to the fleet of the owner and complying with all applicable equipment provisions of the California Vehicle Code; the California Code of Regulations; and if engaged in interstate transportation, Title 49, chapter 1, parts 390 through 397, Code of Federal Regulations.

(4) The month and year of affixing a sticker to a vehicle shall be shown by removing more than half of that month and year on the sticker. (See Figure 1.) A sticker is valid for one year following the earliest month and year deleted from the sticker.



Figure 1

(5) Stickers shall be affixed to vehicles only if brakes, components, and other mechanical equipment related to safe operation are in good working order.

(6) On motor vehicles, stickers shall be displayed in a 7-inch square in the right lower corner of the windshield farthest removed from the driver or on the right door as near as practical to the leading edge of the door immediately below the window.

(7) On trailing units (dollies excepted), stickers shall be applied on the right side near the front, where they will be plainly visible and protected from scuffing.

(8) On dollies, stickers shall be applied to the right side and center of the drawbar or other comparable location.

(9) On subsequent inspection of a vehicle the superseded sticker shall be removed or shall be covered by the new sticker.

(10) Each fleet station shall maintain a current register showing in sequential order the serial number of each sticker issued to it, month and year of affixing the sticker to a vehicle, and make, type, and license number of the vehicle.

(f) Disposal of Invalidated Inspection Stickers. Disposal of vehicle inspection stickers, which for any reason are no longer valid or current shall be subject to the following provisions:

(1) A sticker shall be removed from or otherwise obliterated on any vehicle that no longer constitutes a part of the fleet inspected and maintained at an official station.

(2) Unused stickers that are no longer current shall be destroyed and deleted from the sticker register; and the date and method of destruction shall be noted in the register.

NOTE: Authority cited: Sections 2525.2 and 2525.8, Vehicle Code. Reference: Sections 2525–2525.12, Vehicle Code.

HISTORY

1. Change without regulatory effect of subsection (e)(1) (Register 86, No. 48).
2. Change without regulatory effect of subsection (e)(3) filed 2–8–88; operative 3–9–88 (Register 88, No. 7).
3. Change without regulatory effect of Figure 1 pursuant to section 100, Title 1, California Code of Regulations filed 5–2–90; operative 5–2–90 (Register 90, No. 23).
4. Editorial correction of printing error (Register 91, No. 17).
5. Editorial correction of printing error (Register 91, No. 25).

§ 619.1. Inspection by Department.

Fleet owners shall permit authorized representatives of the department reasonable opportunity to enter their vehicle inspection and maintenance stations to inspect facilities, vehicles, and pertinent records and to determine compliance with these regulations.

NOTE: Authority cited: Section 2525.2, Vehicle Code. Reference: Sections 2525–2525.12, Vehicle Code.

HISTORY

1. Amendment filed 11–24–80; designated effective 1–1–81 (Register 80, No. 48).

Chapter 2. Lighting Equipment

Article 1. Lighting Equipment Subject to Regulation

§ 620. Scope of Subchapter.

This subchapter applies to vehicle lighting equipment defined in Vehicle Code Section 375 and subject to requirements established by the department under Vehicle Code Section 26103.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 21201, 21201.5, 24006, 24012, 24411, 24603, 24607, 25102.5, 25106, 25252.5, 26103, and 26104, Vehicle Code.

HISTORY

1. Repealer of former Subchapter 2 (Sections 620–828) and new Subchapter 2 (Sections 620–818) filed 5–29–80; designated effective 7–1–80 (Register 80, No. 22). For prior history, see Registers 67, No. 49; 68, Nos. 24 and 26; 69, Nos. 3, 16, 19, 27; 70, No. 27; 71, No. 12; 71, No. 49; 72, Nos. 15, 25, 33; 73, Nos. 22 and 47; 75, No. 42; 76, Nos. 42 and 48; 77, No. 8; and 78, No. 16.

§ 621. Federally Regulated Equipment.

Lighting equipment for which the department is authorized to establish requirements and for which there is a mandatory Federal Motor Vehicle Safety Standard (FMVSS) or Federal Consumer Product Safety Commission Regulation (CPSC) shall comply with the requirements in that standard or regulation. This provision applies not only to federally required original equipment devices and their replacements but also to additional devices of the same type that are not required by those standards but are regulated by the Vehicle Code. Such equipment shall be exempt from the requirements of this subchapter except for Section 625 of this Article and all of Articles 6 and 7. This provision applies to the following items:

Type of Equipment	CPSC No.	FMVSS No.
Bicycle reflectors, reflectorized pedals and reflectorized tires	Part 1512	—
Clearance lamps		108
Emergency reflex reflectors		125
Hazard warning flashers		108
Hazard warning switches		108
Headlamps		108
License plate lamps		108
Reflex reflectors		108
School bus warning lamp systems		108
Semiautomatic headlamp beam switching devices		108
Sidemarkers lamps		108
Stop lamps		108
Taillamps		108
Turn signal flashers		108
Turn signal lamps		108

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 21201, 21201.5, 24006, 24012, 24411, 24603, 24607, 25102.5, 25106, 25252.5, 26103, and 26104, Vehicle Code.

HISTORY

1. Amendment of first paragraph filed 2–8–2008; operative 3–9–2008 (Register 2008, No. 6).

§ 622. Equipment for Which There Is No Federal Regulation.

Lighting equipment for which the department is authorized to establish requirements and for which there is no federal standard or regulation shall comply with the requirements in this subchapter. This provision applies to the following equipment:

<i>Type of Equipment</i>	<i>Article</i>
Cornering lamps	10
Deceleration signal systems	11
Driving lamps	9
Fog lamps	9
Fog taillamps	12
Passing lamps	9
Reflex reflectors on front of vehicle	14
Replacement lenses	15
Reserve lighting and outage indicating systems	16
Running lamps	17
School bus sidelamps	18
School bus strobe lamp	23
Side turn signal lamps	19
Supplemental stop and turn signal lamps	19
Warning lamp flashers	21
Warning lamps	22

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006, 24012, 24411, 24603, 24607, 25102.5, 25106, 25257.7, 26103 and 26104, Vehicle Code.

HISTORY

1. Amendment filed 6–7–85; effective thirtieth day thereafter (Register 85, No. 23).
2. Amendment filed 3–8–91; operative 4–7–91 (Register 91, No. 15).

§ 623. Definitions.

The following definitions shall apply whenever the terms are used in this subchapter:

- (a) An “aftermarket lighting device” is an item that is sold or offered for sale for use on any vehicle and includes devices of which some of the production is original equipment on specific models.
- (b) “CHP” or “department” means the Department of the California Highway Patrol.
- (c) An “original equipment lighting device” is an item that is factory installed on new vehicles and includes identical devices sold or offered for sale solely as replacements for the originals.
- (d) A “sealed optical unit” is a lighting unit with the lens and reflector assembly permanently sealed to prevent the entrance of gas and moisture into the unit.
- (e) A “semisealed optical unit” is a lighting unit with a replaceable bulb and with the lens permanently sealed to the reflector.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 624. Referenced Publications.

- (a) Consumer Product Safety Commission regulations for bicycle reflex reflectors, reflectorized pedals, and reflectorized tires may be obtained at the following address: Consumer Product Safety Commission, Washington, D.C. 20207.
 - (b) A complete set of the Federal Motor Vehicle Safety Standards may be purchased at the following address: U.S. Government Printing Office, Washington, D.C. 20402.
- Individual Federal Motor Vehicle Safety Standards may be obtained at the following address: National Highway Traffic Safety Administration, General Services Division, Room 5111C, Nassif Building, Washington, D.C. 20591.

- (c) The Society of Automotive Engineers Handbook, Supplement 34, “Lighting Equipment and Photometric Tests,” may be purchased at the following address: Society of Automotive Engineers, Inc., 400 Commonwealth Avenue, Warrendale, PA 15096.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 625. Test Data.

Test data referred to in Vehicle Code Section 26104 for equipment subject to regulations established by the department under Vehicle Code Section 26103 shall include the following information:

- (a) The date of the test report.
- (b) The date tests were conducted.
- (c) The standard or regulation with which the device complies.
- (d) A description of the device.
- (e) The type of material used for each major component.
- (f) Data for plastic material used in optical parts.
- (g) Where reflex sheeting is used, the sheeting manufacturer’s designation for the particular material used in the device.
- (h) The bulb socket dimensions or a statement that the socket meets maximum and minimum bulb support gage requirements.
- (i) Trade number and quantity of bulbs used.
- (j) The voltage and current at which laboratory standard bulbs were operated to obtain rated mean spherical candlepower.
- (k) A list of the marks of identification, including size, location, and method of marking.
- (l) Photographs or halftone prints of the assembled and disassembled device.

(m) The actual results obtained for each test or measurement required by this title or by applicable sections of Federal Motor Vehicle Safety Standards, Federal Consumer Product Safety Commission regulations, and their referenced specifications. Words such as “complies,” “passed,” “less than,” or “more than” are not acceptable where minimum or maximum requirements are specified in measurable units, except for detailed dimensional checks of sealed lighting units and housings for such units checked by go–no–go gages.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

Article 2. Identification Markings

§ 630. Permanent Markings.

Each lens and housing shall be permanently and legibly marked with the manufacturer’s or vendor’s name, initials or lettered trademark, the model designation, and other specified markings. Lens markings need not be the same as housing markings. Markings shall be imprinted on a permanently attached nameplate, die–stamped, or molded in the locations specified in this title. In lieu of other methods of marking, gaseous discharge bulbs, flashers, and the backs of sealed optical units may be marked with indelible ink.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 631. Size of Markings.

Required markings and at least one letter of a lettered trademark shall be not less than 3.0 mm (0.12 in.) in height. Raised molded markings not less than 2.0 mm (0.08 in.) in height may be used on lenses with an area of less than 13 cm² (2 in.²) or on housings with a projected area less than 25 cm² (4 in.²). Indelible ink markings not less than 2.0 mm (0.08 in.) in height may be used on bulbs with a base diameter of less than 10.0 mm (0.40 in.).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 632. Model Designation Markings.

All devices shall be marked with a model designation which differentiates one model from another unless they are identical except for right– and left–hand mounting, housing finish or material, number and type of bulbs or functions, or number of wiring connections to a switch. Warning lamps of the lightbar type, which are of the same design and construction

except for number and type of warning lamp or siren functions, may have the same model number provided they also have a permanently marked serial number either unique to each unit or coded to indicate the particular functions.

§ 633. Lens Markings.

Markings on the exterior lenses of lamps and reflex reflective devices and photoelectric detectors and on exterior filters or transparent covers shall be visible from the outside when the device is installed. When removal of the lens from the housing would destroy the device, either the housing or the lens may be marked if the markings differ from those previously used on any similar device.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 634. Sealed Optical Unit Markings.

Sealed and semisealed optical units shall be marked on the lens with the manufacturer's name, initials, or lettered trademark and model number. Such units for driving lamps, fog lamps, and passing lamps may have the model number marked on the lens, or indelibly inked or permanently molded on the back of the unit. The model designation of a sealed warning lamp optical unit not covered by a lens or filter shall be indelibly imprinted or molded on the lens so as to be visible and legible when the device is installed.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 635. Aftermarket Housing Markings.

Markings on the housing of an aftermarket lamp or reflective device shall be externally marked on the shell or other fixed part of the housing or shall be readily visible through the lens. Required markings may be placed on the door, grommet, bezel, or ornamental ring provided such part is so shaped or indexed to preclude its being installed on a housing of a different make or model. When removal of the lens from the housing would destroy the device, the housing is not required to be marked if the lens markings differ from those on any previously manufactured lens. External housing markings are not required on lamps which are packaged for sale in a disassembled condition and are marked so that the housing markings are visible when the lamp is installed on a vehicle and the lens is removed. Housings of separate control or power supply units (such as for reserve lighting and outage indicators or gaseous discharge warning lamps) shall be marked so as to be visible when the unit is installed on a vehicle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 636. Original Equipment Housing Markings.

Markings on the housing of an original equipment lamp or reflex reflective device which is factory installed on a specific motor vehicle model shall be visible when the lens is disassembled from the housing or the device is disassembled from the vehicle. Markings on original equipment housings or mounting rings for a sealed optical unit shall be visible when the unit and ornamental trim are removed. When removal of the lens from the housing would destroy the device, the housing is not required to be marked. Housings of separate control or power supply units (such as for reserve lighting and outage indicators or gaseous discharge warning lamps) shall be marked so as to be visible when the unit is installed on a vehicle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006 and 26103, Vehicle Code.

§ 637. Orientation Markings.

Aftermarket lamps and reflex reflectors shall be marked with the word "top" on both the exterior and interior of the housing to designate the proper mounting position, except as noted in the following subsections. The markings on the interior of the housing shall be die-stamped or molded and shall be located so as to be visible when the lens is removed.

(a) Rotated Devices. "Top" is not required on a device which meets the test requirements when it is rotated about its axis 90 and 180 deg.

(b) Housing. "Top" is not required on the housing if the lens is indexed in the housing in only one position and the word "top" is die-stamped or molded on the lens so as to be visible when the device is installed. "Top" is not required on the exterior of the housing when the interior is so marked and the lens must be removed to install the lamp on a vehicle.

(c) Sealed or Semisealed Optical Unit. "Top" is not required on the housing for any sealed or semisealed optical unit if the lens markings on the unit are right side up when the unit is in its design mounting position.

(d) Interior and Exterior. "Top" is not required on the interior of the housing if the exterior "top" marking is visible when the device is installed, nor on the exterior of the housing if the interior "top" marking is visible through the lens when the device is installed.

(e) Location. "Top" is not required at the top of the device if the word is inscribed elsewhere with an arrow pointing from "top" to the proper mounting position.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006, 24012, and 26103, Vehicle Code.

Article 3. Construction Requirements

§ 640. Lamp Construction.

Gaskets shall be constructed of durable material which will retain its shape and resiliency. Electrical wiring shall be protected from abrasion and sharp edges.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 641. Optic Indexing.

Lenses, interior reflectors, removable sockets, double-filament bulbs, and sealed and semisealed optical units shall be indexed into adjacent components to prevent rotation and misinstallation. Housings for sealed and semisealed optical units designed for mounting in either of two positions rotated 180 deg apart (such as fog lamps above or below a bumper) shall be indexed so the optical units are in their design position when the housing is mounted in either of the two positions. Indexing is not required for lenses that are symmetrical about the H-V axis.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 642. Bulbs.

Sealed optical units and bulbs shall meet the requirements appropriate to the type of unit or bulb in SAE J573g, December 1976; SAE J571d, June 1976; SAE J572a, January 1972; or SAE J760a, December 1974. Sealed optical units, semisealed optical units, and bulbs of a type not listed in these SAE editions may be used provided replacements are readily available to the user.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 643. Bulb Sockets.

Sockets for bulbs designed to comply with SAE J573g, December 1976, shall comply with SAE J567c, December 1970. Any auxiliary means employed for bulb retention and positioning in a tension socket must be of resilient construction.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 644. Translucent Housings.

Lamps with translucent housings shall not emit to the exterior of the vehicle more than 7.75 mcd/cm² (50 mcd/in.²) of any color other than that emitted through the lens. Where the lighted section is large enough to fill a circle of at least 6.45 cm² (1.00 in.²) the limit applies to the brightest location that completely fills this size circle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 645. White Light to Rear.

White light which is emitted to the rear of a vehicle from the lens of any lamp other than a backup lamp shall not exceed 7.75 mcd/cm² (50 mcd/in.²) measured as described in Section 644.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 646. Lens Rotation and Displacement.

Movement of a sealed optical unit in its housing shall not exceed ± 5 deg rotation, measured about the axis of the unit from a vertical line passing through the top of the unit. Lamps with lenses that are not located in a firmly fixed position in the housing shall comply with the photometric requirements with the lens in any position to which it can be shifted.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 647. Plastic Materials.

Plastic materials shall meet the following requirements:

(a) Optical Parts. Plastic materials for optical parts of devices shall comply with SAE J576d, June 1976. Samples shall be tested either in the thickness specified in SAE J576d or in the minimum, maximum, and one intermediate thickness of the material as specified by the materials manufacturer.

(b) Dark Filters. Transparent material used for darkening the unlighted appearance of lamps shall meet the luminous transmittance and trichromatic coefficient requirements before and after the outdoor exposure test when used in conjunction with a colored filter that in combination meets the color requirements of SAE J578d, September 1978, before the exposure test.

(c) Substitution of Materials. When one of several distinctive types of plastic materials, such as polymethyl methacrylate, is acceptable under one manufacturer's designation, another material of the same type may be substituted under a different manufacturer's designation without a retest of the device in which it is used. Plastic materials of different types, such as butyrate and polymethyl methacrylate, shall not be substituted for one another unless the device containing such substitution is retested to meet the warpage and photometric test requirements.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 648. Housing for Optical Units.

Housing for sealed and semisealed optical units shall have mounting surfaces and retaining rings meeting the following requirements:

(a) Seating Areas. Seating areas on mounting rings or their equivalent shall be free of any burrs or projections that might cause unit breakage or improper seating for a distance of at least 32 mm (1.25 in.) on each side of the center of the locating notch.

(b) Retaining rings or similar devices for holding a unit in a housing shall provide rigid retention of a unit of minimum design flange thickness.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 4. Photometric Requirements

§ 650. Terminology.

The letters "H" and "V" shown in photometric tables designate the horizontal and vertical planes through the photometer axis and the center of the light source of a lamp or the center of a reflex reflector. The letters "L," "R," "U," and "D" (left, right, up, and down) designate the position of the photometer as viewed from a lamp or the position of the light source as viewed from a reflector.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 651. Test Distance.

The photometer shall be at a distance of 30.5 m (100 ft) from the center of the light source or the face of the reflex reflector unless a referenced standard specifies otherwise.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 652. Color Correction of Photometer.

Photometric tests shall be conducted with equipment corrected to the standard special luminous efficiency curve and calibrated for the color of the light being measured.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 653. Bulb Operating Conditions.

Bulbs with a mean spherical candela rating shall be operated at mean spherical candela for photometric tests. Bulbs and sealed units rated in watts shall be operated at design voltage for the photometric tests. Lamps designed for use in both 6-V and 12-V systems shall be tested with 12-V bulbs. Lamps designed for 24-V systems shall be tested with 24-V bulbs.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51.)

§ 654. Out-of-Focus Tests.

Tests of nonsealed or semisealed units for driving and passing lamps shall be made in each of four out-of-focus filament positions. Where conventional bulbs with two-pin bayonet bases are used, photometric tests shall be made with the light source 1.52 mm (0.060 in.) above, below, ahead, and behind the design position. If prefocused or halogen H1, H2, H3, or H4 bulbs are used, the limiting positions at which tests are made shall be 0.51 mm (0.020 in.) above, below, ahead and behind the design position. The lamp may be reaimed for each out-of-focus position of the light source. The minimum requirements for the out-of-focus positions shall be 80% of those specified for the design position; the maximum requirements shall be the same as for the design position.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 6-12-95; operative 7-12-95 (Register 95, No. 24).

§ 655. Candela Requirements.

Candela or candela-second requirements between test points in any photometric table in this subchapter shall be the lower of the specified minimums for the two closest adjacent test points on a horizontal or vertical line.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 656. Color Requirements.

In this title, "yellow" has the same meaning as "amber" in the Vehicle Code. The color of light emitted by lamps and reflectors governed by this subchapter shall meet SAE J578d, September 1978. The color shall be the average overall color emitted by lamps operated at design voltage, regardless of light source, and by reflex reflectors illuminated by a tungsten-filament source operated at a color temperature of 2856 K. Where the color for a type of device is not mentioned in this subchapter, the color shall be either white, yellow, white to yellow, red, or blue as specified in the Vehicle Code for that type of device. Where blue is specified, it shall be within the limits for signal blue in Section 2.5.2 of SAE J578d. Colors specified for pilot indicators need not be within these limits.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 657. Mounting of Devices for Photometric Tests.

Original equipment devices with nonadjustable housings shall be mounted for the photometric test at the same angles at which they are mounted on the vehicle. Aftermarket devices with nonadjustable housings shall be mounted with the base on a horizontal or vertical surface, whichever is appropriate, unless different mounting instructions are included with each device offered for sale.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 5. Mechanical Test Requirements

§ 660. Applicability.

Devices shall comply with the following mechanical tests where so specified for a particular type of device.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 661. Aiming Adjustment Test.

Housings for sealed and semisealed optical units, and complete assemblies for roadlighting equipment, such as driving, fog, and passing lamps, shall comply with the following aiming adjustment requirements:

(a) Adjustment Range. The range of adjustment from the specified aim for the lamp shall be at least ± 4 deg in both the vertical and horizontal directions. Fog lamps designed as original equipment for a specific vehicle model need have the specified range of adjustment in the vertical direction only.

(b) Aiming Deviation. The vertical aim of lamps with independent vertical and horizontal aiming adjustment shall not deviate more than a total of 10 cm (4.0 in.) at a distance of 7.6 m (25 ft) from the lens, when the horizontal aim is adjusted through an angle of ± 4 deg from the correct aim specified in this title. The same requirement shall apply to deviation of horizontal aim when the vertical aim is adjusted. Original equipment fog lamps with only a vertical aim adjustment shall not exceed the specified horizontal deviation when the vertical aim is adjusted through the required angle. This requirement does not apply to ball-and-socket or equivalent adjusting means.

(c) Self-Locking Device. Self-locking devices which hold aiming screws in position shall operate satisfactorily for 10 adjustments on each screw over a thread length of 3.0 mm (0.12 in.) inward to outward from the correct aim. This requirement does not apply to ball-and-socket or equivalent adjusting means.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51).

§ 662. Corrosion Test.

The device shall show no evidence of corrosion that would affect the proper functioning of the device when tested in accordance with Section 4.4 of SAE J575g, September 1977.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 663. Dust Test.

The device shall have no visible inside dust that results in more than a 10% reduction in maximum intensity with the outer surface cleaned as compared to the intensity after both the outer and inner surfaces are cleaned after the device is tested in accordance with Section 4.3 of SAE J575g, September 1977.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 664. Lens Recession Test.

The lamp body or housing, including the aiming mechanism, when subjected to an inward force of 222 N (50 lb) directed parallel to the lamp axis and symmetrically about the center of the lens, shall meet the following requirements:

(a) Permanent Recession. The lens or sealed unit shall not permanently recede by more than 2.5 mm (0.10 in.).

(b) Permanent Aim Deviation. The aim of the lamp shall not permanently deviate by more than 32 mm (1.25 in.) at a distance of 7.6 m (25 ft).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 665. Moisture Test.

The device shall not accumulate more than 2 cm^3 of moisture when tested in accordance with Section 4.2 of SAE J575g, September 1977.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 666. Vibration Test.

The device, when tested in accordance with Section 4.1 of SAE J575g, September 1977, shall show no rotation, displacement, cracking, or rupture of parts which would result in failure of the photometric test or any other test in this article pertaining to the device, nor shall there be any cracking or rupture of parts affecting the mounting of the device. Failure of internal components of any bulb or sealed unit used in the device shall not constitute a failure unless caused by striking parts of the housing. The device shall be mounted on a stand that represents the method and position used for mounting on a vehicle. Instead of the Section 4.1 of SAE J575g, September 1977 test, devices may be tested in accordance with Section 4.1 of SAE J575f, April 1975.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51).

§ 667. Warpage Test.

Lighting equipment with plastic lenses, reflectors or housings shall be subjected to warpage tests on separate samples as follows:

(a) Devices with a light source shall be mounted in normal operating position and operated at rated voltage in a circulating air cabinet for 1 h at $49 \pm 2.8 \text{ C}$ ($120 \pm 5 \text{ F}$). Each device shall be operated during the test in the same manner as it will be operated in service. A cornering lap function shall be cycled 3 min on and 12 min off throughout the test.

(b) Reflex reflectors without a light source shall be mounted in normal position in a circulating air cabinet for 2 h at $74 + 0, - 2.8^\circ \text{ C}$ ($165 + 0, - 5^\circ \text{ F}$).

(c) At the conclusion of each test, there shall be no evidence of lens, reflector, or housing warpage that would affect the proper functioning of the device.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, and 26103, Vehicle Code.

§ 670. Scope.

This article applies to the aim of lighting equipment for which the aim is not specified in the Vehicle Code.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 671. General Lighting Equipment.

Lighting equipment other than that specified in the following sections of this article shall be aimed so the center of the beam produced by the major filament is parallel to the road and projects directly to the front, side, or rear, depending on mounting location. Adjustable warning lamps in movable spotlight type housings shall be aimed in the direction selected by the vehicle driver to provide adequate warning to other traffic.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 672. Aimable Roadlighting Devices.

Roadlighting devices with aiming adjustment features shall, when equipped with aiming pads and aimed mechanically, be set at 0-0 with a mechanical aimer meeting SAE J602c, December 1974. Roadlighting devices visually aimed, shall be aimed as specified in the following sections of this article on a vertical aiming screen at a distance of 7.6 m (25 ft) from the front of the lens surface or with an optical aimer meeting SAE J600a, March 1965, with the aiming line on the screen adjusted to the level of the surface upon which the vehicle stands. The lamps shall be aimed with only the driver in the vehicle, except that lamps on vehicles which normally carry a load should be aimed with the vehicle so loaded. Enforcement agencies that inspect vehicles may establish aiming tolerances to allow for variations in inspection procedures and in vehicle loading.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 2103, Vehicle Code.

§ 673. Cornering Lamps.

Cornering lamps with means for adjusting the aim shall be aimed horizontally so the center of the high intensity portion of the beam is within 40 to 50 deg from the longitudinal axis of the vehicle toward the front. The vertical aim shall be with the center of the high intensity zone 25 to 35 cm (10 to 14 in.) below the level of the lamp center. Cornering lamps without aiming mechanisms shall be mounted in a fixed position on the vehicle in accordance with the manufacturer's instructions.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 674. Driving Lamps.

Driving lamps shall be aimed with the center of the high intensity zone on a vertical line straight ahead of the lamp center and 5 cm (2 in.) below the level of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 675. Fog Lamps.

Fog lamps shall be aimed with the center of the high intensity zone on a vertical line straight ahead of the lamp center and with the top edge of the beam 10 cm (4 in.) below the level of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 676. Headlamps, Single Filament.

Single-filament upper beam sealed beam headlamp units shall be aimed with the center of the high intensity zone on a vertical line straight ahead of the lamp center and 5 cm (2 in.) below the level of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 677. Headlamps, Double Filament.

Double-filament sealed beam headlamp units shall be aimed on low beam with the left edge of the high intensity zone on a vertical line straight ahead of the lamp center and with the top edge of the high intensity zone at the level of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 678. Motorcycle Headlamps.

Motorcycle headlamps shall be aimed on the upper beam as specified for single-filament units in Section 676, with the vehicle upright and the wheels facing straight ahead. As an alternative, motorcycle headlamps with a well-defined lower beam may be aimed on the lower beam as specified for double-filament units in Section 677, with the vehicle upright and the front wheel facing straight ahead.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 679. Motor-Driven Cycle Headlamps.

Motor-driven cycle headlamps shall be aimed with the vehicle upright and the front wheels facing straight ahead in accordance with the following requirements:

(a) Multiple Beam Headlamps. Multiple beam headlamps shall be aimed as specified for motorcycle headlamps.

(b) Single Beam Headlamps. Single beam headlamps shall be aimed with the center of the high intensity zone on a vertical line straight ahead of the lamp center and with the top edge of the high intensity zone at the level of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 680. Passing Lamps.

Passing lamps shall be aimed with the top edge of the high intensity zone at the level of the lamp center and with the left edge of the high intensity zone 13 cm (5 in.) to the left of a vertical line straight ahead of the lamp center.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 681. School Bus Sidelamps.

School bus sidelamps shall be aimed so the center of the high intensity portion of the beam is straight to the side of the bus and at the same height as the lamp center.

NOTE: Authority cited: Sections 25102.5 and 26103, Vehicle Code. Reference: Sections 24012, 25102.5, and 26103, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 682. School Bus Warning Lamps.

School bus warning lamps shall be aimed to comply with the following requirements:

(a) Visual Aim. When aimed visually by means of an aiming screen or optical aiming machine, the lamps shall have the center of the high intensity zone on a vertical line straight ahead of the lamp center and on a horizontal line not higher than the level of the lamp center nor lower than 10 cm (4 in.) below this level.

(b) Mechanical Aim. When aimed with a mechanical aiming machine, warning lamps with three mechanical aiming pads on the lenses shall be between 0 and 4 down on the up and down scale and at 0 on the left and right scale of the aimer.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 7. Mounting Requirements**§ 685. Installation and Maintenance.**

Lighting equipment shall be securely mounted on a rigid part of the vehicle to prevent noticeable vibration of the beam and shall be maintained with the proper aim when the vehicle is stationary and in motion. No lighting device, unless otherwise permitted, shall be mounted so any portion of the vehicle, load, or vehicle equipment interferes with the distribution of light or decreases its intensity within the photometric test angles unless an additional device is installed so the combination of the two meets these requirements. Mounting heights shall be measured from the center of the lamp or reflector to the level surface upon which the vehicle stands when it is without load.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 686. Mounting of Aftermarket Devices.

Aftermarket lamps, with orientation markings such as "top" shall be mounted in accordance with the markings. Sealed and semisealed optical units shall be installed with the lettering on the lens face right side up. Front and rear reflex reflectors shall be securely mounted on a rigid part of the vehicle with the plane of the lens perpendicular to the roadway and parallel to the rear axle. Side reflex reflectors shall be mounted with the lens face perpendicular to the roadway and parallel to the rear wheels. Aftermarket devices with nonadjustable housings shall be mounted with the base on a horizontal or vertical surface, whichever is appropriate, unless different mounting instructions are included with such devices when offered for sale.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 687. Mounting of Original Equipment Devices.

Original equipment lamps and reflex reflectors designed for a particular make of vehicle and installed on another vehicle shall be mounted at the same angle as on the vehicle for which they were designed. They need not be mounted at the same height or lateral spacing as on the original vehicle but must comply with the appropriate height and location limitations in this title and the Vehicle Code.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 688. Clearance and Sidemarker Lamps.

(a) Mounting. Clearance lamps, sidemarker lamps, and combination clearance and sidemarker lamps shall be mounted as specified in FMVSS 108, except for combination clearance and sidemarker lamps on pole or pipe dollies or logging dollies which shall be mounted as required by Vehicle Code Section 25100.

(b) Exceptions. On vehicles manufactured prior to July 1, 1980, clearance lamps need not be visible at the inboard angles, and clearance and sidemarker lamps need not comply with the mounting height requirements in FMVSS 108.

(c) Specialized Lamps. Specialized combination lamps designed to be mounted with the base at angles other than 0 deg, 45 deg, or 90 deg from the longitudinal axis of the vehicle shall be installed in accordance with the manufacturer's instructions.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 689. Cornering Lamps.

Cornering lamps shall be mounted on the front of the vehicle near the side or on the side near the front and not lower than 30 cm (12 in.) nor higher than 76 cm (30 in.).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 690. Deceleration Lamps.

Deceleration lamps shall be mounted on the rear of the vehicle on or adjacent to the centerline of the vehicle at a height not lower than 38 cm (15 in.).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 690.5. Driving Lamps.

Driving lamps shall be connected to the upper beam headlamp circuit so the beam changing switch will turn the lamps off when the headlamps are switched to low beam. A separate switch shall be provided to disconnect driving lamps when not in use.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 691. Fog Lamps.

Foglamps shall be mounted so the inner edge of the lens retaining ring is no closer than 10 cm (4 in.), or as specified by FMVSS 108 in effect at the time of vehicle manufacture, to the optical center of the front turn signal lamp.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 24403 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 6-18-92; operative 7-20-92 (Register 92, No. 25).
2. Amendment filed 2-8-2008; operative 3-9-2008 (Register 2008, No. 6).

§ 692. Headlamps.

Headlamps shall be mounted as specified in FMVSS 108 and as follows:

(a) Spacing. Headlamp units installed after November 15, 1975, shall not be closer to the centerline of the vehicle than 30 cm (12 in.) measured from the center of the lens, except on motorcycles and motorized bicycles.

(b) Covers. No grille, transparent lens cover, or any other obstruction shall be in front of the headlamp lens on vehicles manufactured and first registered in California after January 1, 1968, except for headlamp concealment devices meeting FMVSS 112 that automatically move out of the way when the headlamps are turned on. Transparent lens covers are permitted in front of the headlamps of motorcycles originally equipped with such transparent covers, if the covers do not affect compliance of the headlamps with FMVSS 108.

(c) Aiming Obstructions. Headlamps on vehicles other than motorcycles shall be mounted so the plane of the aiming pads is not more than 24 cm (9.5 in.) behind the front of the vehicle for 146-mm (5 3/4-in.) headlamps and not more than 26 cm (10.2 in.) for all other headlamps in the area necessary for horizontal aiming with mechanical aiming machines. This requirement may be complied with by use of movable hood or grille components that can be opened without tools or removal of any part of the vehicle. This subsection does not apply to headlamps on authorized emergency vehicles operated by law enforcement agencies.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of subsection (b) filed 10-15-91; operative 11-14-91 (Register 92, No. 6).

§ 693. Passing Lamps.

Passing lamps shall be mounted so the inner edge of the lens retaining ring is no closer than 10 cm (4 in.), or as specified by FMVSS 108 in effect at the time of vehicle manufacture, to the optical center of the front turn signal lamp. The lamps shall be connected to either or both the upper and lower headlamp beam circuits. A separate switch shall be provided to disconnect passing lamps not in use.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 2-8-2008; operative 3-9-2008 (Register 2008, No. 6).

§ 694. Running Lamps.

Running lamps shall be mounted with one lamp at each side on the front not lower than 38 cm (15 in.) nor higher than 107 cm (42 in.). Running lamps shall be connected to turn off automatically when the headlamps are turned on. A separate switch shall be provided to turn off the running lamps any time their use is not desired during daytime.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 695. School Bus Sidelamps.

School bus sidelamps shall be installed as follows:

(a) Location. Two lamps shall be installed on each side, one toward the front and one toward the rear, with the front sidelamp as near as practicable to the front wheel. A third lamp may be installed near the center on buses 9.1 m (30 ft) or more in length.

(b) Spacing. Lamps on each side shall be as far apart as practicable and no closer together than 183 cm (72 in.).

(c) Height. All lamps on one side shall be at the same level, not lower than 61 cm (24 in.) nor higher than 107 cm (42 in.).

(d) Width. The lamps shall be installed so as not to exceed a total vehicle width of 2.44 m (96 in.). Installations that cause buses less than 2.03 m (80 in.) wide to equal or exceed 2.03 m (80 in.) will make necessary the installation of clearance and sidemarker lamps.

(e) Pilot Indicator. The system shall have an amber pilot indicator that is visible to the bus driver in his normal driving position and that is lighted when the sidelamps are lighted.

NOTE: Authority cited: Sections 25102.5 and 26103, Vehicle Code. Reference: Sections 24012, 25102.5, and 26103, Vehicle Code.

§ 695.5. School Bus Strobe Lamp.

School bus strobe lamps shall be installed as follows:

(a) Location. The lamp shall be installed on the rooftop at or behind the center of the roof and equidistant from each side.

(b) Height. The top of the light-generating element inside the lamp shall not extend above the rooftop more than 1/20th of its horizontal distance from the rear of the bus. For the purpose of this section, the rear of the bus is defined as the vertical plane in contact with the rear most portion of the body. If a bus is equipped with roof mounted school bus signs or other vertical obstructions, the light-generating element may extend above the level of the signs or obstructions not to exceed 1/20th of its distance from the rear of the bus. In no case shall strobe lamps be mounted so as to exceed the maximum height limits specified in Vehicle Code Section 35250.

(c) Mounting. The vertical axis of the lamp shall be installed perpendicular to the surface of the road.

(d) Switch and Pilot Indicator. The lamp shall be activated by a manual switch labeled with the word "strobeltamp," "strobe lamp," "strobe light," "strobe," or some other readily understood term which clearly and unambiguously identified the strobe light function and distinguishes it from other warning lamps and devices with which the vehicle is equipped, and independent of all other switches. In addition, the system shall have a nonglaring amber or white pilot indicator that is clearly visible to the driver and that is lighted whenever the strobe lamp is lighted.

NOTE: Authority cited: Sections 25257.7 and 26103, Vehicle Code. Reference: Sections 24012, 25257.7 and 26103, Vehicle Code.

HISTORY

1. New section filed 3-8-91; operative 4-7-91 (Register 91, No. 15).
2. Editorial correction of NOTE (Register 91, No. 31).
3. Amendment of subsection (b) filed 9-16-94; operative 10-17-94 (Register 94, No. 37).
4. Amendment of subsection (d) filed 12-5-2000; operative 1-4-2001 (Register 2000, No. 49).

§ 696. School Bus Warning Lamps.

(a) Number of Lamps and Required Locations. Four warning lamps are required on each school bus. Two alternately flashing lamps shall be rigidly mounted on the front, one at each side, at the same height above the top of the windshield; and two alternately flashing lamps shall be rigidly mounted on the rear, one at each side, at the same height, with the bottom edge of each lens not lower than the top line of the side window openings. A panel shall be installed to serve as a background for warning lamps that extend above the top of a school bus.

(b) Operating Switches. School bus warning lamp switches operated manually by the driver shall be located within easy reach of the driver's position.

(c) Pilot Indicator. A bright visible flashing signal not less than 12.7 mm (0.5 in.) in diameter shall be included in the circuit to give a clear and unmistakable indication to the driver when the warning signals are turned on. The indicator shall not be obscured from the driver's view by any part of the vehicle.

(d) Spacing and Visibility. Front and rear warning lamps shall be spaced as far apart laterally as is practicable, and in no case shall the distance between lamps be less than 100 cm (39 in.). Visibility of front and rear warning lamps shall be unobstructed by any part of the vehicle from 5 deg above to 10 deg below horizontal and from 30 deg to the right to 30 deg to the left of the center line of the lamps.

(e) Warning Lamp Installation Dates. Warning lamps installed on school buses after 1965 shall be red Class C warning lamps. Those installed before 1966 and meeting requirements in effect at time of installation may continue to be used on the school buses on which they were installed.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 25257 and 26103, Vehicle Code.

HISTORY

1. Repealer of subsection (f) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
2. Amendment of subsection (b) and NOTE filed 9-6-95; operative 10-6-95 (Register 95, No. 36).

§ 697. Side-Mounted Turn Signal Lamps.

Side-mounted turn signal lamps permitted by Section 24953(b) of the Vehicle Code and defined by Section 791 of this title shall be mounted on either or both sides of the vehicle not lower than 50 cm (20 in.) nor higher than 183 cm (72 in.) with the lens facing the side and projecting beyond the body of the vehicle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 24953 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 4-5-83; effective thirtieth day thereafter (Register 83, No. 15).

§ 698. Supplemental Signal Lamps.

(a) Supplemental combination stop and turn signal lamps permitted by Section 24603(g) of the Vehicle Code and supplemental rear turn signal lamps permitted by Section 24953(c) of the Vehicle Code and defined by Section 791 of this title shall be mounted near either or both sides of the vehicle facing the rear.

(b) Supplemental stop lamps shall be mounted near the side of the vehicle or on or near the vertical centerline of the vehicle.

(c) When more than one lamp is mounted on the rear of the vehicle, the lamps shall be at the same height and equally spaced from the vertical centerline of the vehicle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 24603, 24953 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 4-5-83; effective thirtieth day thereafter (Register 83, No. 15).

§ 699. Turn Signal Lamps.

Turn signal lamps shall be mounted and operated as follows:

(a) Motor Vehicles. Turn signal systems on motor vehicles shall consist of at least two single-faced or double-faced turn signal lamps on or near the front and at least two single-faced turn signal lamps on the rear. Double-faced turn signal lamps shall be mounted ahead of the center of the steering wheel or the center of the outside rearview mirror, whichever is rearmost. A truck-tractor or a truck chassis without body or load may be equipped with one double-faced turn signal lamp on each side in lieu of the four separate lamps otherwise required on a motor vehicle. Front and rear turn signal lamps on motorcycles shall be at least 23 cm (9 in.) apart, except that front turn signals on motorcycles manufactured after January 1, 1973, shall be at least 40 cm (16 in.) apart. Turn signal lamps on other vehicles shall be spaced as far apart as practical. The optical axis of the front turn signal lamp shall be at least 10 cm (4 in.), or as specified by FMVSS 108 in effect at the time of vehicle manufacture, from the inside diameter of the retaining ring of the lower beam headlamp unit, fog lamp unit or passing lamp unit. Additional turn signal lamps may be mounted closer than the 10 cm (4 in.) dimension provided the primary lamps equal or exceed that distance. Original equipment turn signals that emit two and one-half times the minimum candela requirements may be closer.

(b) Towed Vehicles. The rearmost vehicle in a combination of vehicles shall be equipped with at least two single-faced turn signal lamps on the rear. The signal system on a combination of vehicles towed by a motor vehicle equipped with double-faced front turn signal lamps may be connected so only the double-faced turn signal lamps on the towing vehicle and the signal lamps on the rear of the rearmost vehicle are operative. Towed vehicles not required to be equipped with turn signals by Vehicle Code Section 24951(b) shall be equipped with rear turn signal lamps when turn signal lamps are required or used in lieu of hand and arm signals under Vehicle Code Section 22110. Such lamps are not required on the following vehicles when the rear signal lamps on the preceding vehicle in the combination can be seen by a following driver from straight to the rear of the lamp to 45 deg outboard:

Vehicles with a gross weight of less than 2722 kg (6,000 lb)
 Special mobile equipment
 Pole and pipe dollies
 Logging dollies
 Auxiliary dollies

(c) Operation. Turn signal lamps visible to approaching or following drivers shall flash in unison, except that a turn signal consisting of two or more units mounted horizontally may flash in sequence from inboard to outboard. The lamps may be either extinguished simultaneously or lighted simultaneously. Turn signal lamps shall flash at a rate of 60 to 120 flashes per minute.

(d) Pilot Indicator. An effective visual signal operating at the same rate as the turn signal flasher shall be incorporated in the circuit to give clear and unmistakable indication to the driver that the turn signal lamps are turned on. Failure of one or more turn signals to operate shall be indicated by a steady-on, steady-off, or significant change in the flashing rate of the illuminated indicator, except on combinations of vehicles using a variable load flasher.

(e) Visibility. Lamps shall be mounted so the signal light from at least one lamp on each side is visible from directly to the front or rear within a 45-deg outboard angle on its side of the vehicle. Within these angles, no part of the vehicle or load shall obstruct the lamp from the view of another driver. On combinations of vehicles, rear turn signal lamps on other than the rearmost vehicle shall be mounted so that at least one lamp at each side is not obstructed by any towed vehicle within angles of 10 to 45 deg on its side of the vehicle.

(f) Mounting Height. Required turn signal lamps shall be mounted at a height not less than 38 cm (15 in.) nor higher than 2.1 m (83 in.). A turn signal function may be combined in the high mounted stoplamps permitted on tow trucks by Vehicle Code Section 24603.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 2–8–2008; operative 3–9–2008 (Register 2008, No. 6).

§ 700. Warning Lamps.

Required front warning lamps other than school bus warning lamps, shall be mounted so the entire projected area of the lens is visible from all eye heights of drivers of other vehicles at angles within 45 deg left to 45 deg right of the front of the vehicle. If the light within these required angles is blocked by the vehicle or any substantial object on it, an additional warning lamp shall be displayed within the obstructed angle. Warning lamps may be mounted at any height.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 8. Advance Stoplamp Switches

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 24603 and 26103, Vehicle Code.

HISTORY

1. Repealer of Article 8 (Sections 705–707) filed 6–7–85; effective thirtieth day thereafter (Register 85, No. 23). For prior history, see Register 84, No. 2.

Article 9. Auxiliary Driving, Fog, and Passing Lamps

§ 710. Scope.

This article applies to driving lamps, fog lamps, and passing lamps permitted by Vehicle Code Sections 24402 and 24403.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 711. Mechanical Test Requirements.

Auxiliary lamps shall meet the following mechanical test requirements:

- (a) Housings for Sealed or Semisealed Optical Units. Housings for sealed or semisealed optical units shall comply with the following tests described in Article 5 of this subchapter when an optical unit of the type for which the housing is designed is installed in the device:

- Aiming adjustment
- Corrosion
- Lens recession
- Vibration
- Warpage (when plastic housings are used)

- (b) Complete Assemblies. Assemblies consisting of a housing with a nonsealed unit or separable bulb, lens, or reflector shall comply with the following tests described in Article 5 of this subchapter:

- Aiming adjustment
- Corrosion
- Dust
- Lens recession
- Moisture
- Vibration
- Warpage (when plastic lenses or housings are used)

- (c) Sealed or Semisealed Optical Units. Sealed or semisealed optical units shall comply with the following tests described in Article 5 of this subchapter:

- Corrosion (when metal reflector backs or replaceable bulbs are used)
- Vibration (when filament shields or replaceable bulbs are used)
- Warpage (when plastic lenses or reflectors are used)

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 712. Photometric Test Requirements.

Photometric tests shall be made with the filament in the design position. For unsealed and semisealed driving and passing lamps, tests shall also be made in the out-of-focus positions listed in Section 654 of this title. The luminous intensity of a single lamp tested as specified in Article

4 of this subchapter shall be as follows with a reaim tolerance of 0.25 deg allowed at any test point:

- (a) Driving Lamps. Driving lamps shall meet the photometric requirements in Table I when the lamps are aimed as specified in Article 6 of this subchapter.

TABLE I. PHOTOMETRIC REQUIREMENTS FOR DRIVING LAMPS

Test point coordinates		Cd	
Vertical	Horizontal	Max	Min
3U	3L–3R	5,000	—
2U	3L–3R	8,000	—
1U	3L–3R	25,000	—
H	V	50,000	20,000
H	3L–3R	—	10,000
1D	6L–6R	—	3,700
2D	6L–6R	—	2,000

- (b) Fog Lamps. Fog lamps shall meet the photometric requirements in SAE J583d, July 1977, SAE J583, JUN93, or SAE J583, APR2001.

- (c) Passing Lamps. Passing lamps shall meet the photometric requirements in SAE J582a, January 1973.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of first paragraph and subsection (b) filed 6–12–95; operative 7–12–95 (Register 95, No. 24).
2. Amendment of subsection (b) filed 7–16–2004; operative 8–15–2004 (Register 2004, No. 29).

§ 713. Beam Aimability Requirements.

Driving, fog, and passing lamps shall be centered on a goniometer, operated at design voltage, and aimed in a dark room on a perpendicular screen 7.5 m (25 ft) from the lamp. The goniometer shall be adjusted until the observer considers the visual aim on the screen to be correct in accordance with Sections 674, 675, or 680 of this title. Each of three experienced observers shall aim the lamp at least three times and each observer's goniometer settings shall be individually averaged. The deviation of each observer's averaged reading from that of any other observer shall not be more than 0.2 deg in the vertical direction and 0.4 deg in the horizontal direction.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 10. Cornering Lamps

§ 720. Scope.

This article applies to cornering lamps permitted by Vehicle Code Section 25107.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103, and 26104, Vehicle Code.

§ 721. Mechanical Test Requirements.

Cornering lamps shall meet the following mechanical test requirements in Article 5 of this subchapter:

- Corrosion
- Dust
- Moisture
- Vibration
- Warpage (for plastic lenses and housings)

None of the above tests are required on all-glass sealed optical units, and the dust and moisture tests are not required on housings for all-glass units.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 722. Photometric Test Requirements.

Cornering lamps shall meet the photometric requirements in SAE J852b, February 1965, when tested as specified in Article 4 of this subchapter.

NOTE: Authority cited: Section 26103 Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 11. Deceleration Signal Lamp Systems

§ 730. Scope.

This article applies to deceleration signal lamp systems permitted by Vehicle Code Section 25251.5.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 731. Operating Requirements.

Deceleration signal systems shall meet the following operating re-

quirements:

(a) Function. The system shall operate so as to indicate a component of deceleration of the vehicle on which it is installed by varying the flashing rate of a yellow lamp when the service brakes are applied.

(b) Reduced Nighttime Brightness. The system shall incorporate an automatic means for reducing the intensity of the lamp during darkness. The system shall cause the voltage to the deceleration lamps to decrease to $5.0\text{ V} \pm 10\%$ at 0 g deceleration during darkness. The specified voltage shall be reached when the illumination on the sensor is not more than 53.8 lm/m^2 (5 lm/ft^2) nor less than 5.4 lm/m^2 (0.5 lm/ft^2).

[The next page is 51.]

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 732. Deceleration Performance.

The output voltage, duty cycle, and flash rate of the control unit at a temperature of $24 \pm 5.5^\circ\text{C}$ ($75 \pm 10^\circ\text{F}$), when 12.8 V dc is applied to the input terminal, shall be as shown in Table I when the control sensor is placed on a tilt table and slightly vibrated as the table is slowly rotated through the angles representing the specified vehicle deceleration rates.

TABLE I. TEST REQUIREMENTS FOR DECELERATION LAMPS

Deceleration (g)	Output (V)	Peak relative brightness	Flash Rate (Hz)	On Time (%)
0.0	7.0	1.0	1.0	50
0.1	—	1.0	1.5	48
0.2	—	1.0	2.3	46
0.3	—	1.2	3.4	44
0.4	—	1.4	5.0	42
0.5	—	1.7	7.6	40

(a) Deceleration. The deceleration at which the unit switches from a lower to a higher flash rate shall be within ± 0.05 g of the rate specified in Table I. If the unit operates at more steps than the required minimum, the additional values for each column shall lie on the smooth curve connecting the indicated values within the specified tolerances. The values specified in Table II apply to ramp-type inertial sensors for which the downward angles correspond to the deceleration and a tolerance of 3.0 deg applies to the tilt angle.

TABLE II. TEST REQUIREMENTS FOR DECELERATION SENSOR

Deceleration (g)	Forward tilt angle	Degrees Dip correction	Corrected tilt angle
0.0	0.0	0.0	0.0
0.1	5.7	0.8	6.5
0.2	11.3	1.6	12.9
0.3	16.7	2.4	19.1
0.4	21.8	3.2	25.0
0.5	26.6	4.0	30.6

(b) Output Voltage. The rms output voltage during the on portion of the flash cycle at the 1 Hz flash rate shall be within $\pm 5\%$ of the specified value, measured at the lamp bulbs with daytime illumination on the automatic darkness sensor.

(c) Relative Brightness. With the brightness of the lamp or its bulbs taken as 1.0 when measured with the rms output voltage specified for 0 g deceleration, the relative brightness of the lamp or bulbs at the other decelerations shall be within $\pm 25\%$ of the specified values after the fifth flash.

(d) Flash Rate and Percent on Time. The flash rate shall be within $\pm 15\%$ of the specified value. The percent on time shall be within $\pm 10\%$ of the specified value.

(e) Correction for Front End Dip. Control sensors for vehicles with substantial front end dip upon braking, such as passenger vehicles and pickup trucks, shall have linear dip correction varying from 4 deg at 0.5 g or more deceleration to 0 deg at 0 g.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 733. Mechanical Test Requirements.

Deceleration lamps shall comply with the following mechanical tests in Article 5 of this subchapter:

Corrosion
Dust
Moisture
Vibration

Warpage (at a flashing rate of 1 Hz when a plastic lens or housing is used)

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 734. Temperature Test Requirements.

The control system shall meet the following requirements at both 11 V and 15 V:

(a) Low Temperature Test. The control system shall be placed in its normal operating position in a circulating air cabinet at $-32 \pm 3^\circ\text{C}$ ($-25 \pm 5^\circ\text{F}$) for 2 h. At the end of that period and while still at that temperature, the unit shall meet the requirements in Table I at 0 g and 0.3 g.

(b) High Temperature Test. The control system shall be placed in its normal operating position in a circulating air cabinet at $74 \pm 0, -2.8^\circ\text{C}$ ($165 \pm 0, -5^\circ\text{F}$) for 2 h. At the end of that period and while still at that temperature, the unit shall meet the requirements in Table I at 0 g and 0.3 g.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 735. Durability Test.

The control system shall be operated continuously at a supply voltage of 12.8 V dc for 200 h with no failure (except bulb replacement), after which it shall meet the requirements in Table I at 0 g and 0.3 g.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 736. Photometric Test Requirements.

The luminous intensity of a deceleration lamp with the bulbs operated at mean spherical candela and tested as specified in Article 4 of this subchapter shall meet the photometric requirements in Table III after the sample has been mechanically tested in the order shown in Section 733.

TABLE III. PHOTOMETRIC REQUIREMENTS FOR DECELERATION SIGNAL LAMPS

Test point coordinates	Cd	
	Max	Min
Vertical		
10U	10L V 10R	70 200 70
5U	20L 10L 5L V 5R 10R 20R	40 200 600 800 600 200 40
H	20L 10L 5L V 5R 10R 20R	40 200 800 1,300 800 200 40
5D	20L 10L 5L V 5R 10R 20R	40 200 600 800 600 200 40
10D	10L V 10R	70 200 70

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 12. Fog Taillamps

§ 740. Scope.

This article applies to fog taillamps permitted by Vehicle Code Section 24602.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 741. General Requirements.

Fog taillamps shall not be optically combined with any lighting function other than a tail lamp or reflex reflector. The projected luminous lens area in the H-V direction shall not exceed 140 cm² (21.7 in.²).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 742. Mechanical Test Requirements.

Fog taillamps shall meet the following mechanical test requirements in Article 5 of this subchapter:

Corrosion
Dust
Moisture
Vibration
Warpage (for plastic lenses or housings).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 743. Photometric Test Requirements.

The luminous intensity of a rear fog tail lamp tested as specified in Article 4 of this subchapter shall be as shown in Table I.

TABLE I. PHOTOMETRIC REQUIREMENTS FOR FOG TAILLAMPS

	Test point coordinates		Cd Min
	Vertical	Horizontal	
10U & 10D		10L	10
		V	25
		10R	10
5U & 5D		20L	10
		10L	30
		5L	50
		V	70
		5R	50
		10R	30
		20R	10
H		20L	15
		10L	40
		5L	80
		V	80
		5R	80
		10R	40
		20R	15

NOTE: The maximum candlepower shall not exceed 300 cd over any area larger than that generated by an 0.25 deg radius.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of Table I filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51).

Article 13. Headlamp Flashing Systems

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 25252.5, 26103 and 26104, Vehicle Code.

HISTORY

1. Repealer of Article 13 (Sections 720 and 751) filed 6-7-85; effective thirtieth day thereafter (Register 85, No. 23). For prior history, see Register 80, No. 22.

Article 14. Reflex Reflectors on Front of Vehicles**§ 760. Scope.**

This article applies to reflex reflectors permitted on the front of vehicles by Vehicle Code Section 24609 and not governed by FMVSS 108.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 761. Definitions.

(a) "Area reflectorizing material," referred to in Vehicle Code Section 25500, is nonrigid retroreflecting sheeting or tape that may be affixed to a vehicle by means of an adhesive backing.

(b) A "reflector" or "reflex reflector" is a rigid device that returns light from various angles of incidence in a direction close to that at which it

is incident and which may be affixed to a vehicle by adhesive or mechanical means.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 762. Test Requirements.

Front reflex reflectors shall meet the reflex reflector requirements of FMVSS 108, except that white reflectors shall meet the photometric requirements in SAE J594e, March 1970.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51).

Article 15. Replacement Lenses**§ 765. Scope.**

This article applies to replacement lenses for lighting equipment subject to requirements established by the department, including replacement lenses manufactured solely for installation by private individuals on lighting equipment regulated by FMVSS 108.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 766. Definition.

A "replacement lens" is a lens manufactured by a firm other than the manufacturer of the original lens for a lighting device.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 767. Mechanical Test Requirements.

Replacement lenses, when installed in the appropriate housings, shall meet the following mechanical test requirements in Article 5 of this subchapter:

Dust
Moisture
Vibration
Warpage (for plastic lenses of devices not governed by FMVSS 108)

If lenses are supplied with gaskets, seals, or miscellaneous parts, lamps shall be assembled and tested with those parts. If lenses are not supplied with additional parts, the tests shall be conducted with the type used with the original housing model.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 768. Photometric Test Requirements.

Replacement lenses shall be tested in a sample lamp housing of the latest model for which they were designed and shall meet the photometric requirements for each function performed that were in effect at the time the latest lamp was last manufactured.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 769. Installation Instructions.

Instructions listing the original lamps or year and model of the vehicles on which replacement lenses are designed to be installed shall be included with the lens, printed on the box containing the lens, or listed in a readily available catalog at the place the lens is sold or offered for sale.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24006, 24012 and 26103, Vehicle Code.

Article 16. Reserve Lighting and Outage Indicating Systems**§ 770. Scope.**

This article applies to reserve lighting and outage indicating systems on vehicles for regulating the light sources of lamps. Lamp monitoring systems which do not compensate for failure of the required lighting equipment are not within the scope of this regulation.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 771. Definition.

A "reserve lighting and outage indicating system" is a system that indicates partial or total failure of the lighting equipment on a vehicle and automatically compensates for such failure by energizing inactive lamp filaments to substitute for the required function until repairs can be made.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 772. General Requirements.

(a) Operating Unit. The operating unit may consist of individual circuits to operate only the headlamps or only the taillamps. If the operating unit combines both circuits, it shall have independent headlamp and rear lamp circuits so that failure in one circuit will not affect the other circuit.

(b) Outage Indicators. Outage shall be indicated by two separate lamps, one each for the headlamp and the rear lighting circuits. Required visual indicators may be supplemented by audible indicators. Each required indicator shall consist of a lamp with an illuminated area not less than that of a circle with a 4.8-mm (0.19-in.) diameter, and each indicator shall give a clear and unmistakable signal to the driver as follows:

(1) Headlamp Circuits. One white lamp shall indicate outage in the upper or the lower beam headlamp circuit, whichever is in use.

(2) Rear Lamp Circuits. One red lamp shall indicate outage in the tail-lamp circuit or failure of the stoplamp fuse or switch. For multicompart-ment or multiple rear lamps, only the outboard sections or lamps need an outage indicator.

(c) Wiring Connectors. The device shall have wiring connectors to make all necessary electrical connections between the device and the vehicle lighting system by plug-in means at existing plug-in terminal junctions. For vehicles not equipped with plug-in terminal junctions, a plug-in terminal shall be installed to make all necessary connections to the vehicle lighting system.

(d) Fail-Safe Operation. Failure of the device shall not result in failure of the normal lighting system.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 773. Operating Requirements.

(a) Normal Operation. When headlamps are operating normally, the headlamp outage indicator shall operate at not less than 10% nor more than 20% of the normal voltage used to indicate an outage. When taillamps are operating normally, the rear lamp outage indicator shall operate only when the foot brake is applied.

(b) Circuit Failure. When lamps are turned on, the outage system shall respond to circuit failure by continuing the normal display of any un-failed lamp, energizing the appropriate inactive lamp filaments, and indicating the failure to the driver. A "headlamp circuit failure" exists when one-half or more of the upper or lower beam filaments have failed. A "taillamp circuit failure" exists when one-half or more of the taillamp filaments have failed. A "stoplamp circuit failure" exists when the stop-lamp switch or fuse fails.

(c) Headlamp Outage. Failure in the lower beam headlamp as defined in preceding subsection (b) shall cause the outage system to activate the upper beam circuit at a decreased voltage. Failure in the upper beam headlamp shall cause the outage system to activate the lower beam circuit at a decreased voltage. Such failure in lower or upper headlamp beam shall be indicated by the continuous steady-on or flashing of the head-lamp circuit outage indicator.

(d) Taillamp Outage. Failure of the taillamp circuit shall cause the out-age system to activate the stoplamp circuit at a decreased voltage. Such failure shall be indicated by the continuous steady-on or flashing of the rear lighting outage indicator at not more than one-third of its normal brilliancy.

(e) Stoplamp Outage. Normal activation of the stoplamp circuit shall operate the rear lighting indicator at normal brilliancy during application of the service brake. Failure of the stoplamp filament, switch, or fuse shall cause loss of this indication.

(f) Alternate Circuit. Reserve lamps in the alternate circuit shall be capable of automatically performing the design function as well as compensating for the outage.

(g) Operating Unit Voltage Drop. Voltage drops across headlamp and rear lamp sections of the operating unit shall not exceed the following

values for each normally operating function when the lamps are operated at design voltage:

0.40 V for two lamps

0.45 V for three lamps

0.50 V for four lamps

0.60 V for six lamps or more

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 774. Voltage Requirements for Alternate Circuits.

When the alternate circuit lamps are connected and the design voltage is applied to the input terminals of the device, voltages at output terminals shall be as follows:

(a) Headlamps—Lower Beam Outage Compensated by Upper Beam. Voltage to the upper beam filaments as reserve lower beam headlamps when one-half or more of the lower beam filaments fail shall be not more than 50% nor less than 40% of the design voltage of the upper beam filament.

(b) Headlamps—Upper Beam Outage Compensated by Lower Beam. Voltage to the lower beam filaments as reserve upper beam headlamps when one-half or more of the upper beam filaments fail shall be not less than 75% of the design voltage of the lower beam filament.

(c) Taillamps—Outage Compensated by Stoplamps. Voltage to the stoplamp filaments as reserve taillamps shall be not more than 50% nor less than 40% of the design voltage of the stoplamp filament.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 775. Vibration Test Requirements.

Sensing and control units shall meet the following vibration test requirements under 5 g constant acceleration:

(a) The device shall be mounted in design position and vibrated for 30 min in each of three directions: vertical, horizontal and normal to the vehicle, and horizontal and parallel to the vehicle axis.

(b) The vibration frequency shall be varied from 30 to 200 to 30 Hz over a period of approximately 1 min.

(c) The device shall be operated with all lamps at design voltage during the vibration test.

(d) At the conclusion of the test, the system shall meet all the requirements of Sections 773 and 774.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 776. Temperature Test Requirements.

Sensing and control units shall be mounted in their normal operating positions in a circulating air cabinet for 1 h at an ambient temperature of 74 ± 0 , -2.8°C (165 ± 0 , -5°F). After the temperature conditioning, the system shall meet all the requirements of Sections 773 and 774 over a temperature range of -34 to $+38^\circ\text{C}$ (-30 to $+100^\circ\text{F}$).

NOTE: Authority cited: Section 26103 Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 777. Installation Requirements.

Reserve lighting and outage indicating systems shall meet the following installation requirements:

(a) Outage Indicator Location. Outage indicator lamps shall be mounted where they are clearly visible to the driver.

(b) Connection to Vehicle Lighting System. After market installation and connection of the device to the vehicle lighting system shall be as follows:

(1) Headlamp Section. The headlamp section shall be connected into the headlamp upper and lower beam circuits at the beam changing switch.

(2) Rear Lighting Section. The taillamp element of the rear lighting section shall be series-connected in the taillamp circuit between the switch and the lamps, and the stoplamp element shall be series-connected in the stoplamp circuit immediately following the stoplamp switch.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 17. Running Lamps

§ 780. Scope.

This article applies to running lamps permitted by Vehicle Code Section 25100.

Running lamps may meet either the requirements of this article or Federal Motor Vehicle Safety Standard 108 effective February 10, 1993.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24102, 26103 and 26104, Vehicle Code.

HISTORY

1. Change without regulatory effect amending section filed 9-9-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 37).

§ 781. Minimum Size.

Running lamps shall have an effective projected luminous area of at least 78 cm² (12 in.²).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 782. Mechanical Test Requirements.

Running lamps shall meet the following mechanical test requirements:

(a) Housings for Sealed and Semisealed Optical Units. Housings for sealed or semisealed optical units shall comply with the following tests described in Article 5 of this subchapter:

Corrosion

Vibration

Warpage (when plastic housings are used)

(b) Complete Assemblies. Assemblies consisting of a housing with a nonsealed unit or separable bulb, lens, or reflector shall comply with the following tests described in Article 5 of this subchapter:

Corrosion

Dust

Moisture

Vibration

Warpage (when plastic lenses or housings are used)

(c) Sealed or Semisealed Optical Units. Sealed or semisealed optical units shall comply with the following tests described in Article 5 of this subchapter:

Corrosion (when metal reflector backs or replaceable bulbs are used)

Vibration (when filament shields or replaceable bulbs are used)

Warpage (when plastic lenses or reflectors are used)

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 783. Photometric Test Requirements.

The luminous intensity of a running lamp tested as specified in Article 4 of this subchapter, and with a reaim tolerance of 0.25 deg allowed at any test point, shall be as shown in Table I.

TABLE I. PHOTOMETRIC REQUIREMENTS FOR RUNNING LAMPS

	Test point coordinates	
	Vertical	Horizontal
4U		10L
		V
		10R
2U		10L
		5L
		V
		5R
		10R
H		10L
		5L
		V
		5R
		10R
2D		10L
		5L
		V
		5R
		10R
4D		10L
		V
		10R

NOTE: Maximum anywhere in the beam shall not exceed 5,000 cd.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 18. School Bus Sidelamps

§ 785. Scope.

This article applies to lamps permitted on the sides of school buses by Vehicle Code Section 25102.5.

NOTE: Authority cited: Sections 25102.5 and 26103, Vehicle Code. Reference: Sections 24012, 25102.5, 26103 and 26104, Vehicle Code.

§ 786. General Requirements.

School bus sidelamps shall be any of the following types of devices meeting their respective requirements in FMVSS 108 or this title. Housings shall meet the requirements for headlamp, driving lamp, or passing lamp housings, and optical units shall be of the following types:

(a) Single- or double-filament sealed beam headlamp unit with the words "Sealed Beam" molded on the face of the lens. Double-filament units shall have both beams burning.

(b) Sealed driving lamp unit

(c) Sealed passing lamp unit

NOTE: Authority cited: Sections 25102.5, and 26103, Vehicle Code. Reference: Sections 24012, 25102.5 and 26103, Vehicle Code.

Article 19. Side-Mounted and Supplemental Signal Lamps

§ 790. Scope.

This article applies to supplemental turn signal lamps, supplemental stop lamps, and side-mounted turn signal lamps governed by Vehicle Code Sections 24603 and 24953.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

HISTORY

1. Amendment filed 4-5-83; effective thirtieth day thereafter (Register 83, No. 15).

§ 791. Definitions.

(a) Side-Mounted Turn Signal Lamp. A "side-mounted turn signal lamp" is a lighting device designed to be used in addition to the required turn signals to give a flashing signal on the side toward which the driver intends to turn or move.

(b) Supplemental Stoplamp. A "supplemental stoplamp" is a lamp that operates simultaneously with and in addition to the required stoplamp.

(c) Supplemental Rear Turn Signal Lamp. A “supplemental rear turn signal lamp” is a lamp that operates simultaneously with, on the same side as, and in addition to a required rear turn signal lamp.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

HISTORY

1. Amendment filed 4–5–83; effective thirtieth day thereafter (Register 83, No. 15).
2. Amendment filed 1–8–2001; operative 2–7–2001 (Register 2001, No. 2).

§ 792. General Requirements.

(a) Combination Lamp Requirements. Side mounted and supplemental turn signal lamps may be combined with sidemarker lamps if the requirements for each lamp are met.

(b) Use of Alternative Lamp Requirements. Notwithstanding Section 794 of this title, lamps meeting the requirements for stop or turn signal lamps may be used as supplemental stop lamps or supplemental turn signal lamps.

(c) Simultaneous Flash Requirements. If side-mounted turn signal lamps flash when the hazard warning switch is activated, all such lamps shall flash simultaneously with the rear turn signal lamps. On vehicles equipped with sequential turn signal lamps, side-mounted turn signal lamps shall flash simultaneously with the front turn signal lamps.

(d) Grandfathered Lighting Requirements. Side-mounted turn signal lamps installed before January 1, 1967, may be yellow turn signal lamps or yellow combination clearance and sidemarker lamps.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 24603, 24953 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 4–5–83; effective thirtieth day thereafter (Register 83, No. 15.)
2. Repealer and new subsection (a), repealer of subsection (c) and subsection relettering filed 6–23–92; operative 7–23–92 (Register 92, No. 26).
3. Amendment filed 1–8–2001; operative 2–7–2001 (Register 2001, No. 2).

§ 793. Mechanical Test Requirements.

Side-mounted turn signal lamps and supplemental stop or turn signal lamps shall meet the following mechanical test requirements in Article 5 of this chapter:

- (a) Corrosion
- (b) Dust
- (c) Moisture
- (d) Vibration
- (e) Warpage (for plastic lenses and housings).

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

HISTORY

1. Amendment filed 1–8–2001; operative 2–7–2001 (Register 2001, No. 2).

§ 794. Photometric Test Requirements.

Side-mounted turn signal lamps and supplemental stop or turn signal lamps shall meet the following photometric requirements when tested as specified in Article 4 of this chapter:

(a) Standards for Side-Mounted Turn Signal Lamps. Side-mounted turn signal lamps shall meet one or more of the following standards, as appropriate for the vehicle on which they are to be installed:

- (1) SAE J914b, July 1978, Table 1 for vehicles 80 inches (2.03 m) or more in width, regardless of length; or
- (2) SAE J914b, July 1978, Table 2 for vehicles narrower than 80 inches (2.03 m) in width, regardless of length; or
- (3) SAE J914 NOV87, Table 1; or
- (4) SAE J914 JAN95, Table 1; or
- (5) SAE J914 JUL2003, Table 1; or
- (6) SAE J2039 JUN94, Table 1; or
- (7) SAE J2039 MAY2001, Table 1.

(b) Standards for Supplemental Stop or Turn Signal Lamps: Supplemental stop or turn signal lamps shall meet the following standard: SAE J186a, September 1977, Table 1.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Amendment filed 4–5–83; effective thirtieth day thereafter (Register 83, No. 15).
2. Repealer and new subsection (a) and amendment of NOTE filed 10–23–95; operative 11–22–95 (Register 95, No. 43).
3. Amendment filed 1–8–2001; operative 2–7–2001 (Register 2001, No. 2).
4. New subsection (a)(5), subsection renumbering, amendment of newly designated subsection (a)(6) and new subsection (a)(7) filed 8–7–2007; operative 9–6–2007 (Register 2007, No. 32).

Article 20. Traffic Signal Priority Devices

NOTE: Authority and reference cited: Section 25352, Vehicle Code.

HISTORY

1. Repealer of Article 20 (Sections 795–797) filed 12–17–81; effective thirtieth day thereafter (Register 81, No. 51).

Article 21. Warning Lamp Flashers

§ 800. Scope.

This article applies to flashers for warning lamps on emergency vehicles and special hazard vehicles.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

§ 801. Performance and Durability Requirements.

Warning lamp flashers shall be designed to conform to SAE J1054, January 1977, except that the sum of the percent current on times of Section 5.3 shall not apply to nonalternating flashers. The tests shall be made at the ampere load specified by the flasher manufacturer for the advertised quantity and type of bulbs and other loads for the device.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 802. Thermally Operated Flashers.

Thermally operated flashers shall be tested for compliance with the performance and durability requirements using the procedures in SAE J1104, January 1977, on a sample of the size specified in J1104 obtained at random.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 803. Nonthermally Operated Flashers.

Nonthermally operated flashers shall be tested for compliance with the performance and durability requirements using two random flashers for the performance test requirements and two other random flashers for the durability test. Should two failures for performance or two failures for durability tests occur, the flashers shall be considered as not meeting the requirements. Should one failure occur for performance test or one failure occur for durability test, an additional 2 flashers for the performance or for the durability test shall be selected at random and subjected to the corresponding tests. If no further failures of the additional flashers occur, the flasher shall be considered to be in compliance with the requirements.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 804. Variable Load Flashers.

Variable load flashers shall comply with starting time, flash rate, and percent of current on time requirements both with the minimum and maximum design loads connected and shall comply with voltage drop and durability requirements with only the maximum design load connected.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

Article 22. Warning Lamps

§ 810. Scope.

This article applies to warning lamps for emergency vehicles and special hazard vehicles governed by Vehicle Code Sections 25252 through 25282.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103 and 26104, Vehicle Code.

HISTORY

1. Amendment filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

§ 811. Definitions.

(a) **Warning Lamp** — A “warning lamp” is a lamp designed for use on authorized emergency vehicles and prescribed types of special hazard vehicles to indicate the existence of a traffic hazard or to signal other drivers to stop or yield the right of way.

(b) **Warning Lamp Assembly** — A “warning lamp assembly” is a device that consists of a housing with one or more light sources and any lenses, reflectors and any other components or devices necessary to provide the required level of performance.

(c) **Warning Lamp Housing** — A “warning lamp housing” is a device that holds a warning lamp unit or the light source(s), lens(es), reflector(s) and other components of a warning lamp assembly.

(d) **Warning Lamp Unit** — A “warning lamp unit” is a sealed or semi-sealed optical unit designed to meet the dimensional specifications of SAE J571d, June 1976, SAE J572a, January 1972, or SAE J760a, December 1974, and which meets the color and photometric requirements.

(e) **Flashing Lamp** — A “flashing lamp” is a lamp in which the emitted light in a particular direction alternates between on and off either electrically by controlling the current or mechanically by a revolving, oscillating, or other mechanism, or by other means such that the light output in a given direction is discernibly and regularly interrupted or intermittent at the required periodic rate.

(f) **Steady-burning Lamp** — A “steady burning lamp” is a lamp in which the emitted light in any direction is uninterrupted.

(g) **Light Source** — A “light source” is an individual incandescent bulb, light emitting diode, are discharge bulb or other device that produces visible light whenever appropriate electrical energy is supplied to it.

(h) **Light Pulse** — A single, visually continuous emission of optical energy. High frequency modulation is permitted (reprinted with permission from SAE J595 [January 2005] © 2005 SAE International).

(i) **Flash** — A flash is a light pulse, or a train of light pulses, where a dark interval of at least 160ms separates the light pulse or the last pulse of the train of light pulses from the next pulse or the first pulse of the next train of light pulses. To be considered a train of light pulses, each pulse in the train must begin within 100ms after the end of the preceding light pulse. Dark interval luminous intensity shall not exceed two percent of the maximum luminous intensity of a flash (reprinted with permission from SAE J595 [January 2005] © 2005 SAE International).

(j) **On-time** — Summation of the light pulse(s) within a flash.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Section 26103, Vehicle Code.

HISTORY

1. Amendment filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

2. New subsections (h)–(j) filed 10-17-2007; operative 11-16-2007 (Register 2007, No. 42).

§ 812. Classification of Warning Lamps.

Five classes of warning lamps are established as follows:

Class A: High intensity, concentrated-beam lamp

Class B: Moderate intensity, wide-beam lamp

Class C: High intensity, wide-beam lamp

Class D: Motorcycle front warning lamp

Class E: Revolving, oscillating, or gaseous discharge lamp

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

§ 813. General Requirements.

(a) **Flash Rate.** Flashing warning lamps, other than gaseous discharge lamps, shall operate at a rate of 60 to 120 flashes per minute, with a 40 to 60 percent on-time under all operating conditions. The time between the end of one flash and the beginning of the following flash for a gaseous discharge lamp shall not exceed 0.85 seconds, which corresponds to a minimum of 70 flashes per minute. Flashes having a light output less than

the required minimum shall not be counted in reporting flash rate. Light pulses having a light output less than the required minimum shall not be included in the on-time.

(b) **Voltage.** Warning lamps manufactured for more than one voltage shall comply with all requirements of this title when tested at each voltage. Warning lamps designed to operate on a rated voltage of 12 volts shall be tested at 12.8 volts. Warning lamps designed to operate on a rated voltage of 24 volts shall be tested at 25.6 volts. Warning lamps designed to operate on a rated voltage of other than 12 or 24 volts shall be tested at a voltage equivalent to the voltage provided by the vehicle storage battery charged to 100% capacity with no current drain.

(c) **Exterior Lens Surface.** The outside surface of the illuminated section of the lens shall be smooth with no ribs, ridges, or indentations other than marks of identification, screw holes, and aiming pads.

(d) **Double-Faced Lamps.** Steady burning double-faced lamps shall have opaque dividers to minimize exterior light shining through the lamp.

(e) **Multiple Light Source Lamps.** Lamps with two or more individual light sources shall have all light sources operating together when the lamp is steady burning or flashing.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

2. Amendment of subsection (a) filed 10-17-2007; operative 11-16-2007 (Register 2007, No. 42).

§ 814. Mechanical Test Requirements.

Warning lamps shall comply with the following mechanical tests described in Article 5 of this subchapter:

Corrosion

Dust

Lens recession

Vibration

Warpage (when plastic lenses or housings are used)

None of the above tests are required on all-glass sealed warning lamp units, and the dust and moisture tests are not required on housings for all-glass units.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 815. Temperature and Durability Test Requirements.

Flashing warning lamps shall meet the following additional requirements, with all tests conducted on the same sample in the order shown:

(a) **High Temperature Test.** The sample shall be mounted in normal operating position in a circulating air cabinet for 6 hours at 49 ± 3 degrees C (120 ± 5 degrees F). The device shall be off during the first hour and shall operate continuously for the next 5 hours with the required voltage applied at the device terminals.

(b) **Low Temperature Test.** The sample shall be mounted in normal operating position in a circulating air cabinet for 6 hours at -32 ± 3 degrees C (-25 ± 5 degrees F). The device shall be turned on at the end of the sixth hour and operated for 3 minutes with the required test voltage applied at the device terminals before measuring the flash rate.

(c) **Durability Test.** The sample shall be operated continuously for 200 hours at room temperature in cycles consisting of 50 minutes on and 10 minutes off at the required test voltage.

(d) **Required Performance.** The device shall operate satisfactorily during the tests specified in preceding subdivisions (a), (b), and (c) with no evidence of malfunction. The flash rate shall remain within the required rate for the type of lamp except that the flash rate for lamps used in the low temperature test shall not be less than 50 flashes per minute. The voltage at the terminals of the warning lamp assembly shall be not more than 0.50 volt below the input terminal voltage of 12.8 volts for 12 volt units and not more than 1.0 volt below the required input terminal voltage for lamps intended to operate at 24 volts or more with the device operating. Measurements for the low temperature test shall be made 3 minutes after the beginning of the last hour of operation and at the end of the test. Measurements for the high temperature test shall be made at the end of the

test. Measurements for the durability test shall be made at 100 hours and at the end of the test.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of subsections (b) and (d) filed 12-17-81; effective thirtieth day thereafter (Register 81, No. 51).
2. Amendment filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

§ 816. Color Requirements.

Warning lamps shall meet the following limits in SAE J578d, September 1978. The color shall be that of the emitted light, not that of the material used for the lens or filter.

(a) Class A and D Warning Lamps: Red

(b) Class B, C, and E Warning Lamps: Red, yellow, or blue.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

§ 817. Photometric Test Requirements.

The luminous intensity of warning lamps tested as specified in Article 4 of this subchapter, with a reaim tolerance of ± 0.5 degree vertical and ± 1.0 degree horizontal allowed at each test point, shall be as follows:

(a) Steady-burning Warning Lamps. Steady-burning warning lamps, and flashing warning lamps which alternate between on and off by electrically controlling the current supplied to the lamp, shall meet the requirements in Table I. The photometric output of flashing lamps shall be reported only while the lamp is on. Warning lamp units shall be aimed for this test so the maximum intensity is on the H-V axis. Warning lamp assemblies shall be mounted for this test in accordance with Section 657.

TABLE I. MINIMUM CANDELA FOR STEADY-BURNING WARNING LAMPS AND FLASHING WARNING LAMPS WHICH ALTERNATE BETWEEN ON AND OFF BY ELECTRICALLY CONTROLLING THE CURRENT

Test point coordinates	Vertical	Horizontal	Class A Lamps		Class B Lamps		Class C Lamps		Class D Lamps	
			Red	Red	Yellow	Blue	Red	Yellow	Blue	Red
10U	5L		15	20	50	10	10	25	5	5
	V		15	50	125	25	25	65	13	12
	5R		15	20	50	10	10	25	5	5
5U	20L		10	20	50	10	150	375	75	5
	10L		25	50	125	25	300	750	150	12
	5L		50	100	250	50	300	750	150	25
	V		80	150	375	75	300	750	150	40
	5R		50	100	250	50	300	750	150	25
	10R		25	50	125	25	300	750	150	12
	20R		10	20	50	10	150	375	75	5
H	30L		—	—	—	—	30	75	15	—
	20L		30	30	75	15	180	450	90	10
	10L		300	75	190	38	400	1,000	200	15
	5L		500	200	500	100	500	1,250	250	500
	2 1/2L		2,000	—	—	—	—	—	—	1,500
	V		3,000	300	750	150	600	1,500	300	3,000
	2 1/2R		2,000	—	—	—	—	—	—	1,500
	5R		500	200	500	100	500	1,250	250	500
	10R		300	75	190	38	400	1,000	200	15
	20R		30	30	75	15	180	450	90	10
	30R		—	—	—	—	30	75	15	—
5D	30L		—	—	—	—	30	75	15	—
	20L		10	20	50	10	200	500	100	5
	10L		25	50	125	25	300	750	150	12
	5L		50	100	250	50	450	1,100	275	25
	V		80	150	375	75	450	1,100	275	40
	5R		50	100	250	50	450	1,100	275	25
	10R		25	50	125	25	300	750	150	12
	20R		10	20	50	10	200	500	100	5
	30R		—	—	—	—	30	75	15	—
10D	5L		15	20	50	10	40	100	20	5
	V		15	50	125	25	40	100	20	12
	5R		15	20	50	10	40	100	20	5

NOTE: Maximum anywhere in yellow shall not exceed 4,000 cd over any area larger than that generated by a radius rotated 0.25 deg.

(b) Revolving Warning Lamps. Revolving warning lamps shall meet the requirements in either Table II or Table IV with the required test voltage applied to the input terminals of the complete assembly. A revolving lamp that is designed to project a signal throughout a 360 degree horizontal angle shall be tested with the lamp assembly turned about its vertical axis to the location where the maximum candela reading from the optical unit is reduced the most by any variations in density or shape of the transparent cover or by obstructions in the lamp assembly. A revolving warning lamp that does not project light through a 360 degree horizontal angle shall comply photometrically about those axes straight to the front, sides, and rear of a vehicle to which the lamp is designed to provide a warning signal. As the lamp rotates, the full projected area of the reflector of each

light unit shall be visible along the beam axis as the center of the beam moves from 20 degrees left to 20 degrees right of the device axis.

TABLE II. MINIMUM CANDELA FOR REVOLVING WARNING LAMPS

Test point coordinates		Red	Yellow	Blue
Vertical	Horizontal			
7.5U	V	50	130	25
5U	V	500	1,250	250
2.5U	V	3,000	7,500	1,500
H	V	5,000	12,500	2,500
2.5D	V	3,000	7,500	1,500
5D	V	500	1,250	250
7.5D	V	50	130	25

(c) Oscillating Warning Lamps. Oscillating warning lamps shall meet the requirements in Table III with the required test voltage applied to the input terminals of the complete assembly.

TABLE III. MINIMUM CANDELA FOR OSCILLATING WARNING LAMPS

Test point coordinates		Red	Yellow	Blue
Vertical	Horizontal			
7.5U	V	50	130	25
5U	V	500	1,250	250
2.5U	V	3,000	7,500	1,500
H	20L	500	1,250	250
	10L	1,200	3,000	600
	5L	3,300	8,250	1,650
	V	5,000	12,500	2,500
	5R	3,300	8,250	1,650
	10R	1,200	3,000	600
	20R	500	1,250	250
2.5D	V	3,000	7,500	1,500
5D	V	500	1,250	250
7.5D	V	50	130	25

(d) Gaseous Discharge Warning Lamps. Gaseous discharge warning lamps shall meet the requirements in Table IV with the required test voltage applied to the input terminals of the complete assembly. Lamps producing 360 degree light output shall be rotated in the photometric test to the point where the lowest H-V reading is recorded, at which location the lamp shall meet the flash energy requirements. The candela-seconds shall be reported as the average for ten consecutive flashes.

(e) Alternative Technologies. Nothing in this standard shall be construed to prohibit the use of any appropriate technology for light sources provided the appropriate photometric and other requirements for the type of lamp are met. Steady-burning warning lamps, and flashing lamps which alternate between on and off by interrupting the electrical current to the lamp, shall meet the photometric requirements of Class A, B, C or D as shown in Table I. Warning lamps which approximate or simulate the appearance of revolving warning lamps shall meet the photometric requirements of Table II. Warning lamps which approximate or simulate the appearance of oscillating warning lamps shall meet the photometric requirements of Table III.

(f) Removal from Service. Any warning lamp assembly which noticeably fails to function properly shall be removed from service. Warning lamp assemblies which utilize multiple light sources shall be removed from service if any individual light source fails to function properly.

TABLE IV. MINIMUM CANDELA-SECONDS FOR GASEOUS DISCHARGE WARNING LAMPS

Test point coordinates		Red	Yellow	Blue
Vertical	Horizontal			
7.5U	V	5	12	3
5U	V	10	25	5
2.5U	V	30	75	15
H	20L	5	12	3
	10L	12	30	6
	5L	33	82	17
	V	50	125	25
	5R	33	82	17
	10R	12	30	6
	20R	5	12	3
2.5D	V	30	75	15
5D	V	10	25	5
7.5D	V	5	12	3

NOTE: The L and R test points do not apply to 360-deg lamps.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

§ 818. Type of Warning Lamps Used on Emergency Vehicles and Special Hazard Vehicles.

Warning lamps on emergency vehicles and special hazard vehicles shall be of the following types:

(a) Required Red Warning Lamps on Authorized Emergency Vehicles. The steady burning red warning lamp required to be visible to the front of an authorized emergency vehicle by Vehicle Code Section 25252 shall be a Class A, B or C warning lamp. Motorcycles may instead be equipped with two Class D warning lamps in the front, one of which may flash.

(b) Permitted Additional Red Warning Lamps on Authorized Emergency Vehicles. The additional steady burning or flashing red warning lamp permitted by Vehicle Code Section 25252 shall be a Class A, B, C, or E warning lamp.

(c) Permitted Yellow Warning Lamps on Authorized Emergency Vehicles. The additional flashing yellow warning lamp permitted on authorized emergency vehicles by Vehicle Code Section 25259 shall be a Class B, C, or E warning lamp. Two yellow motorcycle turn signal lamps may be used as warning lamps on the rear of motorcycles.

(d) Permitted Blue Warning Lamps on Police Vehicles. The additional flashing or steady burning blue warning lamp permitted by Vehicle Code Section 25258(b) shall be Class B, C, or E.

(e) Required Yellow Warning Lamps on Tow Cars. The flashing yellow warning lamp required on tow cars by Vehicle Code Section 25253 shall be a Class B, C, or E warning lamp. The flashing yellow warning lamp permitted to be displayed to the rear of a tow car while towing a vehicle and moving at a speed slower than the normal flow of traffic may be a 360-degree revolving or gaseous discharge lamp. In such case, the front and side areas of the lens or transparent cover that extends back to 45 degrees to each side of the straight-to-the-rear axis of the lamp shall be covered with opaque material reaching to the top of the lighted area. A revolving lamp may instead be equipped with a device that turns each light source off during the forward three-fourths of its rotation.

(f) Permitted Yellow Warning Lamps on Special Hazard Vehicles. The flashing yellow warning lamps permitted on special hazard vehicles by Article 7 of Division 12 of the Vehicle Code beginning with Section 25252, shall be a Class B, C, or E warning lamp, depending on whether the lamp is permitted to be displayed only to the front and rear or to the front, sides, and rear.

(g) Warning Lamps for Undercover Cars. The required steady-burning forward-facing warning lamps on authorized emergency vehicles with special plates permitted by Vehicle Code Section 5001 shall be a class A, B, or C. This warning lamp may also be a fixed or handheld red spotlight with a filament of at least 30 watts, and producing at least 3,000 candela in red at the brightest point in the beam. Such a lamp need not meet any of the other requirements of this article except for color. Additional steady-burning or flashing warning lamps shall be class A, B, C, or E. These warning lamps may be displayed through transparent or translucent material provided the light, of proper color, is plainly visible and understandable in bright sunlight and during darkness, under normal atmospheric conditions, to a distance of 800 feet from the vehicle. These lights shall not transfigure, disrupt or mask any other required lighting device.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

HISTORY

1. Amendment of subsections (e) and (g) filed 11-25-2002; operative 12-25-2002 (Register 2002, No. 48).

Article 23. School Bus Strobe Lamps

§ 819. Scope.

This article applies to white strobe lamps permitted on school buses by Vehicle Code section 25257.7.

NOTE: Authority cited: Sections 25257.7 and 26103, Vehicle Code. Reference: Sections 24012, 25257.7 and 26103, Vehicle Code.

HISTORY

1. New section filed 3–8–91; operative 4–7–91 (Register 91, No. 15).
2. Editorial correction of NOTE (Register 91, No. 31).

§ 820. School Bus Strobe Lamp.

School bus strobe lamps shall meet the requirements in SAE J1318, April 1986 for a 360 degree white gaseous discharge warning lamp with minimum photometric values equal to the requirements of a SAE class 2 lamp.

NOTE: Authority cited: Sections 25257.7, and 26103, Vehicle Code. Reference: Sections 24012, 25257.7 and 26103, Vehicle Code.

HISTORY

1. New section filed 3–8–91; operative 4–7–91 (Register 91, No. 15).

Chapter 3. Laboratories

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 2402.5, Vehicle Code.

HISTORY

1. Repealer of Subchapter 3 (Sections 850–859) filed 5–29–80; designated effective 7–1–80 (Register 80, No. 22). For prior history, see Registers 69, No. 29; 69, No. 30; 71, No. 20; 72, N. 15; and 78, No. 16.

Chapter 4. Special Equipment**Article 1. Bunk Stake Assemblies****§ 900. Scope.**

NOTE: Authority and reference cited: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Repealer of Article 1 (Sections 950–954) and new Article 1 (Sections 900–905) filed 5–24–72; designated effective 7–1–72 (Register 72, No. 22).
2. Repealer of Article 1 (Sections 900–905) and new Article 1 (Sections 900–906) filed 6–18–80; designated effective 8–1–80 (Register 80, No. 25). For prior history, see Register 72, No. 30.
3. Editorial correction of NOTE (Register 81, No. 44).
4. Renumbering of Article 1 to Article 4.5 (Sections 1339.1–1339.6) and repealer of Section 900 filed 2–8–85; effective thirtieth day thereafter (Register 85, No. 6).

§ 901. Definition.

NOTE: Authority and reference cited: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering of Section 901 to Section 1339.1 filed 2–8–85; effective thirtieth day thereafter (Register 85, No. 6).

§ 902. Identification Markings.

NOTE: Authority and reference cited: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering of Section 902 to Section 1339.2 filed 2–8–85; effective thirtieth day thereafter (Register 85, No. 6).

§ 903. General Requirements.

NOTE: Authority and reference cited: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering of Section 903 to Section 1339.3 filed 2–8–85; effective thirtieth day thereafter (Register 85, No. 6).

§ 904. Test Requirements for Bunk Stakes for Large Logs.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

[The next page is 59.]

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering of Section 904 to Section 1339.4 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).

§ 905. Test Requirements for Bunk Stakes for Small Logs.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering of Section 905 to Section 1339.5 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).

§ 906. Bunk Stake Width.

NOTE: Authority and reference cited: Section 26103, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).
2. Renumbering and amendment of Section 906 to Section 1339.6 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).

Article 2. Compressed and Liquefied Gas Fuel Systems

§ 930. Scope.

This article applies to liquefied petroleum gas and compressed or liquefied natural gas systems approved by the Air Resources Board for propulsion of motor vehicles with a gross vehicle weight rating of 6,000 pounds or less manufactured after January 1, 1966, and all vehicles regardless of gross vehicle weight rating manufactured after January 1, 1969. This article does not apply to any motor vehicle with a diesel engine that has been converted to the use of gaseous fuel before January 1, 1973.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. New article 2 (§§ 930 through 936) filed 6-13-72; designated effective 7-15-72 (Register 72, No. 25). For history of former article 2, see Register 69, No. 45.)
2. Repealer and new article 2 (sections 930 through 936) filed 5-14-76; designated effective 7-1-76 (Register 76, No. 20).
3. Amendment filed 9-22-81; effective thirtieth day thereafter (Register 81, No. 39).
4. Amendment filed 1-25-94; operative 2-24-94 (Register 94, No. 4).
5. Change without regulatory effect amending section filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

§ 931. Definitions.

The following definitions shall apply wherever the terms are used in this article:

(a) Allowable Working Pressure. "Allowable working pressure" means the pounds per square inch for which the container was constructed, or if conditions have changed, the maximum pressure at specified temperatures permitted at the most recent inspection by a certified inspector.

(b) Alteration. "Alteration" means any change in the construction, design, or installation of a container that affects the strength or safety of the system.

(c) ASME Code. "ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Code: Section VIII, Division 1, and Section IX of the 1971 and later editions.

(d) ASTM. "ASTM" means the American Society for Testing and Materials.

(e) Certified Inspector. "Certified inspector" means any person who holds a certificate issued by the Division of Industrial Safety of the California Department of Industrial Relations certifying that he is qualified to inspect unfired pressure vessels.

(f) CFR. "CFR" means Code of Federal Regulations.

(g) CGA. "CGA" means the Compressed Gas Association.

(h) DOT. "DOT" means the U. S. Department of Transportation.

(i) Fuel Supply Container. "Fuel supply container" means a tank or cylinder installed on a vehicle to supply fuel for the propulsion system of the vehicle.

(j) ICC. "ICC" means the Interstate Commerce Commission (now functionally superseded by DOT in matters relating to safety).

(k) Supply Line. "Supply line" means the piping, tubing, or hose, including all related fittings, through which vapor or liquid passes between the first shut-off valve at the container and the final stage regulator or vaporizer.

(l) NFPA. "NFPA" means the National Fire Protection Association.

(m) UL. "UL" means the Underwriters' Laboratories, Inc.

(n) Vaporizer. "Vaporizer" means a device that converts liquefied natural gas and liquefied petroleum gas to the gaseous state by means of heat.

NOTE: Authority and reference cited: Section 2402.6, Vehicle Code.

HISTORY

1. History: Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).

§ 932. Reference Publications.

Regulatory, statutory, and informational publications may be obtained at the addresses indicated.

(a) ASME Code. The American Society of Mechanical Engineers construction codes for boilers and pressure vessels may be obtained from:

UNITED ENGINEERING CENTER
345 EAST 47TH STREET
NEW YORK, NY 10017

(b) ASTM Standards. The American Society for Testing and Materials Standards may be purchased from:

AMERICAN SOCIETY FOR TESTING AND MATERIALS
1916 RACE STREET
PHILADELPHIA, PA 19103

(c) Bureau of Explosives. Information on approval of safety devices by the Bureau of Explosives may be obtained from:

BUREAU OF EXPLOSIVES
ASSOCIATION OF AMERICAN RAILROADS
50 F STREET, N.W.
WASHINGTON, D.C. 20001

(d) California Code of Regulations. The California Code of Regulations, Titles 8 and 13 may be purchased from:

BARCLAYS OFFICIAL CODE OF REGULATIONS
P.O. BOX 2006
SAN FRANCISCO, CA 94126
WWW.BARCLAYSCCR.COM

(e) California Vehicle Code. A copy of the Vehicle Code may be purchased from any Department of Motor Vehicles office in California. Persons outside California should write to:

DEPARTMENT OF MOTOR VEHICLES
DIVISION OF ADMINISTRATION
P.O. BOX 942864
SACRAMENTO, CA 94269-0001

(f) CGA Pamphlet. The Compressed Gas Association pamphlet may be obtained from:

COMPRESSED GAS ASSOCIATION, INC.
500 FIFTH AVENUE
NEW YORK, NY 10036

(g) Code of Federal Regulations. The Code of Federal Regulations, Title 49, "Transportation," may be purchased from:

SUPERINTENDENT OF DOCUMENTS
U. S. GOVERNMENT PRINTING OFFICE
WASHINGTON, DC 20402

(h) NFPA Standards. NFPA standards may be purchased from:

NATIONAL FIRE PROTECTION ASSOCIATION
1 BATTERY MARCH PARK
QUINCY, MA 02669

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Change without regulatory effect of subsection (d) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
3. Change without regulatory effect amending subsection (d) filed 9-24-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 52).
4. Amendment of subsections (c), (d) and (e) and new subsection (h) filed 1-25-94; operative 2-24-94 (Register 94, No. 4).
5. Amendment of subsections (d) and (g)-(h) filed 8-21-2007; operative 9-20-2007 (Register 2007, No. 34).

§ 933. Liquefied Petroleum Gas.

(a) NFPA Standard. This section incorporates by reference the National Fire Protection Association Standard 58 (NFPA 58), 1998 edition.

(1) All liquefied petroleum gas (LPG) fuel systems installed on or after January 1, 2000 shall comply with NFPA 58, 1998 edition, in addition to requirements of subsection (b) of this section.

(2) Grandfather Clause. LPG fuel systems installed before January 1, 2000, shall comply with NFPA 58, 1998 edition, including the additional requirements listed in subsection (b), or with Sections 933.1 and 936 of this title.

(b) Additional Requirements. All LPG fuel systems complying with the NFPA 58, 1998 edition, shall also comply with the following:

(1) Wherever the word "should" appears in NFPA 58, 1998 edition, it shall be understood to set forth mandatory requirements.

(2) Fuel tanks shall be oriented and mounted in accordance with the tank manufacturer's recommendations and in a location designated by the vehicle manufacturer, in the location normally utilized for liquid (gasoline or diesel) fuel containers for that make and model of vehicle, or as determined by a qualified engineer. Fuel tanks shall not be mounted above any driver or passenger compartment.

(3) NFPA 58, 1998 edition, specifies that certain systems and components shall be approved by the authority having jurisdiction. The Department of California Highway Patrol has jurisdiction over these regulations but does not approve individual systems or components. Users and installers are responsible for use of proper components and for their proper installation as specified in NFPA 58, 1998 edition.

(4) The California Highway Patrol has no authority over LPG storage or dispensing facilities, nor over LPG fuel systems used in conjunction with auxiliary equipment.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 12-29-81; effective thirtieth day thereafter (Register 82, No. 1).
2. Renumbering of former section 933 to new section 933.1 and new section 933 filed 8-9-99; operative 9-8-99 (Register 99, No. 33).

§ 933.1. Grandfathered Liquefied Petroleum Gas Requirements.

Fuel systems using liquefied petroleum gas (LPG) installed before January 1, 2000, shall comply with Section 933 above, or shall meet the following requirements in addition to those in Section 936 of this title:

(a) Fuel Supply Container. Each LPG fuel supply container shall be constructed, inspected, and permanently marked in accordance with the appropriate DOT regulation or ASME code. Containers constructed to the DOT regulations shall have a minimum service pressure of 240 psi. Containers constructed to the ASME code shall have a minimum working pressure of 250 psi. Every container shall be equipped with an outage valve or fixed liquid level gage to indicate when the container is 79.8% full. A float gage does not meet the requirements for an outage valve or a fixed liquid level gage. Outage valves on containers installed on school buses shall be tamper-resistant or contained within a locked compartment.

(b) Two or More Containers. When two or more containers are used, a backflow check valve shall be installed in each fuel line to prevent pass-

ing of fuel between tanks during filling operations. A hydrostatic relief valve with a pressure setting not lower than 350 psi nor higher than 500 psi shall be installed between the backflow check valves and the gaseous fuel cutoff valve to the carburetor.

(c) Identification Markings. Each LPG fuel supply container shall be permanently marked as follows:

(1) Markings on containers constructed to the ASTM Code shall include:

- (A) Official ASME Code U symbol
- (B) Manufacturer's name, initials, or trademark
- (C) Maximum allowable working pressure (___ psi at ___ F)
- (D) Serial number
- (E) Year built
- (F) The words "FOR LPGAS ONLY" in letters not less than 1 in. high and visible after installation (Decals or stencils are acceptable.)

(2) Permanent markings on containers constructed to DOT regulations shall include:

- (A) The letters DOT or ICC with the appropriate specification and service pressure
- (B) Serial number
- (C) Year tested
- (D) Manufacturer's name, initials, or trademark, as registered with DOT

(E) The words "FOR LPGAS ONLY" or "FOR LPG ONLY" in letters not less than 1 in. high and visible after installation (Decals or stencils are acceptable.)

(3) All container inlets and outlets, except those for relief valves and gaging devices, shall be marked to designate whether they communicate with vapor or liquid space.

(d) Valves. Valves shall be of a type that has been tested and listed by UL or by other nationally recognized testing laboratories as meeting the UL requirements for LPG. All valves shall be securely mounted and shielded or installed in a protected location to prevent damage from vibration and unsecured objects.

(1) Safety Relief Valves. One or more spring-loaded internal safety relief valves shall be installed directly in each fuel container in communication with the vapor space. The markings showing "set to discharge pressure" shall be visible after the valves are installed in the container. Safety relief valves for DOT fuel supply containers shall be approved by the Bureau of Explosives, and the valve setting shall be as required by the Bureau. The safety relief valve setting for ASME containers shall not be less than 100% or more than 110% of the maximum allowable service pressure of the container.

(A) Safety relief valves for ASME fuel containers shall be so constructed as to discharge at not less than the following rates before the pressure is in excess of 120% of the maximum allowable working pressure of the container:

<i>Tank surface area (sq ft)</i>	<i>Air flow rate (cfm)</i>
20 or less	626
25	751
30	872
35	990
40	1,100
45	1,220
50	1,330
55	1,430
60	1,540
65	1,640
70	1,750
75	1,850
80	1,950
85	2,050
90	2,150
95	2,240
100	2,340
110	2,530

115	2,630
120	2,720
125	2,810
130	2,900
135	2,990
140	3,080
145	3,170
150	3,260
155	3,350
160	3,440
165	3,530
170	3,620
175	3,700
180	3,790
185	3,880
190	3,960
195	4,050
200	4,130

(B) Permanent markings on safety relief valves in ASME containers shall include:

1. Manufacturer's name, initials, or trademark
2. Manufacturer's design or type numbers
3. Discharge pressure (___ psi)
4. Discharge capacity (cfm air at 60 F and 14.7 psia)
5. ASME or UL symbol

(C) Permanent markings on safety relief valves in DOT containers shall include:

1. Manufacturer's name, initials, or trademark
2. Catalog number
3. Discharge pressure (___ psi)
4. Discharge capacity (cfm air at 60 F and 14.7 psia).

(2) Excess Flow Valve. An internal excess flow valve, designed to close when maximum volume escapes through the smallest connection in the supply line system, shall be installed in every fuel supply container outlet except relief valve or gaging device outlets. The excess flow valve shall have a bypass not to exceed a No. 60 drill size opening to allow equalization of pressure.

(3) Check Valve. Inlet connections in the fuel supply container shall be fitted with either an internal and external check valve, or an internal check valve with an adjacent or remote manual shut-off valve. The inlet of the filling system shall be capped, except when filling, to withstand the maximum service pressure of the container. All containers installed after January 1, 1973, shall be equipped for remote filling exterior to the vehicle compartment with an internal and external check valve installed in the container.

(4) Vapor Equalizing Valve. A vapor equalizing valve may be installed in the fuel supply container. The valve shall be capped, except when filling, to withstand the maximum pressure of the container.

(5) Shut-off Valve. A manually operated shut-off valve shall be installed directly into the fuel supply container outlet connection serving the supply line and shall be marked with the words "SHUT-OFF VALVE." (Decals or stencils are acceptable.)

(e) Gage. All LPG containers shall be equipped with a liquid volume gage, which shall be designed and installed as follows:

(1) The gaging device shall be of a type that has been listed by UL or by other nationally recognized testing laboratories as meeting the UL requirements for LPG.

(2) The gage shall be securely mounted and shielded or installed in a protected location to prevent damage from excessive vibration and unsecured objects.

(3) A gage that requires bleeding of the product shall be bled to outside of the vehicle compartment and shall be equipped with a bleeder valve. A restricting orifice not larger than No. 54 drill size shall be inside the fuel supply container.

(f) Pressure Reducing Regulator. An automatic pressure reducing regulator or a regulating vaporizer designed to withstand a service pressure of at least 250 psi shall be installed between the LPG fuel supply container and the carburetor. All regulators and vaporizers shall be of a type that has been tested and listed by UL or other nationally recognized testing laboratories as meeting the UL requirements for LPG. The regulator or

vaporizer shall be installed so that its weight is not placed on, or supported alone by, the attached tubing or flexible lines.

(g) Vents. Every compartment in which an LPG container is installed shall be vented to the atmosphere unless all piping and connectors are exterior to the compartment. The vent or vents shall be installed at the lowest practicable point of the compartment and shall have an open area totaling not less than 3 square inches.

(h) LPG Hose for High Pressure Liquid or Vapor Use. Hose and hose assemblies shall have a working pressure of not less than 350 psi and a burst pressure of not less than 1750 psi. Hose shall be reinforced with corrosion-resistant wire braid and shall be of a type that has been tested and listed by UL or by other nationally recognized testing laboratories as meeting the UL requirements for LPG. Hose shall have the following permanent identification markings in letters and numerals at least 1/8 in. in height at intervals of 24 in. or less:

- (1) Manufacturer's name, initials, or trademark
- (2) LPG or LP GAS
- (3) Working pressure

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Renumbering of former section 933 to new section 933.1, including amendment of section heading, first paragraph and subsection (g), filed 8-9-99; operative 9-8-99 (Register 99, No. 33).

§ 934. Compressed Natural Gas.

Fuel systems using compressed natural gas (CNG) shall meet the following requirements in addition to those in Section 936 of this title:

(a) Fuel Supply Container. Each CNG fuel supply container shall be constructed and inspected in accordance with DOT regulations and shall have a rated service pressure of not less than 2250 psi at 70° F. It shall not be filled beyond the working pressure stamped on the tank and marked near the filler connection, corrected for the ambient temperature at time of filling as prescribed by DOT.

(b) Identification Markings. Each CNG fuel supply container shall have the following identification markings:

- (1) The letters DOT with the appropriate specification and working pressure
- (2) Serial number
- (3) Year tested
- (4) Manufacturer's name, initials, or trademark
- (5) The words "FOR CNG ONLY" in letters at least 1 in. high and visible after installation. (Decals or stencils are acceptable.)

(c) Shut-off Valve. A manually operated shut-off valve shall be in direct communication with the container and shall be marked with the words "SHUT-OFF VALVE." (Decals or stencils are acceptable.) No valve shall be used for CNG unless it has been certified for that purpose by the manufacturer. The shut-off valve shall be securely mounted and shielded or installed in a protected location to prevent damage from vibration and unsecured objects.

(d) Pressure Relief Devices. One or more pressure relief devices shall be installed in the fuel supply container in communication with the fuel and vented to the outside of the vehicle compartment. Relief devices shall be approved as to type, size, quantity, and location by the Bureau of Explosives or meet the DOT Hazardous Materials Regulations in 49 CFR 173.34 and shall have the following permanent identification markings:

- (1) Manufacturer's name, initials, or trademark
- (2) Flow capacity (___ cfm)
- (3) Yield temperature rating (___ F)

(e) Gages. Gages used in CNG systems shall be designed and installed as follows:

(1) Gaging devices shall be designed for the most severe pressure and temperature conditions to which the devices may be subjected with a pressure safety factor of not less than four.

(2) Gages shall be securely mounted and shielded or installed in a protected location to prevent damage from vibration and unsecured objects.

(f) Pressure Reducing Regulators. An automatic pressure reducing regulator or regulators shall be installed in CNG systems to reduce con-

tainer pressure to a value consistent with the working pressure required by the carburetor. Means shall be provided to prevent malfunction due to refrigeration effects. Regulators shall be installed so that their weight is not placed on, or supported alone by, the attaching line or lines. Regulators shall be designed to a container's maximum working pressure and temperature with a pressure safety factor of not less than four.

(g) Vents. Every compartment in which a CNG container is installed shall be vented to the atmosphere, unless all piping and connections are exterior to the compartment or vapor sealed and vented to the atmosphere. The vent or vents shall be installed at the highest practicable point of the compartment and shall have an open area totaling not less than 3 sq in.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Amendment of subsection (d) filed 1-25-94; operative 2-24-94 (Register 94, No. 4).
3. Editorial correction of printing error in NOTE (Register 94, No. 4).

§ 934.1. Compressed Natural Gas—NFPA Standard.

Fuel Systems using compressed natural gas (CNG) and installed after April 1, 1994, shall comply with the National Fire Protection Association (NFPA) Standard 52 (NFPA 52) "Compressed Natural Gas Vehicular Fuel Systems Code," or NFPA 52 "Vehicular Fuel Systems Code," in effect at the time of installation. Compressed natural gas fuel systems installed before April 1, 1994, shall comply with either that standard or with Sections 934 and 936 of this title. Additionally, whenever the word "should" appears in NFPA 52, it shall be understood to set forth mandatory requirements.

(a) Approval—NFPA 52 specifies that certain systems and components shall be approved as being acceptable to the authority having jurisdiction. The Department of California Highway Patrol has jurisdiction over these regulations but does not approve individual systems or components. Users and installers are responsible for use of proper components and for their proper installation as specified in the NFPA Standard.

(b) Exceptions—The Department of California Highway Patrol has no authority over CNG storage, dispensing or compression facilities addressed in the NFPA standard.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. New section filed 1-25-94; operative 2-24-94 (Register 94, No. 4).
2. Amendment filed 8-21-2007; operative 9-20-2007 (Register 2007, No. 34).

§ 935. Liquefied Natural Gas.

(a) NFPA and SAE Standards. This section incorporates by reference the National Fire Protection Association (NFPA) Standard 57, 1996 edition, and the Society of Automotive Engineers (SAE) Standard J2343 Jan 1997.

(1) All liquefied natural gas (LNG) fuel systems installed after January 1, 2000, shall comply with one of the identified standards noted above, in addition to requirements of subsection (b) of this section.

(2) Grandfather Clause. LNG fuel systems installed before January 1, 2000, shall comply with either one of the identified standards noted above, including the additional requirements listed in subsection (b), or with Sections 935.1 and 936 of this title.

(b) Additional Requirements. All LNG fuel systems complying with the NFPA Standard 57, 1996 edition, or the SAE Standard J2343 Jan 1997, shall also comply with the following:

(1) Wherever the word "should" appears in either the NFPA Standard 57, 1996 edition, or the SAE Standard J2343 Jan 1997, it shall be understood to set forth mandatory requirements.

(2) Every motor vehicle equipped with an LNG fuel system shall be equipped with a methane gas detection system which shall warn of the presence of methane in the engine compartment, driver's compartment and any passenger compartments. At a minimum, the methane gas detection system shall provide a warning before the methane gas concentration

reaches the Lower Explosive Limit. Such warning shall be plainly audible and visible to the driver before entering the driver's compartment and while seated in the normal driving position. The gas detection system shall function continuously at all times, whether or not the engine is operating, when the vehicle is operated or parked on public roadways or other areas open to the public.

(3) The LNG container shall meet the drop test requirements of SAE J2343 Jan 97 or equivalent.

(4) Fuel tanks shall be oriented and mounted in accordance with the tank manufacturer's recommendations and in a location designated by the vehicle manufacturer, in the location normally utilized for liquid (gasoline or diesel) fuel containers for that make and model of vehicle, or as determined by a qualified engineer. Fuel tanks shall not be mounted above any driver or passenger compartment, unless a spill pan is installed between the fuel tanks and the compartment, with a liquid capacity equal to at least the capacity of the largest single fuel tank of a multiple tank installation consisting of three or more fuel tanks, but not less than one-quarter the fuel capacity of the containers located above the compartment and capable of preventing liquid from entering the interior or dripping into any window, door or emergency exit way. Spill pans shall be designed in such a manner that rain water is not retained. The spill pan drain shall not be directed into any confined space, the engine compartment, muffler area, battery box or other hazardous location.

(5) Every motor vehicle equipped with an LNG fuel system shall bear a label located at or near the fueling connection that shall include:

- (A) identification of the vehicle as an LNG-fueled vehicle, and
- (B) the maximum allowable working pressure of the vehicle fuel container.

(6) The NFPA Standard specifies that certain systems and components shall be approved by the authority having jurisdiction. The Department of California Highway Patrol has jurisdiction over these regulations but does not approve individual systems or components. Users and installers are responsible for use of proper components and for their proper installation as specified in the NFPA Standard.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Renumbering of former section 935 to section 935.1 and new section 935 filed 12-29-99; operative 12-29-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 53).

§ 935.1. Grandfathered Liquefied Natural Gas Requirements.

Fuel systems using liquefied natural gas (LNG) installed before January 1, 2000, and not in compliance with Section 935 above, shall meet the following requirements in addition to those in Section 936 of this title:

(a) Fuel Supply Container. Each LNG fuel supply container shall be constructed and inspected in accordance with 49 CFR 178.57 specification 4L for welded insulated cylinders, including the general requirements contained in 49 CFR 178.35 with the exception of Sections 178.35(e) and 178.35(f). Each LNG container shall meet the following additional requirements:

(1) The unrelieved fuel pressure inside the container shall not exceed 100 psi within a total 72-hour period consisting of 48 hours at 60 degrees F, 12 hours at 70 degrees F, and 12 hours at 90 degrees F ambient temperatures when the container has been filled with LNG conditioned at one atmosphere.

(2) The container shall be equipped with a liquid level gauging device and a dip tube to prevent filling beyond 90% by volume at atmospheric pressure.

(3) Each completed container, including its supporting structure and valves, enclosures, and lines normally attached thereto, shall have structural integrity to withstand damage from deceleration and acceleration forces resulting from 30 mph front-end and rear-end collision of the type of vehicle in which the container is installed. A test or other means shall demonstrate that the container and its openings do not rupture in such collisions.

(4) Fuel Supply Container Markings. Each LNG fuel supply container shall have the following permanent identification markings:

(A) The letters CHP followed by numbers indicating the service pressure

(B) Serial number

(C) Manufacturer's name, initials, or trademark as registered with the Department of California Highway Patrol

(D) Inspector's mark

(E) Date tested

(F) The words "FOR LNG ONLY" in letters not less than 1 in. high and visible after installation. (Decals or stencils are acceptable.)

(G) All inlets and outlets except relief valves and gauging devices shall be marked to designate whether they communicate with vapor or liquid space.

(b) Valves. Valves shall be certified for LNG use by the manufacturer or certified for cryogenic service at temperatures down to and including -320 degrees F. All valves shall be securely mounted and shall be shielded or installed in a protected location to prevent damage from vibration and unsecured objects.

(1) Safety Relief Valves. Each container shall be equipped with one or more safety relief valves. The safety relief valve shall be installed in a line that communicates with the vapor space of the container. A safety relief valve shall be installed between two shut-off valves in a supply line to prevent a buildup of pressure between the valves in the off position. The discharge pressure of safety relief valves shall not exceed 125% of the service pressure of the container. Relief valves shall have sufficient capacity to meet the requirements of either the Bureau of Explosives for approval of safety relief valves or NFPA 59(A) Appendix A and be capable of preventing explosion of the normally charged cylinder when it is placed in a fire. Relief valves shall have the following permanent identification markings:

(A) Manufacturer's name, initials, or trademark

(B) Catalog number

(C) Discharge pressure (___ psi)

(D) Discharge capacity (___ cfm air at 60 degrees F and 14.7 psia).

(2) Shut-off Valves. One manually operated shut-off valve shall be secured directly to the tank vapor outlet with no intervening fitting other than the relief valve and shall be marked with the words "VAPOR SHUT-OFF VALVE." Another manually operated shut-off valve shall be secured directly to the tank liquid outlet and shall be marked with the words "LIQUID SHUT-OFF VALVE." (Decals or stencils are acceptable.) Normally closed automatic shut-off valves that are held open by electrical current may be used in lieu of manual shut-off valves at either the tank vapor port or tank liquid port, or both. An automatic shut-off valve shall be wired so it shuts off when the ignition switch is in the off and accessory positions and when engine vacuum is not present.

(3) Control Valve. A positive shut-off control valve shall be installed in the fuel supply lines as close to the containers as possible, automatically closing off and preventing the flow of fuel to the carburetor when the ignition switch is off or in the accessory position.

(c) Gauges. Gauges used in LNG systems shall be designed and installed as follows:

(1) Gauging devices shall be designed for the most severe pressure and temperature conditions to which the devices may be subjected with a pressure safety factor of not less than four.

(2) All gauges shall be securely mounted and shall be shielded or installed in a protected location to prevent damage from vibration and unse-

cured objects.

(3) Gauging devices that require bleeding of the product shall be bled to the outside of the vehicle compartment.

(d) Pressure Reducing Regulators. LNG systems shall be equipped with one- or two-stage pressure reducing regulators that reduce the pressure to the level certified and approved by the California Air Resources Board. The regulators shall be installed so that their weight is not placed on, or supported alone by, the attaching tubing or flexible lines.

(e) Vents. Every compartment in which an LNG container is installed shall be vented to the atmosphere unless all piping and connectors are exterior to the compartment. The vent or vents shall be installed at the highest practicable point of the compartment and shall have an open area totaling not less than 3 square inches.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Renumbering of former section 935 to section 935.1, including amendment of section heading, section and NOTE, filed 12-29-99; operative 12-29-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 53).

§ 936. Installation.

The installation of liquefied petroleum gas, compressed natural gas, or liquefied natural gas fuel systems on motor vehicles equipped with gaseous fuel systems certified or approved by the State Air Resources Board shall be in accordance with the following requirements:

(a) Driver, Passenger, and Luggage Compartments. Fuel supply containers on buses shall not be located in or above the passenger compartment. Fuel supply containers on vehicles other than buses shall be installed and fitted so that no gas from fueling and gaging operations or from relief valves can be released inside the driver, passenger, or luggage compartments.

(b) Fuel Supply Containers. Fuel supply containers shall meet all appropriate requirements of the ASME code, the DOT regulations, or the regulations contained in this article and shall be marked in accordance with Sections 933, 934, and 935 of this article. Cargo containers mounted on a motor vehicle, but not on a trailer or semitrailer, may be used to supply fuel for the propulsion of the vehicle when the container meets the cargo container requirements of Unfired Pressure Vessel Safety Orders, Division of Industrial Safety, Title 8, California Code of Regulations. Fuel supply containers other than cargo containers shall comply with the following requirements:

(1) Each container and container cradle shall be mounted in protected locations to minimize damage from collision.

(2) To prevent damage from road hazards, slippage, loosening, or rotation, each container or cradle shall be secured to the vehicle body, bed, or frame by either of the following means:

(A) By attaching bolts not less than 7/16 in. in diameter that meet SAE Standard J429 for Grade 5 threaded fasteners in the 1965 or later edition of the SAE Handbook and self-locking nuts to at least four securement points and, where bolts pierce body metal but not the frame, by reinforcing both sides of each securement point with metal plates at least 1/8 in. thick and 7 sq. in. in area; or

(B) By using other means capable of withstanding in any direction a static force of eight times the weight of the fully loaded container.

(3) Each container in a cradle shall be secured to its cradle by means capable of withstanding in any direction a static force of eight times the weight of the fully loaded container.

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(4) No portion of the container or container valves in communication with the liquid or vapor shall be located behind the rear frame crossmember of the vehicle.

(5) The weight of the container shall not in any way be supported by outlets, valves, manifold, or other fuel connections.

(6) No part of the container shall be field welded. Only saddle plates, brackets, or other nonpressure parts that were provided and installed by the manufacturer of the container may be field welded.

(7) No container shall be repaired until the contemplated repair has been authorized by a certified inspector. DOT containers shall be repaired under DOT regulations and control. The replacement of valves, fittings, and accessories intended for the same purpose is not considered a repair.

(8) Containers located less than 8 in. from the engine or exhaust system shall be shielded against direct heat.

(c) **Visibility of Required Markings.** Markings of set-to-discharge pressure for safety relief devices and working pressure of fuel supply containers required by Sections 933, 934, and 935 of this article shall be visible either directly or by use of a mirror after installation. All remote filling inlets shall be visibly marked with the lowest working pressure of any fuel supply container in the system.

(d) **Discharge Lines and Outlets.** All safety devices that may discharge to the atmosphere shall be vented to the outside of the vehicle, and all discharge lines and outlets shall be installed as follows:

(1) Lines shall be constructed of metal other than aluminum and shall be of a size and so located and maintained as not to restrict the maximum gas flow of the safety device. Flexible metallic lines shall be used when necessary.

(2) The discharge line of a container installed inside a compartment shall extend to the outside of the compartment.

(3) Lines shall be located as far from the exhaust outlet as is practicable and shall direct escaping gas upward within 45 deg. of the vertical. Escaping gas shall not impinge upon fuel supply containers and shall not be directed into wheel wells, at other vehicles in traffic, or at engine air intake inlets.

(4) The discharge line from the safety relief valve on all buses shall be located at the rear of the vehicle, directed upward, and extended to the top of the vehicle roof.

(5) Outlets shall be protected by caps, covers, or other means to keep water or dirt from collecting in the lines. Protective devices shall not restrict the flow of gas.

(6) Each line and its connectors shall withstand the pressure caused by the discharge of vapor or liquid from a safety device in fully open position.

(7) CNG containers may be vented to the outside of the vehicle with a flexible bag. Such bag shall be constructed of material that is nonflammable or self-extinguishing. The bag and attachments shall be capable of withstanding an internal pressure produced by a flow rate of 300 cfm with a safety factor of not less than four. The bag shall be shielded or installed in a protected location to prevent damage from unsecured objects and abrasion.

(e) **Manifolds.** Manifolds connected to fuel containers shall be supported to minimize vibration and shall be installed in a protected location or shielded to prevent damage from unsecured objects.

(1) A manual shut-off valve shall be installed in the outlet of the manifold and marked with the words "MANUAL SHUT-OFF VALVE." (Decals or stencils are acceptable.)

(2) A normally closed automatic shut-off valve that is held open by electrical current may be used in lieu of a manual shut-off valve and shall be marked with the words "AUTOMATIC SHUT-OFF VALVE." The automatic shut-off valve shall be wired so it shuts off when the ignition switch is in the off or accessory positions and when engine vacuum is not present.

(f) **Pipes, Tubing, Hose, and Fittings.** All pipes, tubing, hoses, and fittings shall meet the following requirements:

(1) All materials and assemblies shall be designed for the widest pressure and temperature ranges to which they may be subjected with a pressure safety factor of at least four.

(2) All material, including gasket and packing material, shall be compatible with the fuel used in the system and its service conditions. Aluminum pipe, tubing, or fittings shall not be used between the container and first-stage regulator. Copper tubing, when used, shall be seamless and conform to ASTM B88 types K or L.

(3) A pipe thread sealant impervious to the action of the fuel used in the system shall be applied to all male pipe threads prior to assembly. Only tin-silver (95% tin, 5% silver) or silver braze alloy is permitted on sweat type joints or fittings.

(g) **Supply Lines.** Supply lines passing through a panel shall be protected by grommets or similar devices, which shall snugly fit both the supply lines and the holes in the panel. Supply lines shall have a minimum clearance of 8 in. from the engine exhaust system unless they are shielded from exhaust heat. Supply lines shall be supported at least every 24 in. and shall be prevented from sagging. Damaged lines shall be replaced, not repaired.

(h) **Automatic Fuel Supply Shut Off.** An automatic fuel supply shut-off valve shall be installed in a protected location adjacent to the manual shut-off valve on all buses and shall be activated by engine vacuum or oil pressure.

(i) **Gaseous Fuel Cutoff.** Means shall be provided in the system to prevent the flow of gaseous fuel to the carburetor when the ignition is in the off or accessory position, or from the carburetor when engine vacuum is not present.

(j) **Liquid Fuel Cut Off.** Dual fuel systems using liquid and gaseous fuel shall have an automatic shut-off valve installed in the liquid fuel line to the carburetor.

(k) **Bypass Relief Device.** A bypass relief device shall be installed in the fuel pump or between the fuel pump and the automatic shut-off valve in the liquid fuel line to the carburetor on vehicles equipped with dual fuel systems for the use of gasoline and gaseous fuel. The relief device need not be installed on fuel pumps containing a bypass relief device as original equipment.

(l) **Engine Exhaust Outlet.** The engine exhaust system shall extend to the outer edge of the vehicle body or bed on passenger cars, station wagons, house cars, pickup trucks with campers, buses, and delivery vans.

(m) **Electrical Equipment.** Radio transmitters, radio receivers, electric motors, or other electrical equipment (except vehicle lamps and wiring) shall not be mounted in a compartment with fuel supply containers unless one of the following conditions is met:

(1) All piping and all connectors and valves on the fuel supply containers are exterior to and sealed from the compartment containing electrical equipment, or

(2) All piping, connectors, and valves within the compartment are contained in a vapor-tight enclosure and vented to the atmosphere exterior of the vehicle, or

(3) The electrical equipment is contained in a vapor-tight enclosure that is vented to the atmosphere exterior of the vehicle, or

(4) The electrical equipment is approved for use in Class I, Division II, "Hazardous Locations," in accordance with Article E501, Title 24, California Code of Regulations.

(n) **Road Clearance.** The fuel system, including the fuel supply container, shall be installed with as much road clearance as practicable. The lowest part of any component in the system, including protective guards, shall not be lower than the lowest edge of the vehicle differential housing under maximum spring deflection, except that on cargo carrying vehicles with a gross vehicle weight rating of 6,000 lbs. or more, the lowest component may be at the lowest part of the vehicle body.

(o) **Vehicle Weight Distribution.** The total weight of the vehicle with the fuel containers filled to capacity shall not exceed the manufacturer's load rating for any axle, wheel, or tire.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 8-15-77; designated effective 9-15-77 (Register 77, No. 34).
2. Amendment of subsection (a) filed 12-28-81; effective thirtieth day thereafter (Register 82, No. 1).
3. Amendment of subsection (b)(2)(A) filed 12-29-81; effective thirtieth day thereafter (Register 82, No. 1).
4. Change without regulatory effect of subsections (b) and (m)(4) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
5. Amendment of first paragraph filed 1-25-94; operative 2-24-94 (Register 94, No. 4).
6. Editorial correction of printing error in NOTE (Register 94, No. 4).

§ 937. Exemptions.

The Commissioner may grant exemptions from any of the requirements of this article except those requirements governed by the California Air Resources Board when, in his judgement, the request appears reasonable or the results intended by these regulations can be accomplished by alternate methods of compliance. However, no exemption will be granted if, in the opinion of the Commissioner, the exemption would compromise the safety requirements of these regulations. In addition, any exemption granted by the Commissioner is nontransferable and may be rescinded at any time for cause. The California Highway Patrol shall within 90 days of receiving a request for exemption, respond in writing informing the requesting party whether the exemption has been denied or granted. The reason(s) for denial of the request will be included in the written response and the California Highway Patrol's decision is final. No exemptions will be given for motor vehicles manufactured after the effective date of Federal Motor Vehicle Safety Standards addressing gaseous fuel systems.

(1) Application for Exemption. An application for exemption shall be made in writing to the Commissioner, and it shall include the following data:

Reason for requesting an exemption.

Alternate method(s) of compliance.

Make, model and identification number of the vehicle for which the exemption is being requested.

The application shall be mailed to:

CALIFORNIA HIGHWAY PATROL
ENFORCEMENT SERVICES DIVISION
POST OFFICE BOX 942898
SACRAMENTO, CA 94298-0001

(2) Copy of exemption. A copy of any exemption shall be carried in the vehicle(s) for which it was issued at all times, and shall be presented for inspection upon demand by any authorized representative of the Department.

NOTE: Authority cited: Section 2402.6, Vehicle Code. Reference: Section 2402.6, Vehicle Code.

HISTORY

1. New section filed 8-19-94; operative 9-19-94 (Register 94, No. 33).

Article 3. Insigne for Licensed Physicians

§ 970. Design of Physicians' Insigne.

The official insignie developed by the California Medical Association is approved for use as provided in Section 21058 of the Vehicle Code.

NOTE: Authority and reference cited: Section 21058, Vehicle Code.

HISTORY

1. Repealer of former Article 3 (Section 970) and new Article 3 (Sections 970-971) filed 5-30-80; designated effective 7-1-80 (Register 80, No. 22). For prior history, see Register 66, No. 13.
2. Amendment filed 1-12-2006; operative 2-11-2006 (Register 2006, No. 2).

§ 971. Mounting Requirements.

The insignie shall be displayed on the rear of the vehicle and shall be attached at the top of the license plate, or as close thereto as practicable. The size and type of mounting brackets are optional.

NOTE: Authority and reference cited: Section 21058, Vehicle Code.

Article 4. Federally Regulated Equipment

§ 980. Scope.

This article applies to the following federally regulated equipment required by the Vehicle Code to meet requirements established by the department.

- (a) Seat belts.
- (b) Safety helmets.
- (c) Safety glazing materials.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103, 26104, 26704, 27302, 27305, 27314 and 27802, Vehicle Code.

HISTORY

1. Repealer of former Article 4 (Sections 980-981) and new Article 4 (Sections 980-984) filed 5-30-80; designated effective 7-1-80 (Register 80, No. 22).

§ 981. Test Data.

Test data referred to in Vehicle Code Section 26104 for equipment specified in this article shall include the following information:

- (a) Date of test report.
- (b) Date tests were conducted.
- (c) Standard to which the device was tested.
- (d) Description of the device.
- (e) Type of material used for each major component.
- (f) List of the marks of identification, including size, location, and method of marking.
- (g) One photograph or halftone print of the assembled and disassembled device.

(h) Actual results obtained for each test or measurement required by applicable sections of the Federal Motor Vehicle Safety Standard and referenced specifications. Words such as "complies," "passed," "less than," or "more than" are not acceptable where minimum or maximum requirements are specified in measurable units, except for dimensions checked by go-no-go gages.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

§ 982. Safety Helmet Requirements.

Motorcycle and motorized bicycle safety helmets governed by Vehicle Code Section 27802 shall meet Federal Motor Vehicle Safety Standard No. 218.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103, 26104 and 27802, Vehicle Code.

§ 983. Safety Belt Requirements.

Safety belts governed by Vehicle Code Sections 27302, 27304, 27305 and 27314 shall meet Federal Motor Vehicle Safety Standard No. 209.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103, 26104, 27302, 27305 and 27314, Vehicle Code.

§ 984. Safety Glazing Material.

Safety glazing material governed by Vehicle Code Sections 26701, 26703 and 26704 shall meet and be installed as specified in Federal Motor Vehicle Safety Standard No. 205. Each piece of glazing material shall be permanently marked with the identification described in FMVSS 205 and American National Standard Z26.1-1966 so as to be visible and legible when installed in a vehicle or camper.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012, 26103, 26104 and 26704, Vehicle Code.

Article 4.5. Traffic Signal Priority Device

NOTE: Authority cited for Article 4.5: Sections 2402 and 25352, Vehicle Code. Reference: Section 25352, Vehicle Code.

HISTORY

1. New Article 4.5 (Sections 985-988) filed 6-22-78; designated effective 7-31-78 (Register 78, No. 25).
2. Repealer of Article 4.5 (Sections 985-988) filed 5-30-80; designated effective 7-1-80 (Register 80, No. 22).

Article 5. Seat Belt Assemblies

NOTE: Authority cited for Article 5: Section 2402, Vehicle Code. Reference: Sections 2402.5, 27302, 27304, 27305, and 27314, Vehicle Code.

HISTORY

1. Repeal of Article 5 (Sections 990–997) and new Article 5 (Sections 990–992) filed 10–31–67 as an emergency; designated effective 11–1–67 (Register 67, No. 44). For prior history, see Registers 63, No. 10, 64, No. 5 and 66, Nos. 24 and 36.
2. Certificate of Compliance filed 1–9–68 (Register 68, No. 2).
3. Repealer of Article 5 (§ § 990 through 992) and new Article 5 (§ § 990 through 997) filed 5–25–70; designated effective 1–1–71 (Register 70, No. 22).
4. Repealer of Article 5 (Sections 990–997) filed 5–30–80; designated effective 7–1–80 (Register 80, No. 22). For prior history see Register 72, No. 15 and 71, No. 20.

Article 6. Safety Helmets

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Sections 2402.5 and 27802, Vehicle Code.

HISTORY

1. Repealer and new Article 6 (Sections 1000 through 1004) filed 4–17–74; designated effective 6–1–74 (Register 74, No. 16). For prior history, see Register 72, No. 12.
2. Repealer of Article 6 (Sections 1000–1004) filed 5–30–80; designated effective 7–1–80 (Register 80, No. 22).

Article 7. Safety Glazing Material

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Sections 2402.5, 26106 and 26704, Vehicle Code.

HISTORY

1. Repealer and new Article 7 (§ § 1011 through 1018) filed 7–23–70; designated effective 9–1–70 (Register 70, No. 30). For prior history, see Register 64, No. 26.
2. Repealer of Article 7 (Sections 1010–1018) filed 1–30–80; designated effective 7–1–80 (Register 80, No. 22).

Article 8. Sirens

§ 1020. Scope.

This article applies to sirens for use on authorized emergency vehicles in accordance with Vehicle Code Section 27002.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103, 26104, and 27002, Vehicle Code.

HISTORY

1. Repealer of Article 8 (Sections 1020–1029) and new Article 8 (Sections 1020–1029) filed 12–1–77; designated effective 1–1–78 (Register 77, No. 49). For prior history, see Registers 65, No. 17, 67, No. 22, 69, No. 15, 75, No. 22, 75, No. 45 and 76, No. 3.
2. Repealer of Article 8 (Sections 1020–1029) and new Article 8 (Sections 1020–1029) filed 5–22–80; designated effective 7–1–80 (Register 80, No. 21).

§ 1021. Definitions.

(a) A “siren” is an audible warning device that produces the readily recognizable warning sound identified with emergency vehicles. An audible device, such as a vehicle theft alarm, that produces a sound with one or more of the following characteristics is not a siren:

- (1) an unvarying sound.
 - (2) a varying sound that cycles at a rate faster than 400 cycles per minute.
 - (3) a discontinuous sound that repeats at rates lower than 90 cycles per minute or higher than 400 cycles per minute.
 - (4) a sound frequency (and any second harmonics) lower than 100 Hz or higher than 5,000 Hz.
- (b) An “authorized emergency vehicle siren” is a device that meets the requirements of this article.
- (c) An “electromechanical siren” consists of a stator and rotor driven by an electric motor.
- (d) An “electronic siren” consists of an oscillator, amplifier, and speaker.

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(e) A “mechanical siren” consists of a stator and rotor driven by a mechanical connection to a moving part of the vehicle or engine.

(f) “Manual” means a siren control that allows the operator to produce a wailing sound by alternately applying and releasing a momentary contact switch.

(g) “Wail” is a siren sound producing a slow, continuous automatic cycling of increasing and decreasing frequencies and sound levels.

(h) “Yelp” is a siren sound producing a rapid, continuous automatic cycling of increasing and decreasing frequencies and sound levels.

(i) “Hi-Lo” means a nonsiren sound alternating between a fixed high and a fixed low frequency.

(j) “ANS” means a standard adopted by the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018.

(k) “SAE” means a standard or recommended practice of the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA 15096.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103, 26104 and 27002, Vehicle Code.

§ 1022. Test Data.

Test data referred to in Vehicle Code Section 26104 for equipment subject to requirements established by the department under Vehicle Code Section 26103 shall include the following information:

(a) Date of the test report.

(b) Date tests were conducted and the location of the anechoic test chamber.

(c) Name and address of the testing agency, and names of technical personnel conducting the test.

(d) Descriptions of the siren, including photographs or half tone prints of the assembled and disassembled device.

(e) List of the marks of identification on the siren or amplifier, control head, speaker and driver, including size, location, method of marking, and method of securing any nameplate.

(f) Number of speakers and wattage rating of each speaker.

(g) Make and model of test equipment:

- (1) Sound level meter
- (2) Calibrator
- (3) Frequency analyzer
- (4) Graphic recorder
- (5) Voltmeter
- (6) Wattmeter
- (7) Power supply

(h) Actual results obtained for each siren test required by this article.

(1) Sound level measurements at each required test point of each siren mode.

(2) Maximum sound level in either the 1000 or 2000 Hz octave bands of each siren mode.

(3) Maximum wattage delivered to the speaker in each mode.

(4) Cycling rate of wail and yelp sound.

(i) Graphic recordings of each siren mode showing the sound level output at and between required test points and the octave band containing the maximum sound output.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1023. Identification Markings.

Sirens and components shall be marked as follows:

(a) Siren Markings. Each siren shall be permanently marked with the manufacturer's or vendor's name, initials, or lettered trademark and a model designation in letters and numerals at least 3 mm (0.12 in.) in height.

(b) Component Markings. Each major component of an electronic siren, including the speaker, speaker driver, amplifier, and control panel (if separate from the amplifier), and each mechanical and electromechanical siren shall contain the required markings.

(c) Driver Markings. Speaker drivers for electronic sirens shall be marked to include the rms wattage in addition to the markings required in preceding subsection (a).

(d) Control Markings. Electronic siren controls shall be marked to indicate each siren function by the words “Manual,” “Wail,” and “Yelp” spelled out or abbreviated. Markings for other nonpermitted functions, such as “Hi-Lo,” may remain on the control panel provided the function is made inoperable on sirens manufactured after January 1, 1978.

(e) Permanence of Markings. Required identification markings shall be molded, etched, embossed, stamped, engraved, or printed with epoxy paint or screening ink on the device or on a metal label of substantial thickness permanently affixed to the device by welding or metal fasteners. Speaker driver markings may be of indelible ink or nonepoxy paint when protected by coverings or they may be stamped on a metal plate attached by a screw.

(f) Visibility of Markings. Required siren markings, except those on the speaker driver and on speakers mounted within warning lamp housings, shall be clearly visible when the siren is installed on a vehicle. Amplifier markings may be on the front, top, sides, or bottom of the case provided they are in a location where they are legible to a person inspecting the component without using mirrors or removing the component when it is installed in a vehicle. The markings on devices in vehicles licensed under Section 5001 of the Vehicle Code need not be visible in the installed position.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1024. Instrumentation for Testing.

Equipment used to test sirens shall meet the following requirements:

(a) Sound Measuring System. The sound measuring system shall meet the requirements of SAE J184a, June 1978.

(b) Octave Band Analyzer. The octave band analyzer shall meet the requirements of ANS S1.11-1966.

(c) Turntable. The turntable shall have a diameter of at least 300 mm (12 in.) and shall operate at a constant speed.

(d) Test Fixture. The fixture used for electromechanical and electronic siren tests shall be a rigid tripod 1.20 m \pm 50 mm (4 ft \pm 2 in.) in height, constructed of 13-mm (0.5-in.) tubular material, mounted on a turntable, and fitted with a 300-mm (12-in.) square platform.

(e) Wattmeter. The wattmeter for measuring amplifier output shall be a Weston Model 310 Form 3, or equal, with a frequency range from dc to 1600 Hz, field ratings of 10 A and 62.5 V, a scale range of 250 W, and 1% accuracy.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1025. Testing Sites.

Sites for laboratory or field tests of sirens shall comply with the following requirements:

(a) Laboratory Tests. A laboratory test site shall consist of an anechoic chamber that meets the requirements of ANS S1.13-1971.

(b) Open Field Tests. An open field test site for mechanical siren testing shall consist of a flat paved area at least 15 m (49 ft) in diameter and free of large vertical sound-reflecting surfaces within 15 m (49 ft) of the microphone and siren except for the test vehicle.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1026. Microphone and Personnel Stations.

Sound level meter microphones and technicians shall be stationed as follows:

(a) Microphone Location. The microphone used for testing an electromechanical or electronic siren shall be located 3.00 m \pm 6 mm (9.8 ft

± 0.24 in.) from the edge of the siren horn or projector, in line with the siren axis, and at the same height as the siren. The microphone used for testing a mechanical siren shall be located 1.20 m ± 50 mm (4 ft ± 2 in.) above the test surface and 3.00 m ± 6 mm (9.8 ft ± 0.24 in.) from the nearest part of the siren.

(b) **Microphone Orientation.** The microphone shall be oriented in relation to the sound source in accordance with the instrument manufacturer's instructions. If the instruction manual does not include adequate information, a specific recommendation shall be obtained from the manufacturer.

(c) **Personnel Location.** During laboratory tests, technicians and observers shall remain outside the anechoic chamber. During field tests, persons other than the operator of the vehicle shall be positioned no closer than 3 m (9.8 ft) from the microphone or the siren.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1027. Siren Test Procedures.

(a) **Mounting of Test Sample.** Mechanical sirens shall be mounted on a vehicle for open field testing. Electromechanical sirens and electronic siren speaker assemblies shall be mounted on a test fixture secured to a turntable in an anechoic chamber as follows:

(1) **Height Above Turntable.** The height, measured from the lower edge of the siren stator housing of electromechanical sirens or from the lower edge of the speaker bell of electronic sirens to the face of the turntable, shall be 1.2 m ± 76 mm (4 ft ± 3 in.).

(2) **Distance from Surface of Test Area.** Sirens shall be located as far from the walls of the anechoic chamber as practicable.

(b) **Power Supply.** The electrical power supply for testing electromechanical and electronic sirens shall be as follows:

(1) **Electromechanical Sirens.** The power supply for the electromechanical siren under test shall be a battery of the correct rated voltage with a cold cranking performance rating at -18° C (0° F) of from 550 A to 620 A and a rated minimum reserve capacity at 26.7° C (80° F) of 140 min. The battery shall be at full charge and in good condition at the start of the test.

(2) **Electronic Sirens.** The power supply for electronic sirens shall be a well-filtered, voltage-regulated power source meeting at least the requirements of SAE J823c, January 1975. The voltage measured at the power supply output terminals with the siren operating shall be as follows:

<i>Rated voltage</i>	<i>Test voltage for sound level</i>	<i>Test voltage for wattage</i>
6	6.5	7.2
12	13.6	15.0

(c) **Sound Level Meter Operation.** The sound level meter shall be operated in accordance with the instrument manufacturer's instructions and as follows:

(1) **Sound Level Meter Setting.** The sound level meter shall be set for the A-weighted network and fast response.

(2) **Octave Band Analyzer.** The octave band analyzer shall be operated to determine the octave band containing the maximum sound output in each siren mode.

(3) **Calibration Check.** An external calibration check shall be made before and after each period of use and at intervals not exceeding 2 h when the sound measuring instrument is used for a period longer than 2 h.

(4) **Ambient Sound.** Measurements shall be made only when the A-weighted ambient sound level, including wind effects and all other sound sources, is at least 10 dB(A) lower than the sound level of the siren.

(d) **Siren Operation.** The mounted siren shall be operated to determine the sound level output under each function at the established test points as follows:

(1) Electromechanical and electronic siren speakers shall be rotated from at least 50 deg left to 50 deg right of the center of the siren axis at a constant speed during the siren operation.

(2) Mechanical sirens shall be tested when mounted on a stationary vehicle and operated at speeds equivalent to a road speed of 30 to 80 km/h (19 to 50 mph) to determine maximum noise output straight ahead of the vehicle (the vehicle may be mounted on rollers). The speed at which maximum sound level occurs shall be continued while the microphone is moved from 50 deg left to 50 deg right of the center of the vehicle axis. NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1028. Performance Requirements.

(a) **Siren Functions.** Electronic sirens shall have a wail function and may also have manual and yelp functions. No other function is permitted on sirens sold after January 1, 1982, except for voice communication. Sirens shall meet the following requirements in addition to the sound levels specified in Table I:

(1) **Wail.** The wail function shall have an automatic undulating pitch rate of not less than 10 nor more than 30 oscillations per minute. The sound level shall not drop more than 10 dB(A) below the required values in Table I during the lowest portion of any cycle.

(2) **Manual.** Electronic sirens manufactured after January 1, 1982, which include a manual function shall use the vehicle horn ring or any other manual momentary contact switch to allow the vehicle operator to switch between the wail and yelp functions, to momentarily override the descending sound pattern of the automatic cycle when the control is set at "wail," or to produce a manually-cycled wail when the control is set at "manual."

(3) **Yelp.** The yelp function shall have an automatic undulating pitch rate of not less than 150 nor more than 250 oscillations per minute, except for sirens sold prior to July 1, 1980.

(b) **Sound Level Output.** Two classes of sirens, A and B, are established based on the A-weighted sound level output measured at the angles specified in Table I. The sound level measurements of electronic sirens shall be started immediately after the siren has been operated for one minute. A deviation of 1 dB(A) below the specified value shall be allowed at any three of the eleven test points.

Table I. Minimum A-Weighted Sound Level at 3.0 m (9.8 ft)

<i>Rotation deg left and right from axis</i>	<i>Sound Level, dB(A) Class A</i>	<i>Class B</i>
0	120	115
10	119	114
20	118	113
30	117	112
40	115	110
50	113	108

(c) **Siren Classification.** The A or B overall classification of a siren shall be the class of the lowest performing function incorporated in the siren. The reported sound level for each test point under manual operation shall be the steady-state level reached during continuous activation. The reported sound level for the wail and yelp functions at each test point shall be the average of the levels reached by five consecutive major peaks.

(d) **Frequency Requirements.** The maximum sound level in the axis of the siren shall occur in either the 1000- or the 2000-Hz octave bands for all functions.

(e) **Electronic Siren Wattage.** The wattage drawn by speakers of electronic sirens shall not exceed the following requirements when tested at the voltages specified in Section 1027(b) of this article. The voltage leads of the wattmeter shall be connected to the speaker terminals on the amplifier, and readings shall be taken in the order of manual, wail, and yelp.

(1) At the voltage specified for the sound level tests, the measured wattage after 1 min and before 3 min of operation shall not exceed the rating of the driver.

(2) At the voltage specified for wattage tests, the wattage shall not exceed 105% of the rating of the driver when measured after 10 min of operation.

(3) The wattage recorded for wail and yelp shall be the mathematical average of the high and low readings of five continuous cycles as the signal varies.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 26103 and 26104, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 81, No. 44).

§ 1029. Installation Requirements.

Sirens and speakers installed on authorized emergency vehicles shall be mounted as follows:

(a) Electromechanical and Mechanical Sirens. Class A electromechanical and mechanical sirens shall be mounted outside, between the grille and radiator, or under the hood. Class B electromechanical and mechanical sirens shall be mounted outside or between the grille and the radiator. Mechanical motorcycle sirens that do not operate when the vehicle is stationary shall not be installed on motorcycles manufactured after January 1, 1981.

(b) Electronic Sirens. Class A and B electronic sirens installed after January 1, 1976, shall be mounted outside or with the horn opening facing forward ahead of the radiator with a relatively open path for the sound to project forward. The horn axis shall be parallel to the road and vehicle centerline.

(c) Dual Speakers. Dual speakers for electronic sirens shall be connected in phase and mounted so that the speaker axis is parallel to the vehicle centerline or angled outward not more than 10 degrees to the sides.

(d) Speakers in Lightbars. Electronic siren speakers may be mounted facing forward behind a speaker grille in a lightbar.

(e) Transfer. A siren, except a motorcycle mechanical siren, meeting the requirements established by the department at the time it was first installed on an authorized emergency vehicle may be transferred between authorized emergency vehicles by the owner or sold by the owner for use on other authorized emergency vehicles.

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Sections 24012 and 26103, Vehicle Code.

Article 9. Exhaust System Noise Measurement

§ 1030. Scope.

NOTE: Authority cited: Sections 2402 and 27150.2, Vehicle Code. Reference: Sections 2500–2504, 2540–2549, and 27150.2, Vehicle Code.

HISTORY

1. New Article 9 (Sections 1030–1036) filed 11–25–75; designated effective 1–1–77 (Register 75, No. 48). For history of former Article 9, see Register 74, No. 14.
2. Order of Repeal filed 8–26–82 by OAL pursuant to Government Code Section 11349.7(j) (Register 82, No. 35).

§ 1031. Definitions.

The following definitions shall apply wherever the terms are used in this article:

(a) Exhaust System. An “exhaust system” consists of all pipes, converters, and chambers through which the exhaust gas flows from the engine exhaust manifold outlet flange to the end of the tailpipe.

(b) Maximum RPM. “Maximum rpm” for 1972 and later year model vehicles is the highest governed engine speed or, if ungoverned, the rpm at maximum engine net horsepower as determined by the engine manufacturer in accordance with SAE Standard J245 in the 1971, or any later, edition of the SAE Handbook. For earlier year models, “maximum rpm” is the highest governed engine speed or, if ungoverned, the rpm at maxi-

mum engine net or gross horsepower as specified by the vehicle manufacturer.

(c) Approved Laboratory. An “approved laboratory” has facilities and equipment for testing sound measuring equipment to American National Standards Institute Standard S1.4–1971.

NOTE: Authority cited: Section 27150.2, Vehicle Code. Reference: Sections 2500–2504, 2540–2549, and 27150.2, Vehicle Code.

HISTORY

1. Amendment of subsection (b) filed 8–20–81; effective thirtieth day thereafter (Register 81, No. 34).
2. Amendment filed 6–28–82; effective thirtieth day thereafter (Register 82, No. 27).

§ 1032. Instrumentation.

Equipment used in making exhaust system sound level measurements shall meet the following requirements:

(a) Sound Level Meter. A sound level meter complying with ANS S1.4–1971, issued by the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018, shall be used to measure the exhaust noise. Type 1 or S1A sound level meters shall be used for exhaust system manufacturers’ certifications. Type 1, S1A, 2, or S2A sound level meters shall be used by licensed muffler stations and enforcement personnel.

(b) Tachometer. A tachometer shall be used to determine the rpm ranges specified in Section 1036(c) of this title.

(1) Characteristics. Tachometers shall have the following characteristics:

(A) Accuracy of ± 100 rpm over a range of 2,200 to 5,000 rpm.

(B) A scale of at least 3 in. (76 mm) graduated in increments of not more than 100 rpm, or a digital readout, and a full-scale reading of at least 6,000 rpm.

(C) Capability for operation on all common 6- and 12-V ignition systems, and direct reading on 1-, 2-, 4-, 6-, and 8-cylinder engines with 2- or 4-stroke cycles. Separate instruments may be used to cover the required range of engine types.

(D) Solid-state circuitry with radio frequency suppression.

(E) Attachment to the engine by direct connection to coil, distributor, or tachometer terminal, or by clamping an inductive pickup with shielded cable over one spark plug wire.

(F) Operative ambient temperature range of 32° to 122° F (0 to 50° C), storage temperature range of 0° to 160° F (–17.8° to 71.1° C), and ambient relative humidity range of 10 to 90%.

(G) Capability for calibration checks and adjustments. If an external calibrator is used, it must be provided with the instrument or be readily available in the station.

(2) Instructions. Instructions for proper use and for maintaining correct calibration shall be provided by the instrument manufacturer.

(c) Calibrator. An acoustic calibrator of the coupler type, accurate to within ± 0.5 dB, shall be available for calibration of sound level meters.

(d) Windscreen. An open-cell, foam windscreen recommended by the manufacturer of the sound level meter shall be used to protect the microphone.

NOTE: Authority cited: Section 27150.2, Vehicle Code. Reference: Sections 2500–2504, 2540–2549, and 27150.2, Vehicle Code.

HISTORY

1. Amendment filed 6–16–77; designated effective 7–15–77 (Register 77, No. 25).
2. Amendment of subsection (a) filed 8–20–81; effective thirtieth day thereafter (Register 81, No. 34).

§ 1033. Instrument Calibration.

The sound measuring set, consisting of the sound level meter, microphone, calibrator, and any cables, shall be submitted to the instrument manufacturer’s designated calibration and repair facility or an approved laboratory for calibration, adjustment, and repair at least once every two years. The tachometer shall be maintained in calibration in accordance with the tachometer manufacturer’s calibration instructions. Exhaust system manufacturers may repair and calibrate their own instruments when the calibration standards are traceable to the National Bureau of

Standards in the United States or the national standards body in the country in which the laboratory is located.

HISTORY

1. Amendment filed 6-16-77; designated effective 7-15-77 (Register 77, No. 25).

§ 1034. Training and Positioning of Personnel.

Personnel shall be trained and positioned during noise tests as follows:

(a) Training. Persons testing exhaust systems shall have received training in the calibration, use, and maintenance of noise measuring instruments and shall be knowledgeable of the stationary test procedures published by the department. Trained personnel shall be capable of demonstrating their proficiency to departmental representatives.

(b) Positioning. The positioning of sound measurement technicians and bystanders shall be as follows:

(1) Technician Location. The technician making readings of the meter shall be positioned in relation to the microphone in accordance with the instrument manufacturer's instructions. The technician shall not be between the microphone and the axis of the exhaust outlet.

(2) Bystander Location. During sound measurements, bystanders shall not be within 10 ft (3.0 m) of the microphone or the vehicle being measured, except for one witness or trainee positioned behind the technician in line with the technician and the microphone. This requirement does not apply to persons in the vehicle.

HISTORY

1. Amendment of subsection (a) filed 6-16-77; designated effective 7-15-77 (Register 77, No. 25).

§ 1035. Meter Operation.

A sound level meter shall be used according to the instrument manufacturer's instructions and as follows:

(a) Microphone Orientation. The microphone shall be oriented in relation to the source of the sound as specified by the microphone manufacturer. Where the instruction manual does not include adequate information, specific orientation recommendations shall be obtained from the manufacturer.

(b) Meter Setting. The sound level meter shall be set for the A-weighted network and slow response.

(c) Calibration Check. An external calibration check shall be made before and after each period of use and at intervals not exceeding 2 h during continued use.

(d) Ambient Sound. Measurements shall be made only when the A-weighted ambient sound level, including noise from wind and all sources other than the vehicle being measured, is at least 10 dB lower than the sound level of the vehicle.

(e) Temperature and Humidity. Measurements shall not be made when the temperature is lower than 0° F (-18° C) or higher than 122° F (50° C) or the relative humidity is lower than 10% or higher than 95%. Calibration checks shall be made frequently enough to stabilize the readings under the particular weather conditions.

§ 1036. Passenger Cars and Light Trucks and Buses.

Exhaust systems for motor vehicles, other than motorcycles, with a manufacturer's gross vehicle weight rating of less than 6,000 lb (2,722 kg) shall comply with the specified noise limits when tested in accordance with the following specifications:

(a) Measuring Site. The vehicle under test shall be positioned either on outdoor pavement or on a shop floor (but not over a hoist or pit) in a location where the exhaust outlets are near an open shop door. No sound-re-

flecting surface other than the pavement and the vehicle being measured shall be within 10 ft (3.0 m) of any part of the vehicle.

(b) Microphone Location. The microphone for the sound level meter shall be at the same height as the center of the exhaust outlet. The microphone shall be no closer to the pavement than 8 in. (203 mm) when the exhaust outlet is lower than this height (Figure 1). The microphone shall be positioned with its longitudinal axis parallel to the ground, 20 ± 1 in. (508 ± 24 mm) from the nearest edge of the exhaust outlet, and 45 ± 10 deg from the axis of the outlet (Figure 2). For exhaust outlets located under the vehicle body, the microphone shall be located at the specified angle and at least 8 in. (203 mm) from the nearest part of the vehicle. For exhaust outlets that make an angle of 45 deg or less with the longitudinal axis of the vehicle, the microphone shall be outboard of the exhaust axis. For exhaust outlet angles of more than 45 deg, the microphone shall be on the side of the exhaust axis to the rear of the vehicle (Figure 3).

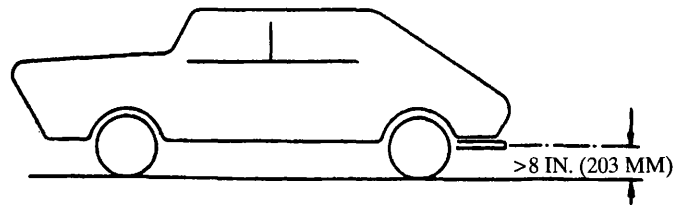


Figure 1. Microphone Height

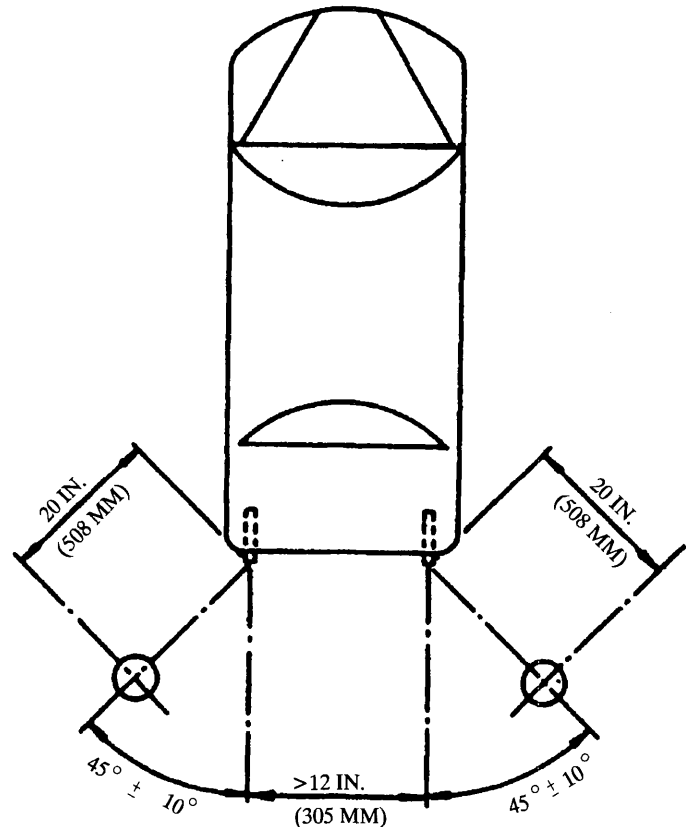


Figure 2. Placement of Microphone, Usual Exhaust Location

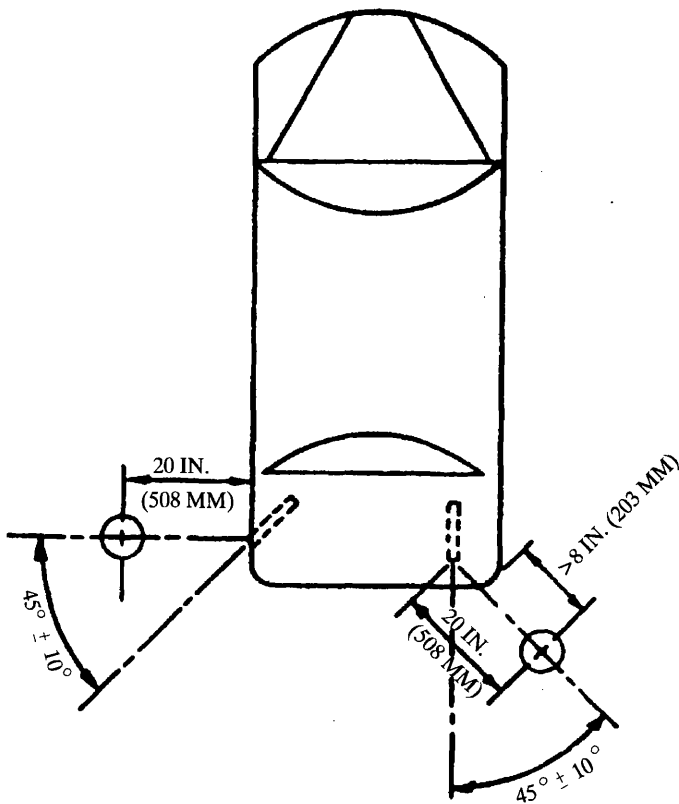


Figure 3. Placement of Microphone, Exhaust Under Body

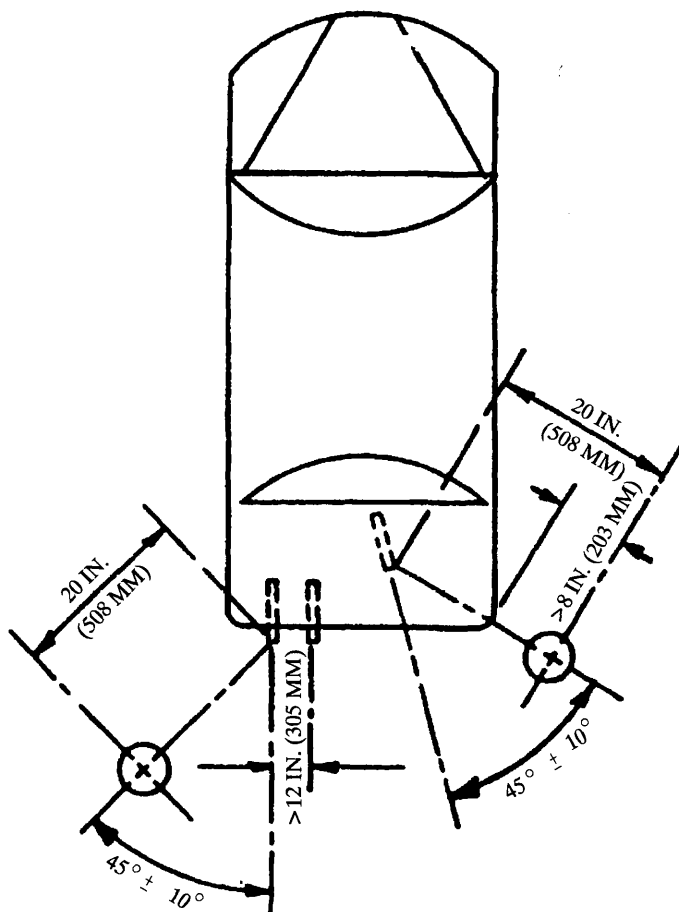


Figure 4. Placement of Microphone, Exhausts Close Together

(c) Engine Operation. The engine shall be at normal running temperature with the transmission in neutral. Sound level measurements conducted for certification by exhaust system manufacturers shall be made at an average steady-state engine speed of three-quarters of maximum rpm. Sound level measurements conducted by licensed muffler certification stations shall be made at an average steady-state engine speed of 3,000 rpm for vehicles manufactured before 1972 for which the station does not have maximum rpm data.

(d) Exhaust Sound Level Measurement. The recorded exhaust system sound level of a stationary vehicle shall be the highest reading obtained during the test, disregarding unrelated peaks due to extraneous ambient noise. When there is more than one exhaust outlet, the reported sound level shall be for the loudest outlet. When there are two or more exhaust outlets separated by less than 12 in. (305 mm), measurements shall be made on the outlet closest to the side or rear of the vehicle (Figure 4). The sound level for motor vehicles with manufacturers' gross vehicle ratings of less than 6,000 lb (2,722 kg), except motorcycles, shall not exceed the following limit:

(1) Sound Level Limit. The exhaust noise shall not exceed 95 dB(A).

(2) Exception. The exhaust noise of vehicles manufactured after 1967 may exceed 95 dB(A) if the replacement parts are no louder than the original equipment or "factory duplicate" system and the total sound level of the vehicle when tested in accordance with Sections 1040 through 1049 of this title complies with the limits in Vehicle Code Section 27205 for the year of manufacture of that vehicle.

Article 10. Vehicle Sound Measurement

§ 1040. Scope.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, 27207 and 38370, Vehicle Code. Reference: Sections 23130, 23130.5, 27200-27207 and 38370, Vehicle Code.

HISTORY

1. Repealer of Article 10 (Sections 1040-1049) and new Article 10 (Sections 1040-1047) filed 3-26-79; designated effective 5-1-79 (Register 79, No. 13). For prior history, see Registers 76, No. 5; 73, No. 48; 73, No. 38; 73, No. 35; 71, No. 50; 68, No. 2.
2. Order of Repeal filed 8-26-82 by OAL pursuant to Government Code Section 11349.7(j) (Register 82, No. 35).

§ 1041. Definitions.

(a) "Exhaust system" means all pipes, converters, and chambers through which the exhaust gas flows from the engine exhaust manifold outlet flange to the end of the tailpipe.

(b) "Microphone line" means an unmarked reference line running parallel to the vehicle path and passing through the microphone.

(c) "Microphone target point" means the unmarked location on the center of the lane of travel that is the closest to the microphone.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, 27207 and 38370, Vehicle Code. Reference: Sections 23130, 23130.5, 27200-27207 and 38370, Vehicle Code.

HISTORY

1. Amendment filed 6-28-82; effective thirtieth day thereafter (Register 82, No. 27).
2. Amendment filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1042. Training and Positioning of Personnel.

(a) Training—Persons selected to measure vehicle sound levels shall have received training in the techniques of sound measurement and the operation of sound measuring instruments.

(b) Technician Positioning—The technician making direct readings of the meter shall be positioned in relation to the microphone in accordance with the instrument manufacturer's instructions. Where the instruction manual is vague or does not include adequate information, a specific recommendation shall be obtained from the manufacturer. The technician shall be no closer to the microphone than 1 m (3.3 ft) for new-vehicle tests and 0.6 m (2 ft) for highway and stationary tests.

(c) Bystander Positioning—During sound measurements, bystanders shall be no closer to the microphone or the vehicle being measured than

the distance between the microphone and the microphone target point, except for a witness or trainee, who may be positioned behind the technician on a line with the technician and the microphone.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, 27207 and 38370, Vehicle Code. Reference: Sections 23130, 23130.5, 27200–27207 and 38370, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 11–20–84; effective thirtieth day thereafter (Register 84, No. 47).

§ 1043. Instrumentation Requirements.

(a) **Sound Level Meter.** Sound level meters used for measurements of vehicles in use shall meet the requirements for Types 1, 2, S1A, or S2A in the American National Standard Specification for Sound Level Meters S1.4–1971 or 1983, the requirements for Type 1, 2, 1A, or 2A in the International Electrotechnical Commission Publication 651, “Sound Level Meters,” or the requirements in the International Electrotechnical Commission Publication 179, “Precision Sound Level Meters.” Sound level meters used for new-vehicle measurements shall meet the Type 1 or S1A requirements of the American National Standard Specification for Sound Level Meters, S1.4–1971 or 1983. As an alternative to making direct measurements using a sound level meter, a microphone or sound level meter may be used with a magnetic tape recorder and/or a graphic level recorder or other indicating instrument provided the system meets the requirements of SAE J184a, July 1978.

(b) **Sound Level Calibrator.**—An acoustic sound level calibrator of the microphone coupler type shall be used to calibrate the entire sound level measurement system. The calibrator shall be calibrated at least annually.

(c) **Tachometer.**—An engine speed tachometer with an accuracy of $\pm 2\%$ of the meter reading shall be used to determine when maximum rpm is attained in new-vehicle tests.

(d) **Anemometer.**—An anemometer with an accuracy of $\pm 10\%$ of the reading for wind speeds of 19.3 to 33.2 km/h (12 to 20 mph) shall be used to measure the wind speed at the measurement site at times when there is wind.

(e) **Windscreen.**—A properly installed microphone windscreen recommended by the manufacturer of the sound level meter may be used.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, 27207 and 38370, Vehicle Code. Reference: Sections 23130, 23130.5, 27200–27207 and 38370, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection (a) filed 11–20–84; effective thirtieth day thereafter (Register 84, No. 47).

§ 1044. Sound Level Meter Operation.

The sound level meter shall be operated in accordance with the instrument manufacturer’s instructions and as follows:

(a) **Microphone Orientation.**—The microphone shall be oriented in relation to the source of the sound in accordance with the instrument manufacturer’s instructions. If the instruction manual does not include adequate information, a specific recommendation shall be obtained from the manufacturer.

(b) **Meter Setting.**—The meter shall be set for the A-weighting network and fast response.

(c) **Calibration Check.**—The sound level measuring system shall be calibrated with an external acoustic calibrator before and after each test sequence and at intervals of 5 to 15 min. at the beginning of each test sequence until it has been established that the system has not drifted more than 0.3 dB(A) from its previous calibration level. Subsequent calibration intervals shall not exceed 1 h for sound level measurements of vehicles operated on the highway.

(d) **Meter Reading.**—The recorded reading shall be the highest sound level obtained as the vehicle passes by, disregarding unrelated peaks due to extraneous ambient noises.

(e) **Ambient Sound.**—Measurements shall be made only when the A-weighted ambient sound level, including wind effects and all sources other

than the vehicle being measured, is at least 10 dB(A) lower than the sound level of the vehicle.

(f) **Wind.**—Sound level measurements shall be made only when the wind velocity is 19.3 km/h (12 mph) or lower with gusts not exceeding 33.2 km/h (20 mph).

(g) **Precipitation.**—Except for snowmobiles in Section 1046, measurements shall not be made during precipitation, or when the road surface is wet or covered with snow or ice.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, 27207 and 38370, Vehicle Code. Reference: Sections 23130, 23130.5, 27200–27207 and 38370, Vehicle Code.

HISTORY

1. Amendment of subsection (g) filed 11–20–84; effective thirtieth day thereafter (Register 84, No. 47).

§ 1045. Measurement Procedures for Vehicles in Use.

Noise from vehicles in use shall be measured as follows:

(a) **Microphone Location.** The sound level measuring microphone shall be in one of the following locations:

(1) **Primary Location.** The microphone shall be located at a height not less than 0.6 m (2 ft), not more than 1.8 m (6 ft) above the plane of the roadway surface, and not less than 1.1 m (3.5 ft) above the surface upon which the microphone stands. The preferred microphone height on a flat surface is 1.2 m (4 ft).

(2) **Secondary Location.** The microphone may be mounted on a boom affixed to the exterior of a passenger vehicle or the sound level meter with microphone attached may be held by a person sitting astride an open motorcycle.

(A) When the microphone boom is used, the microphone shall be located $0.41 \text{ m} \pm 7.6 \text{ cm}$ (16 in. ± 3 in.) above the highest point of the vehicle within an area bounded by the windshield, the tops of left and right front windows, and the rear of the driver’s seat. The vehicle upon which the microphone is mounted shall be positioned so that its longitudinal axis is perpendicular to the center of the lane of travel. The height of the microphone above the plane of the roadway surface shall not exceed 2.4 m (8 ft). A correction factor of -2dB(A) shall be applied to the recorded sound level.

(B) When the sound level meter with microphone attached is held by a person sitting astride an open motorcycle, the motorcycle shall be positioned parallel to the center of the lane of travel. The microphone shall be pointed toward the traffic and project beyond the windshield if the motorcycle is so equipped. The microphone shall be within the height requirements specified in preceding subsection (a)(1). A correction factor of -1dB(A) shall be applied to the recorded sound level.

(b) **Distance from Microphone to Target Point.** The horizontal distance from the microphone to the microphone target point shall normally be 15.2 m (50 ft) but may range from 7.9 m (26 ft) to 30.2 m (99 ft) if the following correction factors are used:

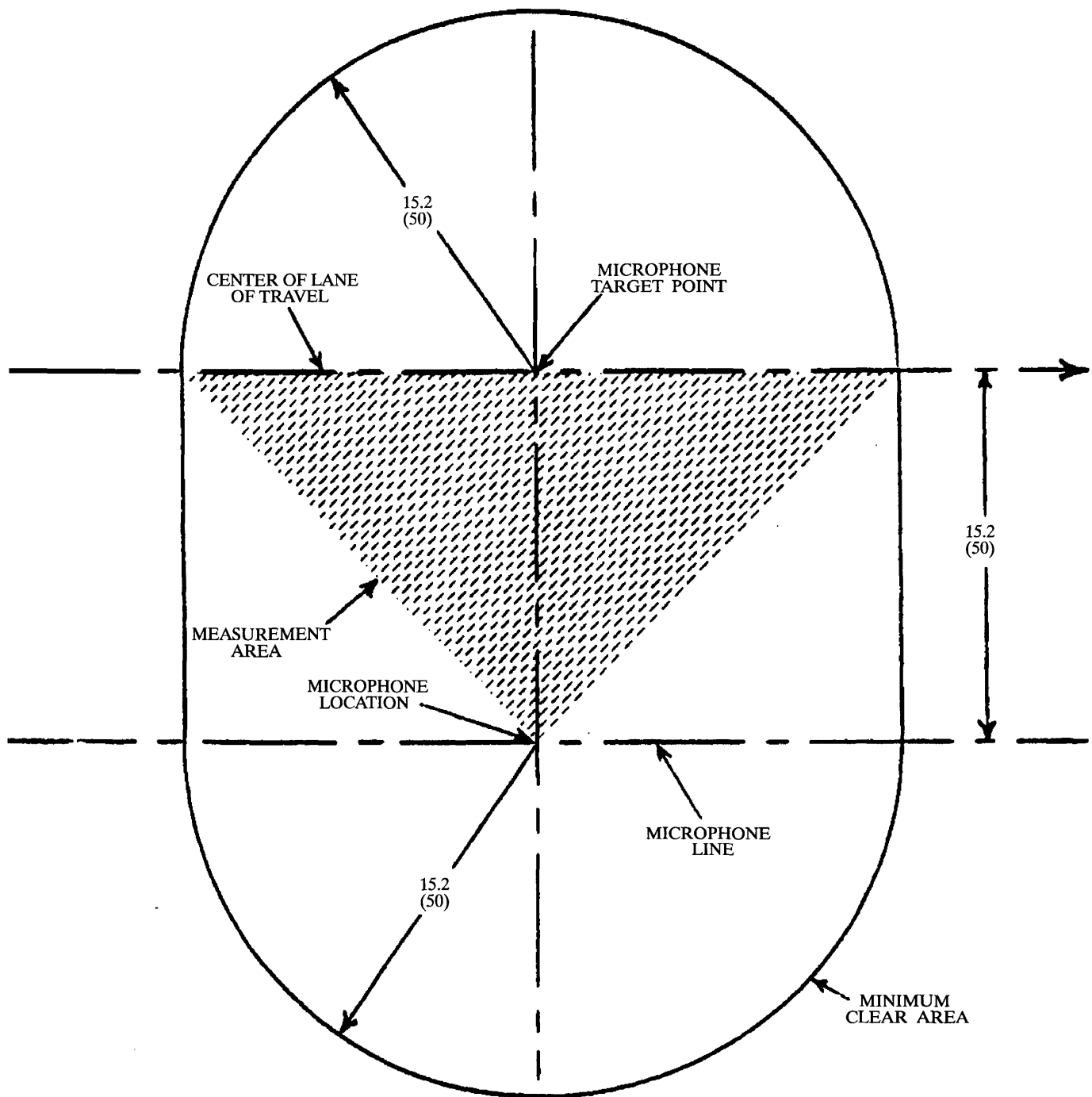
<i>Distance from microphone to center of lane of travel</i>	<i>Sound level correction factor, dB(A)*</i>
7.9–8.8 m (26–29 ft) n	–6
8.8–9.8 m (29–32 ft)	–5
9.8–10.7 m (32–35 ft)	–4
10.7–11.9 m (35–39 ft)	–3
11.9–13.1 m (39–43 ft)	–2
13.1–14.6 m (43–48 ft)	–1
14.6–17.7 m (48–58 ft)	0
17.7–21.3 m (58–70 ft)	+1
21.3–25.3 m (70–83 ft)	+2
25.3–30.2 m (83–99 ft) **	+3

* If the distance from microphone to center of lane of travel falls on the midpoint between distance ranges given in the table, the larger correction factor shall be used.

** These distances are not applicable to measurements of heavy trucks with a gross vehicle weight rating (GVWR) of over 4,537 kg (10,000 lb) operated by motor carriers engaged in interstate commerce and governed by the Federal Bureau of Motor Carrier Safety regulations.

(c) **Measuring Sites.** Sites for measuring sound from vehicles in use shall meet the following requirements:

(1) Standard Sites. As shown in Figure 1, standard measuring sites shall have the microphone 15.2 m (50 ft) from the lane of travel, be free of sound-reflecting surfaces within a 15.2 m (50 ft) radius of the microphone and of the microphone target point, and be approximately level.



(Dimensions are in meters, followed by feet)

Figure 1. Standard Highway Measurement Site

(2) Modified Sites. Modified measuring sites shall meet the specifications shown in Figure 1, except the dimensions may range from 7.9 to 30.2 m (26 to 99 ft). The radii of the minimum clear area shall be the distance between the microphone and the microphone target point. Sound level readings taken at such sites shall be corrected as provided in preced-

ing subsection (b). The site shall be free of large sound-reflecting objects, with the following exceptions:

- (A) The following objects may be anywhere within the site:
1. Small cylindrical objects such as fire hydrants or utility poles.
 2. Rural mailboxes.

3. Traffic railings of any type of construction except solid concrete barriers.

4. Curbs having a vertical height of not more than 0.3 m (1 ft).

5. Small bushes, shrubs, hedges, or trees.

(B) The following objects may be within the measuring site but outside the triangular measuring area:

1. Any vertical surface (such as a billboard) regardless of size with a lower edge more than 4.6 m (15 ft) above the roadway surface.

2. Any uniformly smooth, sloping surface rising away from the highway with a slope less than 45 deg above horizontal.

3. Any surface rising away from the highway that is 45 deg or more and not more than 90 deg above horizontal if all points on the surface are more than 4.6 m (15 ft) above the roadway.

4. Any object on the side of the vehicle path opposite the microphone with a width measured parallel to the vehicle path not exceeding 1.0 m (3.1 ft) regardless of height, and not slanting toward the roadway. If objects exceeding 1.0 m (3.1 ft) in width (such as parked vehicles) are on the side of the vehicle path opposite the microphone, a correction factor of -2 dB(A) shall be applied to the recorded sound level.

(d) Moving Vehicles. Noise from vehicles in use shall be measured as the vehicle passes through the measuring site. Measurements shall be made under the conditions under which the vehicle is operating, regardless of vehicle load, grade, acceleration, or deceleration.

(1) The traveled lane of the roadway within the measuring site shall be dry and paved with relatively smooth concrete or asphalt.

(2) The traveled lane shall be free of holes or other defects that would cause a vehicle to emit irregular tire, body, or chassis impact noise and shall be free of significant areas of loose material such as sand or gravel.

(3) The microphone target point shall not be within 61 m (200 ft) of a tunnel or underpass through which the vehicle travels.

(4) The sound level must rise at least 6 dB(A) to the maximum level and fall at least 6 dB(A) below the maximum level as the vehicle passes to ensure that noise from other vehicles does not interfere with the sound of the vehicle being measured.

(e) Stationary Heavy Motor Vehicles. Noise measurements of stationary in-use motor vehicles with a gross vehicle weight rating of more than 4,537 kg (10,000 lb) and equipped with an engine speed governor shall be made in accordance with the following procedures:

(1) Vehicle Location: The vehicle shall be parked on a measuring site meeting the requirements of preceding subsection (c). The centerline of the vehicle shall be on the center of the lane of travel as shown in Figure 1. The vehicle shall be positioned so the exhaust system outlet is within 1.0 m (3.3 ft) of the microphone target point measured along the center of the lane of travel.

(2) Auxiliary Equipment. Auxiliary equipment used only when the vehicle is stationary or operating at a speed of 8 km/h (5 mph) or less shall be turned off. Such equipment includes but is not limited to cranes, asphalt spreaders, ditch diggers, slurry pumps, auxiliary air compressors, welders, and trash compactors.

(3) Engine Cooling Fans. If the engine cooling fan automatically disengages or reduces speed in response to reduced engine cooling loads, the engine shall be run at high idle, or any other speed the operator may choose, for sufficient time but not more than 10 min to permit the fan to operate at reduced speed during the noise test.

(4) Engine Operation. With the transmission in neutral and the clutch engaged, the engine shall be rapidly accelerated from idle to its maximum governed speed with wide open throttle. After the engine speed has stabilized, the engine shall be returned to idle. This procedure shall be repeated until the maximum sound level readings are within 2 dB(A) of each other, disregarding unrelated peaks due to extraneous ambient sound.

(5) Sound Level Measurement. The recorded sound level for the stationary vehicle shall be the numerical average of the highest 2 or more readings within 2 dB(A) of each other. This level shall not exceed 88 dB(A) on a measurement site with concrete, asphalt, packed dirt, gravel

or similar reflective material for more than one-half the distance between the microphone and the microphone target point. The level shall not exceed 86 dB(A) on a measuring site with grass, other ground cover, or similar absorptive material for more than one-half the distance from the microphone target point.

NOTE: Authority and reference cited: Sections 23130, 23130.5 and 27207, Vehicle Code.

HISTORY

1. Repealer and new section filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).

2. Amendment of subsection (a) filed 11-20-84; effective thirtieth day thereafter (Register 84, No. 47).

§ 1046. Measurement Procedures for New Motor Vehicles.

(a) Heavy Trucks. New motor vehicles with a manufacturer's GVWR of more than 4,537 kg (10,000 lb) subject to 40 CFR, Part 205, shall be tested in accordance with procedures established in that regulation.

(b) Other Heavy Vehicles. New motor vehicles with a manufacturer's GVWR of more than 4,537 kg (10,000 lb) that are not subject to 40 CFR, Part 205, except transit buses equipped with automatic transmissions, shall be tested in accordance with SAE J366b, July 1978, excluding the Appendix. Transit buses with a manufacturer's gross vehicle weight rating of more than 4,537 kg (10,000 lb) equipped with automatic transmissions shall be tested according to SAE J366b except for Section 4.1 of that standard which shall be replaced with the following procedure.

(1) Face the vehicle in the direction opposite that to be used for the noise test, position the reference point (Section 3.7) at the mid-point of the end zone within 0.3 m (1.0 ft), place the gear selector in the position normally used for driving, and locate the starting point for the noise test as follows:

(A) Accelerate the vehicle as rapidly as possible by establishing and maintaining wide open throttle until the first transmission shift occurs.

(B) Mark as the designated starting point, the location along the test path where the vehicle reference point is passing when the shift occurs.

(2) Perform the noise test by reversing the vehicle direction, positioning the vehicle so it is at rest with the vehicle reference point at the designated starting point, and operating the vehicle as follows:

(A) Accelerate the vehicle as rapidly as possible by establishing wide open throttle.

(B) Continue acceleration until the entire vehicle has vacated the end zone, recording only runs in which the first transmission shift occurs in the end zone.

(c) Light Vehicles. New motor vehicles with a manufacturer's GVWR of 4,537 kg (10,000 lb) or less shall be tested in accordance with either of the following methods, at the manufacturer's option: SAE J986, November 1981 or SAE J1470, March 1992, except that the provisions of Section 6.5 shall not apply.

(d) Motorcycles. New motorcycles subject to 40 CFR, Part 205, shall be tested in accordance with procedures established in that regulation. Other new motorcycles shall be tested in accordance with SAE J331a, July 1978.

(e) Snowmobiles. New snowmobiles shall be tested in accordance with SAE J192, April 1980, excluding the sound level tolerances in Section 6.4.

NOTE: Authority cited: Sections 27200 and 38370, Vehicle Code. Reference: Sections 27200-27207 and 38370, Vehicle Code.

HISTORY

1. Amendment filed 8-24-79; designated effective 10-1-79 (Register 79, No. 34).

2. Editorial correction of subsections (c)(1) and (d)(1) (Register 79, No. 38).

3. Repealer and new section filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).

4. Amendment of subsection (b) filed 11-20-84; effective thirtieth day thereafter (Register 84, No. 47).

5. Amendment of subsection (c) filed 7-20-93; operative 8-19-93 (Register 93, No. 30).

§ 1047. Vehicle Sound Level.

The measured sound level of a vehicle shall be reported as follows:

(a) Vehicles on the Highway—The A-weighted sound level reading of a vehicle in use on the highway shall be the highest reading observed as the vehicle or vehicle combination passes through the measuring site.

(b) Stationary Heavy Vehicles—The reported A-weighted sound level of heavy vehicles measured when they are stationary shall be the numerical average of the two highest levels that are within 2 dB(A) of each other.

(c) New Motor Vehicles—The sound level reading for new motor vehicles shall be obtained as follows:

(1) Preliminary Runs—Sufficient preliminary runs shall be made to enable the test driver to become familiar with the operation of the vehicle and to stabilize engine operating conditions.

(2) Test Runs—At least four test runs shall be made for each side of the vehicle. When the exhaust outlet is more than 5.1 m (200 in.) from the front of a vehicle with a gross vehicle weight rating of more than 4,537 kg (10,000 lb), at least two runs shall be made for each side of the vehicle using both the primary and secondary vehicle reference points. At least two additional runs shall be made from the reference point that gives the highest readings.

(3) Reported Sound Level—The reported A-weighted sound level for each side of the vehicle shall be the average of the two highest readings on that side which are within 2 dB(A) of each other. The sound level reported for the vehicle shall be the sound level of the louder side.

NOTE: Authority cited: Sections 23130, 23130.5, 27200, and 38370, Vehicle Code. Reference: Sections 23130, 23103.5, 27200–27207, and 38370, Vehicle Code.

HISTORY

1. Amendment of subsection (c)(2) filed 11–20–84; effective thirtieth day thereafter (Register 84, No. 47).

NOTE: Editorial correction in Register 79, No. 17 to delete Section 1049, which was repealed as part of Article 10 in filing of 3–26–79 (designated effective 5–1–79).

Article 11. Exhaust System Certification

§ 1050. Intent.

This article and Sections 600 through 608 and 1030 through 1038 of this title are intended to comply with Vehicle Code Section 27150.2. After the study required by Vehicle Code Section 27150.3, an additional study of passenger vehicles, and review of arguments and data submitted by manufacturers and installers, the department has determined that a simple noise test, as provided in Sections 1030 through 1038, is a practical way to control the sale and installation of exhaust systems and parts that may exceed noise limits set by Vehicle Code Sections 23130 and 23130.5. The department has provided exemptions where compliance with these regulations would result in undue hardship.

When an original exhaust system produces noise substantially under the limits in Section 1036 of this title, manufacturers, sellers, and installers must use caution to ensure that installing a certified exhaust system or part does not significantly increase the noise in violation of Vehicle Code Section 27151. Increasing the noise would defeat the purpose of new vehicle limits in California statutes and regulations.

Compliance with the provisions of this article does not exempt any person from complying with other sections of the Vehicle Code except as provided by Vehicle Code Section 27150.7, nor from complying with any other provisions of law including but not limited to Section 17500 of the Business and Professions Code and Section 3369 of the Civil Code. NOTE: Authority cited: Sections 2402 and 27150.2, Vehicle Code. Reference: Sections 2500–2504, 2540–2549, and 27150.2, Vehicle Code.

HISTORY

1. New Article 11 (Sections 1050–1054) filed 11–25–75; designated effective 1–1–77 (Register 75, No. 48). For history of former Article 11, see Register 74, No. 48.

§ 1051. Scope.

This article shall apply to the certification of replacement exhaust systems and parts offered for sale or installed on the following motor vehicles:

(a) Passenger Cars. Systems and parts for motor vehicles, other than motorcycles and motor-driven cycles, of less than 6,000 lb (2,722 kg) gross vehicle weight rating shall comply on and after the following dates:

<i>Year model</i>	<i>Operative date</i>
1973 and later	January 1, 1977
1970, 1971, and 1972	July 1, 1977
1968 and 1969	January 1, 1978
1967 and earlier	January 1, 1979

(b) Motorcycles. (This subsection is reserved until exhaust system regulations are established for motorcycles.)

(c) Trucks. (This subsection is reserved until exhaust system regulations are established for trucks.)

§ 1052. Certification Procedures.

Manufacturers of replacement exhaust systems or parts shall certify compliance with these regulations, including the appropriate exhaust system noise limits specified in Section 1036(d) of this title. Exhaust system manufacturers, suppliers, and sellers shall certify in each catalog or similar listing they issue that the exhaust system or parts listed for sale in California comply with the exhaust system certification regulations. The catalogs or listings shall specify the vehicle models and engine size and type for which the items are certified.

If the exhaust system manufacturer, supplier, or seller has no catalog or similar listing, or if the part becomes available after printing of the listing, the certification may be printed or otherwise labeled on the part or on the container in which the part is sold, or the certification may be placed in the container. Such individual certifications shall specify the vehicle models for which the part is certified.

The certification may be on a form attached to the catalog or listing, identifying the particular listing to which it refers and specifying the systems or parts that are not certified. Noncertified systems may be shown, but they must be clearly represented as not being legal for use on highways in California.

(a) Exhaust System. A complete exhaust system shall be certified as an assembly.

(b) Exhaust System Parts. Mufflers, resonators, chambered pipes, flare tips, taper tips, and other sound-modifying parts shall be certified for use in at least one system when tested with the remaining parts of the vehicle manufacturer's original equipment or an exhaust manufacturer's certified replacement system. Catalytic converters, manifolds, and smooth exhaust and tail pipes are not required to be certified separately.

(c) Special Systems. Special exhaust systems designed for engines modified for high performance or other characteristics that affect exhaust noise shall be certified for at least one engine modification for which it is designed by the manufacturer of the special exhaust system.

(d) Partially Exempt Systems. The catalog or other listing that certifies exhaust systems or parts permitted to produce more than 95 dB(A) under Section 1036(d)(2) of this title shall indicate by words or symbols that the noise is more than 95 dB(A), but no louder than that from the original equipment or factory duplicate system.

NOTE: Authority and reference cited: Section 27150.2, Vehicle Code.

HISTORY

1. Amendment filed 5–30–80; designated effective 7–1–80 (Register 80, No. 22). For prior history, see Register 77, No. 25.

§ 1053. Retraction of Certification.

The exhaust system or parts manufacturer's, supplier's, or seller's certification may be retracted by the department under the following conditions:

(a) Request for Data. Whenever the department has reason to believe that under ordinary conditions of use any certified exhaust system, or parts thereof, does not comply with these regulations, the department may request the manufacturer, supplier, or seller to submit test reports or

data demonstrating compliance. The department shall make such a request by certified mail.

If test reports or data are not received by the department within 30 days of the date of request, the department shall consider that such exhaust systems or components do not comply with the regulations. If a manufacturer, supplier, or seller submits a written request setting forth good reason for an extension, the department may grant additional time for response.

(b) Notice of Accusation. After review of the data requested or after departmental tests, the department may give notice of accusation to a manufacturer, supplier, or seller that the department intends to require the manufacturer to retract the certification on the basis that his product fails to comply with the regulations adopted pursuant to Vehicle Code Section 27150.2 or significantly increases the exhaust noise in violation of Vehicle Code Section 27151. The notice of accusation shall set forth those areas in which the exhaust system or components fail to comply.

(c) Notice of Defense. The manufacturer, supplier, or seller receiving such a notice may voluntarily retract the certification or, within 15 days of service of the accusation, may file a notice of defense.

(d) Request for Hearing.

If the notice of defense contains a request for a hearing, the department shall determine the hearing date and shall deliver or mail a notice of hearing to the responding party at least 10 days prior to such hearing.

(e) Notice to Interested Parties. It is desirable that all interested parties are made aware of the proceedings in order to represent their interests. The manufacturer, supplier, or seller who requests the hearing shall provide a copy of the notice of hearing to each person or firm who was furnished a certified catalog or other listing for use in the normal conduct of his business. Included with the notice of hearing shall be a summary of the defense filed by the one requesting the hearing.

(f) Conduct of Hearing. Hearings pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY

1. Amendment of subsection (b) filed 6-16-77; designated effective 7-15-77 (Register 77, No. 25).

§ 1054. Identification Markings.

Each noise-modifying part of an exhaust system, such as a muffler, resonator, chambered pipe, extractor, taper tip, or flare tip, shall be permanently marked by molding, stamping, indenting, or etching. Markings are not required on clamps, hangers, fasteners, or on smooth-sided tubing used for connecting sound-modifying parts or extending tailpipes.

(a) Required Markings. Required markings shall be as follows:

(1) The name, initials, or lettered trademark of the manufacturer, supplier, or seller of the exhaust system or part; or a coded numbering or lettering system that shall be different from those of other manufacturers, suppliers, or sellers. The method of deciphering coded markings shall be furnished to the department.

(2) A model number or letter designation, which may differ from the catalog number and shall differ for each type or construction of muffler, resonator, or other noise-modifying part.

(b) Size of Markings. Required markings shall be not less than 0.15 in. (3.8 mm) in height.

(c) Location of Markings. Required identification markings shall be located where they are legible to an installer either directly or with an extension mirror, except for markings on a muffler inlet or outlet or other location that might be covered by a clamp. Markings on parts installed under the vehicle body need to be legible only when the vehicle is on a hoist.

(d) Exemption from Permanent Markings. Certified replacement exhaust systems and parts manufactured prior to the pertinent operative dates shown in Section 1051(a) of this title may have the required markings on paper or other labels on the part or on its container in lieu of being permanently marked on the part.

HISTORY

1. Amendment filed 6-16-77; designated effective 7-15-77 (Register 77, No. 25).

Article 12. Brake Equipment

§ 1060. Scope of Regulations.

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Sections 26502, 26503 and 26504, Vehicle Code.

HISTORY

1. New Article 12 (§§ 1060 through 1065) filed 7-15-69; designated effective 8-15-69 (Register 69, No. 29).
2. Repealer of Section 1060 filed 5-19-83 by OAL pursuant to Government Code Section 11349.7(j); effective thirtieth day thereafter (Register 83, No. 21).

§ 1061. Air Governor Adjustment.

Air compressor governors shall be adjusted to operate as follows:

(a) Cut-in Pressure. Cut-in pressure shall not be less than 85 psi for full air brake systems on any motor vehicle and not less than 65 psi for air-assisted hydraulic brakes on motor vehicles with a gross vehicle weight rating of not more than 25,000 pounds.

(b) Cutout Pressure. Cutout pressure shall not be more than 130 pounds per square inch unless the maximum air delivered to the brake system reservoir is regulated to provide between 100 and 130 pounds per square inch, in which case the cutout pressure shall be adjusted to not more than 150 pounds per square inch.

NOTE: Authority and reference cited: Section 26504, Vehicle Code.

HISTORY

1. Amendment filed 1-30-80; designated effective 3-1-80 (Register 80, No. 5).

§ 1062. Safety Valve Adjustment.

Airbrake safety valves shall be adjusted to operate as follows:

(a) Normal Discharge Pressure. Safety valves in airbrake systems with an air governor cutout pressure of not more than 130 pounds per square inch shall open and shall relieve the pressure so that it will not exceed 150 pounds per square inch under any condition.

(b) Above Normal Discharge Pressure. Safety valves in airbrake systems with an air governor cutout pressure of 130 to 150 pounds per square inch, as provided in Section 1061(b) of this article, shall open and shall relieve the pressure so that it will not exceed 170 pounds per square inch under any condition. In no case shall the safety valve be set to open at more than the maximum allowable working pressure of the airbrake reservoirs.

NOTE: Authority and reference cited: Section 26503, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).

§ 1063. Load-Controlled Air Pressure Reducing System.

(a) Systems that automatically reduce air pressure at brake actuators during brake application in proportion to the axle load shall operate as follows:

(1) When the single or tandem-axle load on the roadway is 85 percent or more of the maximum legal load or rated gross weight of the axle, whichever is lower, the device or system shall not reduce the full service brake air pressure at the brake chambers to less than that required by Vehicle Code Section 26502 unless the vehicle meets the requirements of Federal Motor Vehicle Safety Standard 121 (49 CFR 571.121) in effect at time of manufacture.

(2) The system shall incorporate a feature to override the automatic control, at the driver's discretion, to allow at least 90 percent of the air supply pressure at the foot valve to be applied to the brake actuators upon full brake application, except on axles designed to carry not more than 50 percent of the maximum legal load or gross weight rating of the axle and used in tandem with a maximum legal load carrying axle on the same vehicle.

(b) Systems that automatically reduce the application air pressure at brake actuators on truck tractors depending upon whether the semitrailer

is connected or disconnected shall operate so the truck tractor meets the brake requirements of Federal Motor Vehicle Safety Standard 121.

NOTE: Authority and reference cited: Section 26502, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Amendment filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).
3. Amendment of subsection (a)(1) filed 3-10-86; effective thirtieth day thereafter (Register 86, No. 11).

§ 1064. Wheel-Controlled Air Pressure Reducing System.

Brake systems that automatically reduce air pressure at the brake actuator to maintain wheel rotation during brake application shall allow at least 90 percent of the air supply pressure at the foot valve to be applied to the brake actuator upon full brake application when the wheel rotates at a rate corresponding to the speed of the vehicle.

NOTE: Authority and reference cited: Section 26502, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Amendment filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).

§ 1065. Pressure Controlled Reducing System.

Brake systems that automatically apply a lower air pressure to certain axles in comparison to other axles on the vehicle or combination of vehicles to obtain balanced braking between axles shall apply equal pressure to all brake actuators when the manual brake control application pressure is 60 psi or more.

NOTE: Authority and reference cited: Section 26502, Vehicle Code.

HISTORY

1. Renumbering and amendment of former Section 1065 to Section 1066 and new Section 1065 filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).

§ 1066. General Requirements for Load, Wheel, and Pressure Controlled Air Pressure Reducing Systems.

All devices or systems for automatically reducing the air pressure delivered to brake actuators on any vehicle or combination of vehicles shall meet the following general requirements:

(a) Stopping Distance. The device or system shall not increase the stopping distance under any condition of load beyond that attained by the same type of vehicle or combination of vehicles when not equipped with the device or system.

(b) Brake-Release Time. The device or system shall not increase the brake-release time over that which would have been attained if the device had not been installed in the system.

(c) Fail-Safe Operation. Any single failure in any part of the device or its control system shall not increase the stopping distance beyond the statutory limits.

(d) Deceleration. The device or system shall permit deceleration at maximum braking capability without causing the vehicle to swerve from a 3.66 m (12 ft) wide lane that is dry, smooth, hard-surfaced, free from loose material, and has a grade not exceeding plus or minus 1 percent.

NOTE: Authority and reference cited: Section 26502, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Renumbering and amendment of former Section 1065 to Section 1066 filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).

Article 13. Tire Chains

HISTORY

1. Repealer of Article 13 (Sections 1070-1076) and new Article 1 (Sections 1070-1077) filed 6-18-80; designated effective 8-1-80 (Register 80, No. 25). For prior history, see Registers 77, No. 27; 76, No. 21; 74, No. 52; 74, No. 40; and 74, No. 27.
2. Repealer of Section 1070 filed 11-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 46).

3. Repealer of Article 13 (Sections 1071-1078) filed 1-30-85; effective thirtieth day thereafter (Register 85, No. 5).

Article 14. Tires and Rims

§ 1080. Scope.

This article shall apply to all tires and rims sold for use, or used on vehicles.

NOTE: Authority and reference cited: Sections 27455, 27465, 27500, 34501, 34501.5, and 34508, Vehicle Code.

HISTORY

1. New section filed 6-30-99; operative 7-30-99 (Register 99, No. 27). For prior history, see Register 84, No. 35.

§ 1081. Definitions.

(a) "CRSC" is the California Retreading Standards Committee.

(b) "FMVSS" is a Federal Motor Vehicle Safety Standard. These standards are located in Title 49, Code of Federal Regulations, Part 571. (e.g., FMVSS No. 109 is in Section 571.109, and FMVSS No. 119 is in Section 571.119.)

(c) "Groove" is the space between adjacent tread ribs, lugs, or other tread configurations that are separated by at least 5/64 inch (2 mm).

(d) "Major groove" is any tread circumferential depression or circumferential series of depressions that has tread wear indicators or had the greatest equal depth when the tire was new.

(e) "Multipurpose passenger vehicle" is a motor vehicle designed for carrying not more than 10 persons, including the driver, and constructed either on a truck chassis or with special features for occasional off-highway operation.

(f) "Passenger car" is a motor vehicle designed for carrying not more than 10 persons, including the driver. The term excludes multipurpose passenger vehicles and all housecars, motortrucks, truck tractors, motorcycles, and motor-driven cycles, as defined in the Vehicle Code.

(g) "Regroovable tire" is a tire manufactured with sufficient material for renewal of the original tread pattern or generation of a new tread pattern without exposing the cord.

(h) "Regrooved tire" is a tire on which the tread or retread pattern has been renewed or a new tread has been produced by cutting new grooves.

(i) "Tread pattern" is the nonskid design on the tread of the tire.

(j) "Tread wear indicator" is the raised section in a groove that enables a person inspecting a tire to determine visually whether the tire has worn to a tread depth of 2/32 inch (1.6 mm), except 1/32 inch (0.8 mm) in the case of motorcycle tires.

NOTE: Authority and reference cited: Section 27500, Vehicle Code.

HISTORY

1. Amendment filed 12-20-76; designated effective 2-1-77 (Register 76, No. 52).
2. Amendment filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).
3. Amendment of subsections (b), (c) and (j) filed 6-30-99; operative 7-30-99 (Register 99, No. 27).

§ 1082. New Tire Requirements.

Tires sold for use or used on vehicles shall meet the following requirements:

(a) Tires for passenger cars. Tires for passenger cars shall meet the requirements of FMVSS 109.

(b) Tires for vehicles other than passenger cars shall meet the requirements of FMVSS 119.

(c) regroovable Tires for Commercial Vehicles. Regroovable commercial vehicle tires shall meet the requirements of Title 49, Code of Federal Regulations, Part 569, and be marked at the time of manufacture with the word "regroovable" on both sidewalls.

NOTE: Authority and reference cited: Section 27500, Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 12-20-76; designated effective 2-1-77 (Register 76, No. 52).
2. Repealer of Section 1082 and renumbering and amendment of Section 1083 to Section 1082 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1083. New Tire Marking.

New tires shall have all of the markings required by FMVSS Nos. 109 and 119, and Part 574, Title 49, Code of Federal Regulations. Markings such as "blem" or "no adjust" added after manufacture shall be placed near the serial number without damaging or exposing the cord or defacing the serial number.

NOTE: Authority and reference cited: Section 27500, Vehicle Code.

HISTORY

1. Renumbering of Section 1084 to Section 1083 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1084. Identification Markings on Radial Tire Inner Tubes.

In lieu of the red valve stem as provided in Vehicle Code Section 27455, the valve stem of a radial tire inner tube may have the word "RADIAL" molded or stamped in letters at least 3.0 mm (0.12 in.) in height on the valve stem or on a sleeve or ferrule permanently affixed to the valve stem. The marking shall be visible when the tube and tire are mounted on a rim.

NOTE: Authority and reference cited: Section 27455, Vehicle Code.

HISTORY

1. Renumbering and amendment of Section 1085 to Section 1084 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1085. Tire and Rim Size and Capacity.

(a) Passenger Cars. Tires manufactured after January 1, 1968, and used on passenger cars manufactured after 1948 shall be of the sizes listed in one of the publications referenced in FMVSS No. 109 or in a publication of the tire manufacturer which is provided to the public.

(b) Matching of Passenger Car Tires and Rims. Tires for all passenger cars manufactured after 1948, of sizes listed in one of the publications referenced in FMVSS No. 109 or in a publication of the tire manufacturer which is provided to the public, shall be installed and used only on the appropriate rims specified for the particular tire size by the tire manufacturer or by organizations listed in FMVSS No. 109.

(c) Matching of Tires and Rims on Other Vehicles. Tires installed on vehicles other than passenger cars shall be mounted only on rims specified for the particular tire size by the tire manufacturer or by organizations listed in FMVSS No. 119.

(d) Tire Load Limits. Loads on tires shall comply with the following requirements:

(1) Passenger car tires used on passenger cars or station wagons shall not be loaded above the maximum load rating marked on the tire, or, if unmarked, the maximum load rating specified in one of the publications referenced in FMVSS No. 109 or in a publication furnished to the public by the tire manufacturer. Passenger car tires used on other vehicles shall not be loaded beyond the foregoing maximum divided by 1.1.

(2) Tires for trucks, buses, trailers, motorcycles, or any vehicles other than passenger cars shall not be loaded above the maximum load rating marked on the tire, or if unmarked, the maximum load rating specified by the organizations listed in FMVSS No. 119 or the tire manufacturer's recommendations for the tire size, ply rating, and service speed.

(3) Tires covered by FMVSS No. 119 may carry increased loads at speeds of 54 mph (87 km/h) or less in accordance with tables published by the organizations listed in that standard, provided that either:

(A) The speed of the vehicle is mechanically restricted to no more than the rated speed for the load carried by the tire, or

(B) The vehicle, or combination of vehicles carries, on the rear of the last vehicle, a sign showing the maximum speed for the tire load (Figure 1 Speed Restriction Sign). The sign shall be located so that a following driver can read it with ease.

(C) The background of the Speed Restriction Sign shall be yellow, extending at least 1 inch (26 mm) beyond the words. The letter on the sign shall be at least 4 inches (100 mm) high, with a stroke 1/2 inch (13 mm) wide. All words may be on one line.

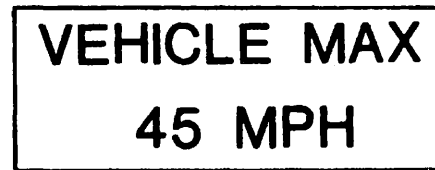


Figure 1. Speed Restriction Sign

(4) Tire loading restrictions for manufactured homes. Tires used for the transportation of manufactured homes (i.e., tires marked or labeled 7-14.5MH or 8-14.5MH) may be loaded up to 18 percent over the load rating marked on the sidewall of the tire or, in the absence of such a marking, 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119, pursuant to 49 CFR 393.75(g). Manufactured homes which are labeled on or after November 16, 1998, shall comply with 24 CFR 3282.7(r), April 1, 1998. Manufactured homes transported on tires overloaded by 9 percent or more must not be operated at speeds exceeding 50 mph (80 km/h).

(5) Vehicles that do not have a mechanically restricted speed or the reduced speed sign, or do have the sign but do not comply with the reduced speed shown on the sign, shall not carry increased tire loads.

(e) LT Tires. Tires identified with the letters "LT" in the size markings (such as 7.00-15LT or LT 235/75R15) shall be used only on vehicles other than passenger cars and motorcycles.

(f) MH Tires. Tires identified with the letters "MH" after the size (such as 8-14.5MH) are designed for mobilehomes and shall not be used on other vehicles unless marked with the letters "DOT" in accordance with FMVSS 119.

(g) ML Tires. Tires identified with the letters "ML" after the size (such as 10.00-22ML) are designed for intermittent on/off road service such as mining and logging operations and shall not be used on vehicles traveling more than 55 miles (89 km) in any 1 1/2-hr period or at a speed of more than 55 mph (89 km/h). Certain sizes of ML tires marked with a 50-mph speed limit shall not exceed 50 mph (80 km/h) or 50 miles (80 km) in any 1 1/2-hour period.

(h) MS Tires. Tires permanently marked on one sidewall with the words "MUD AND SNOW" or any contraction using the letters "M" and "S" and designated by the tire manufacturer as being designed to provide additional traction in mud and snow in accordance with the definition of the Rubber Manufacturers Association may be used in lieu of tire chains where chain control signs permit snow tires.

(i) NHS Tires. Tires identified with the letters "NHS" after the size (such as 7.00-15NHS) are not designed for highway service and shall be used only on vehicles such as short haul mining, earthmoving and logging service at speeds not exceeding 40 mph (64 km/h) and shovels, front end loaders, dozers, and fork lifts at speeds not exceeding 10 mph (16 km/h). Tires identified as "NHS" may be used on cotton trailers (defined as implements of husbandry in Vehicle Code Section 36005) when such trailers are operated at not more than the speed limit labeled on the tire sidewall or, if not labeled, not more than 40 mph (64 km/h).

(j) SL Tires. Tires identified with the letters "SL" after the size (such as 9.00-16SL) are designed for limited service and shall be used only on agricultural and industrial equipment operated at not more than 20 mph (32 km/h).

(k) ST and Other Trailer Tires. Tires identified with the letters "ST" (such as 7.00-13ST) or with the words "TRAILER" or "TRAILER SERVICE" after the size shall not be used on motor vehicles.

(l) T Tires. Tires identified with the letter "T" after the size (such as 3.75-19T) shall be used only on motorcycles or sidecars.

(m) Tires for Buses. Tires marked as follows are designed for buses and shall be used only as stated: "INTER-CITY" and "THRUWAY" may be used in any service at normal highway speeds. "INTRA-CITY" may be used only in slow speed start-stop service with maximum speed not exceeding 35 mph (56 km/h). "CITY-SUBURBAN" may be used

only at speeds not exceeding 55 mph (89 km/h) for not more than one hour of continuous operation.

NOTE: Authority and reference cited: Sections 27500, 31401, 34501, 34501.5, and 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (e) filed 8-9-78; designated effective 9-15-78 (Register 78, No. 32). For former history, see Registers 76, No. 10; 76, No. 21; 76, No. 52; 77, No. 37; and 77, No. 52.
2. Renumbering and amendment of section 1086 to section 1085 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).
3. Amendment of subsections (c)(1) and (2) filed 10-19-83; effective thirtieth day thereafter (Register 83, No. 43).
4. Amendment filed 8-31-84; effective thirtieth day thereafter (Register 84, No. 35).
5. Change without regulatory effect amending subsection (d)(4) filed 4-12-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 18).
6. Amendment filed 6-30-99; operative 7-30-99 (Register 99, No. 27).

§ 1086. Regrooved Tire Design and Construction.

Regrooved tires shall be designed and constructed as follows:

(a) Design. No tire shall be regrooved unless it is designed to permit a renewed or newly generated tread pattern and is marked "regroovable" at the time of manufacture or it has a retread designed to be regrooved and is marked "regroovable" when retreaded.

(b) Construction. Regrooved tires shall be constructed with at least a 3/32-in. (2.4-mm) layer of tread material between the cord structure and the new grooves, which shall be not less than 3/16 in. (4.8 mm) nor more than 5/16 in. (7.9 mm) wide. Regrooved tires shall not show evidence of ply, tread, or sidewall separation; sidewall wear that exposes the fabric; or tread or groove cracks extending to the fabric.

NOTE: Authority cited: Section 27500, Vehicle Code. Reference: Section 27461, Vehicle Code.

HISTORY

1. Renumbering of Section 1087 to Section 1086 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1087. Tire Condition and Use.

(a) Defects. Tires shall not be used with boot or blowout patches or with any of the following defects:

- (1) Unrepaired fabric breaks
- (2) Exposed or damaged cord
- (3) Bumps, bulges, or knots due to internal separation or damage
- (4) Cuts that measure more than 1 in. (25 mm) and expose body cord
- (5) Cracks in valve stem rubber

(b) Regrooved Tires. Regrooved tires shall not be used on school buses or any vehicle other than a commercial vehicle. Such tires used on commercial vehicles shall be of a type manufactured and designed for regrooving. Regrooved tires, regardless of size, shall not be used on the front wheels of buses, and regrooved tires which have a load carrying capacity equal to or greater than that of 8.25-20 8 ply-rating tires shall not be used on the front wheels of any other motor vehicle listed in Vehicle Code Section 34500.

(c) Recapped Tires. Tires recapped or retreaded for highway use shall have a tread pattern that complies with Section 27465 of the Vehicle Code and with this section. Recapped or retreaded tires shall not be used on front wheels of a bus or farm labor vehicle. Such tires shall not be used on the front wheels of truck tractors or motortrucks listed in Vehicle Code Section 34500 unless the tires are in compliance with the following requirements:

(1) Tires shall have been retreaded or recapped not more than 2 times and shall contain no casing repair other than that required by a nail puncture.

(2) Tires shall conform to either the labeling and other requirements of the 1972 CRSC Retreading Specifications and Standards or to the Industry Standards For Tire Retreading & Repairing revised September 1, 1995. Tires retreaded on or after November 1, 1997, shall conform to the Industry Standards For Tire Retreading & Repairing revised September 1, 1995.

(3) A new-tire manufacturer who is assigned an identification number by the U.S. Department of Transportation (DOT) may certify adherence to standards equal to or better than CRSC standards (only until November 1, 1997), or the Industry Standards For Retreading & Repairing revised September 1, 1995 for retreaded tires produced in his/her company-owned and -operated retreading facilities. Such certification shall comply with marking or labeling requirements of CRSC (only until November 1, 1997), or the Industry Standards For Tire Retreading & Repairing revised September 1, 1995, except that the certification mark branded into the tire may be of original design. A certification mark of original design shall show the name or trademark and assigned DOT registration number of the manufacturer and designate which of his/her retreading facilities produced the tire.

(4) Successive Retreads. When a retreaded tire bearing the markings specified in preceding subsections is retreaded a second time, the prescribed label shall be cancelled by a diagonal line or other distinctive mark through the label.

(d) Tires on Dual Wheels. The outside diameters of tires used on dual wheels shall be so matched that on a level roadway each tire will contact the surface at all times.

NOTE: Authority cited: Sections 27500, 31401, 34501, 34501.5 and 34508, Vehicle Code. Reference: Sections 27500, 27501, 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (a)(1) filed 12-20-76; designated effective 2-1-77 (Register 76, No. 52).
2. Amendment of subsection (c) filed 9-7-77 as an emergency; effective upon filing (Register 77, No. 37).
3. Certificate of Compliance filed 12-23-77 (Register 77, No. 52).
4. Renumbering of section 1088 to section 1087 filed 1-18-82; effective thirtieth day thereafter (Register 82, No. 4).
5. Amendment filed 6-28-82; effective thirtieth day thereafter (Register 82, No. 27).
6. Amendment filed 10-19-83; effective thirtieth day thereafter (Register 83, No. 43).
7. Amendment filed 10-30-86; effective thirtieth day thereafter (Register 86, No. 44).
8. Amendment of subsection (b) filed 9-21-94; operative 9-21-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 38).
9. Amendment of subsections (c)(2) and (c)(3) filed 7-10-97; operative 8-9-97 (Register 97, No. 28).

Article 15. Wheelchair Lifts

§ 1090. Scope.

Wheelchair lifts produced after April 1, 1980, but produced before April 1, 2005, or installed before July 1, 2005, for use in any bus except a school bus, shall comply with the requirements of this article, or with those contained in the Federal Motor Vehicle Safety Standards (49 CFR 571).

Wheelchair lifts produced on or after April 1, 2005, or installed on or after July 1, 2005, for all vehicles, whether the vehicle was manufactured before or after that date, shall comply with the provisions contained in the Federal Motor Vehicle Safety Standards (49 CFR 571).

NOTE: Authority cited: Sections 2402, 31401 and 34501, Vehicle Code. Reference: Sections 24011, 31401, 34501 and 34501.1, Vehicle Code.

HISTORY

1. New Article 15, (Sections 1090-1095) filed 7-13-79; effective thirtieth day thereafter (Register 79, No. 28).
2. Amendment filed 2-1-80; designated effective 3-9-80 (Register 80, No. 5).
3. Amendment of section and NOTE filed 7-19-2004; operative 8-18-2004 (Register 2004, No. 30).
4. Amendment filed 10-22-2007; operative 11-21-2007 (Register 2007, No. 43).

§ 1091. Definitions.

The following definitions shall apply wherever the terms are used in this article:

(a) Bus—A "bus" is the type of vehicle defined in Vehicle Code Section 233.

(b) Deploy—To "deploy" means to operate a wheelchair lift from the stowed position to the position where it is ready to be used.

(c) **Lift Platform**—A “lift platform” is the part of a wheelchair lift upon which the wheelchair rests.

(d) **Stow**—To “stow” means to operate a wheelchair lift to the position in which it is kept while the vehicle is in motion.

(e) **Wheelchair Lift**—A “wheelchair lift” is a device designed to raise and lower persons in wheelchairs.

NOTE: Authority and reference cited: Sections 31401 and 34501, Vehicle Code.

§ 1092. Mechanical Requirements.

Wheelchair lifts shall comply with the following mechanical requirements:

(a) **Design Load.** The design load of the lift shall be at least 270 kg (595 lb). Working parts, such as cables, pulleys, and shafts, which can be expected to wear and upon which the lift depends for support of the load, shall be designed with a safety factor of at least six. Nonworking parts, such as platform, frame, and attachment hardware which would not be expected to wear, shall be designed with a safety factor of at least three.

(b) **Controls.** Each control for deploying, lowering, raising, and stowing the lift, and moving the barrier shall be of a momentary contact type requiring continuous manual pressure by the operator and shall not allow unintentional improper lift sequencing when the platform is occupied. The controls shall be designed to be interlocked with the bus brakes and with the accelerator or transmission so the bus cannot move when the lift is not stowed and so the lift cannot deploy without engaging the interlock. As an alternative, on buses equipped with hydraulic brakes, an interlock system which complies with the Americans With Disabilities Act (ADA) requirements in Title 49, Code of Federal Regulations, Section 38.23(b)(2), as published October 1, 1995, will be deemed to comply with the interlock requirements of this section subject to the following conditions:

(1) The bus must be equipped with an electrical warning device, clearly audible or visible from the driver's seating position, which is activated at all times when the lift is not stowed and the ignition switch is in the “on” or “run” position.

(2) If a transmission interlock is utilized instead of a brake interlock, the transmission must be interlocked in the “Park” position.

(3) A door interlock will satisfy the requirement only if the door is also interlocked with the vehicle's brakes or transmission in a manner that meets the performance criteria set forth in (b), above.

(c) **Manual Operation.** The lift assembly shall incorporate a manual method of deploying, lowering to ground level with a wheelchair occupant and raising and stowing the empty lift if the power fails.

(d) **Power or Equipment Failure.** Platforms stowed in a vertical position shall have a provision to prevent their deploying any faster than twice the maximum rate specified in following subsection (i), in the event of a failure of power, chain, cable, or hydraulic hose. Deployed platforms shall have a provision to prevent their falling, when loaded, any faster than twice their maximum rate in the event of the same type of failure. Failure, while the bus is in motion, of any part of the system powering the wheelchair lift shall not reduce the effectiveness of the braking, steering, or electrical systems of the bus.

(e) **Platform Barriers.** The lift platform shall be equipped with barriers to prevent any of the wheels of the wheelchair from rolling off the platform. The loading edge of the platform shall have a movable barrier that is not shorter than 92% of the length of that edge of the platform and that, when in its normal raised position, is at least 8 cm (3.1 in.) above the surface of the platform. The movable barrier in its raised position shall withstand a total force of at least 1340 Newton (N) (300 lb) parallel to the platform surface in the unloading direction with the top edge remaining above 8 cm (3.1 in.). The force shall be applied at a height of 7 cm (2.8 in.) above the top surface of the platform with 670 N (150 lb) at each of two points 30 cm (11.8 in.) on each side of the center of the barrier. Other sides of the lift platform shall have fixed or movable barriers at least 25 mm (1.0 in.) high unless other parts of the lift or the body of the bus prevent any of the wheels of the wheelchair from rolling off the platform.

(f) **Barrier Operation.** The barrier on the outboard side of the lift platform shall automatically lower or open when the platform meets the roadway or sidewalk and shall automatically raise or close when the platform is moved upward. As an alternative, the barrier may be raised, lowered, opened or closed by the lift operator. The barrier, when controlled automatically, shall be in its fully raised or closed position at all times when the bottom edge of the platform is more than 8 cm (3.1 in.) above the roadway or sidewalk. Unless lift controls are designed to be operated by a person standing at ground level adjacent to the lift, barriers shall be interlocked so the lift cannot be raised until the barrier has been raised.

(g) **Platform Surface.** The platform surface on which the wheelchair rolls shall be free of any protrusions over 6 mm (0.24 in.) high and shall be slip resistant.

(h) **Platform Deflection.** The lift platform at all operating heights shall not deflect more than 3 degrees in any direction between its unloaded position and its position when uniformly loaded with 170 kg (375 lb). Entrance ramps to the lift platform shall be excluded from this measurement.

(i) **Platform Movement.** No part of the lift platform shall move at a rate exceeding 30 cm/sec (11.8 in./sec) during deployment, lowering, lifting or stowing. This subsection shall not apply to a manually deployed platform.

(j) **Boarding Direction.** The lift platform shall permit wheelchairs to board both by rolling forward and by rolling backward.

(k) **Protective Covering.** Any readily accessible parts of a wheelchair lift that could injure passengers or operators or catch or damage clothing or other objects when the lift is in any position shall be covered with a guard.

(l) **Fasteners.** All fasteners shall withstand vehicle and lift vibrations without loosening.

NOTE: Authority cited: Sections 31401 and 34501, Vehicle Code. Reference: Sections 31401 and 34501, Vehicle Code.

HISTORY

1. Amendment of subsections (f) and (i) filed 11-13-81; effective thirtieth day thereafter (Register 81, No. 46).
2. Change without regulatory effect amending subsection (e) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
3. Amendment of subsection (b), new subsections (b)(1)-(3), and amendment of subsection (k) filed 2-21-96; operative 3-22-96 (Register 96, No. 8).
4. Amendment filed 3-15-99; operative 4-14-99 (Register 99, No. 12).

§ 1093. Durability Requirements.

Wheelchair lifts shall meet the following requirements when attached to a fixture that simulates a bus installation and when supplied by electric, hydraulic, air, or other power of an output equal to that normally available on the bus. Only one representative production unit of each model is required to be tested for certification with all tests conducted on the same unit in the following order without any repairs or maintenance during the test other than permitted in subsection (h).

(a) **Vertical Cycling**—The lift platform shall be operated up and then down through its maximum vertical operating range for 15,600 cycles with a load of 270 kg (595 lb) for the first 600 cycles and 170 kg (375 lb) or the remaining cycles. The ambient temperature for the first half of the cycles in each of these tests shall be at least +43 deg C (+110 deg F). The test may be continuous or separated into groups of not less than 10 cycles with nonoperating periods of not more than 1 min between each cycle in the group. The platform shall raise and lower smoothly throughout the test with vertical and horizontal accelerations not exceeding 3.0 m/s² (0.3g) as measured during the first 5 cycles and last 5 cycles.

(b) **Deployment Cycling**—The lift platform shall be deployed and stowed for 10,000 cycles. The ambient temperature for the first half of the cycles shall be at least +43 deg C (+110 deg F). The test may be continuous or separated into groups and may have nonoperating periods between cycles as specified in preceding subsection (a).

(c) **Low Temperature Operation**—After 5 h of exposure to a temperature not higher than -7 deg C (+20 deg F), the wheelchair lift shall be op-

erated through 10 unloaded cycles of deploying, lowering, raising, and stowing at the exposure temperature. Each cycle shall be separated by at least a 30 min cooling period at a temperature not higher than -7°C ($+20^{\circ}\text{F}$).

(d) *Self-Damage*—The controls shall be held in operating position for 5 s after the unloaded lift meets resistance to its travel under each control position with any limit switches deactivated. The test shall be performed twice at each position of deploy, stow, full up at floor level and full down at ground level.

(e) *Proof Load*—With the lift stationary at its raised position, the platform shall be loaded with 410 kg (900 lb) uniformly distributed around the center of the platform within an area not exceeding a 60 x 60 cm (24 x 24 in.) square.

(f) *Power and Equipment Failure*—A failure of power, chain, cable, or hydraulic hose that allows the lift to deploy or the platform to lower shall be simulated. The wheelchair lift shall comply with preceding Section 1092(d) during this test.

(g) *Visual Inspection*—At the conclusion of the tests described in subsections (a) through (e), with all loads removed, the parts of the wheelchair lift shall show no condition of fracture, permanent deformation, extreme wear, perceptible impairment, or other deterioration that would be hazardous to the occupant operator.

(h) *Maintenance*—During the durability tests, the inspection, lubrication, maintenance, and replacement of parts (other than bulbs and fuses) may be performed only as specified in the owner's manual for the lift and at intervals no more frequent than specified in the manual. Maintenance specified for certain time intervals shall be performed during the vertical cycling and deployment cycling tests at a number of cycles that is in the same proportion to the total cycles as the maintenance period is to 36 months.

NOTE: Authority and reference cited: Sections 31401 and 34501, Vehicle Code.

[The next page is 79.]

§ 1094. Certification.

Wheelchair lift manufacturers shall certify compliance of individual models with this article as follows based upon tests conducted at their own or other laboratories:

(a) **Certification Label**—The certification information shall be permanently imprinted on a part of each lift or on a label or metal plate permanently attached to the lift. The certification shall be located so as to be visible when the lift is installed in the vehicle in accordance with the lift manufacturer's instructions.

(b) **Lettering**—Lettering shall be at least 3.0 mm (0.12 in.) high.

(c) **Required Data**—The certification shall contain the manufacturer's name and address, model number, serial number, month and year of manufacture, and the statement: "This wheelchair lift conforms to the California Code of Regulations requirements in effect on the date of manufacture."

NOTE: Authority and reference cited: Sections 31401 and 34501, Vehicle Code.

HISTORY

1. Change without regulatory effect of subsection (c) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).

§ 1095. Installation.

Wheelchair lifts shall be manufactured to be capable of being installed in accordance with the following requirements:

(a) **Control Location**—The controls for deploying, lowering, raising and stowing the lift and moving the barrier shall be capable of being installed at a location, either interior or exterior, where the bus driver or lift attendant has a full view of the lift platform, its entrance and exit, and the wheelchair passenger, directly or with partial assistance of mirrors. Lifts entirely to the rear of the driver's seat shall not be operable from the driver's seat but shall have an override control at the driver's position that can be set to prevent the lift from being operated by the other controls (except for emergency manual operation after power failure).

(b) **Width and Depth of Lift Assembly**—The lift shall be designed so that it is capable of being installed with no part of the assembly when stowed extending laterally beyond the normal side contour of the bus nor vertically below the lowest part of the rim of the wheel closest to the lift.

(c) **Gaps**—Gaps in the platform in areas over which a wheelchair can roll shall not be greater than 15 mm (0.60 in.) horizontally or greater than 6 mm (0.24 in.) vertically.

(d) **Accessibility**—All items requiring inspection or maintenance shall be readily accessible. Covers and access doors are permitted.

(e) **Instructions**—The lift manufacturer shall supply the user with detailed instructions for installing the lifts and recommended inspection and maintenance schedules and procedures. The manufacturer shall supply operating instructions with each lift sold so the instructions may be carried in the bus.

NOTE: Authority and reference cited: Sections 31401 and 34501, Vehicle Code.

Chapter 5. Special Vehicles**Article 1. Ambulances****§ 1100. Scope.**

This article shall apply to all publicly and privately owned ambulances used for emergency service except as specifically exempted by provisions of these regulations.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2416, 2501-2512, 2541, and 2542, Vehicle Code.

HISTORY

1. Repealer of article 1 (sections 1100-1109) and new article 1 (sections 1100-1109) filed 8-17-77; designated effective 10-1-77 (Register 77, No. 34). For prior history of article 1, see Registers 73, No. 24, 74, No. 21 and 75, No. 13.
2. Repealer of article 1 (sections 1100-1109) and new article 1 (sections 1100-1109) filed 11-24-80; designated effective 1-1-81 (Register 80, No. 48). For prior history, see Registers 77, No. 47 and 78, No. 6.
3. Editorial correction adding article heading (Register 91, No. 18).

§ 1100.2. Definitions.

Unless otherwise specified, the following definitions shall apply for the purposes of this article:

(a) **Ambulance**. A vehicle specially constructed, modified or equipped, and used for the purpose of transporting sick, injured, convalescent, infirm, or otherwise incapacitated persons.

(b) **Ambulance Driver Certificate**. A California Ambulance Driver Certificate or a California Special Driver Certificate valid for driving an ambulance.

(c) **Ambulance Service**. The private or public organization or individual providing an ambulance for use in emergency service.

(d) **Department**. Department of the California Highway Patrol.

(e) **Emergency Call**. A request for an ambulance to transport or assist persons in apparent sudden need of medical attention; or, in a medical emergency, as determined by a physician, to transport blood, any therapeutic device, accessory to such device, or tissue or organ for transplant.

(f) **Emergency Service**. The functions performed in response to an emergency call. Emergency service also includes transportation of a patient, regardless of a presumption of death of the patient, or transportation of a body for the purpose of making an anatomical gift, as provided in Section 12811, Vehicle Code, and the Uniform Anatomical Gift Act, Health and Safety Code.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 165, 2416, 2501, 2511 and 2512, Vehicle Code.

§ 1100.3. General Requirements.

No ambulance shall respond to an emergency call or transport patients unless staffed by both a certificated driver and a qualified attendant, maintained in good mechanical repair and sanitary condition, and equipped as required by this article and the Vehicle Code.

(a) **Driver Certificate Exemption**.

In addition to the exemptions stated in Vehicle Code section 12527(f), ambulance driver certificates are not required for persons driving ambulances, based out-of-state, into California to provide only interstate emergency service, if the drivers are appropriately licensed or certified by the state of origin. However, if the department has reason to believe an out-of-state driver would be denied an ambulance driver certificate if based in California, that driver may be prohibited from driving in this state unless he/she obtains an ambulance driver certificate.

(b) **Medical Training Prerequisite**.

Ambulances shall not respond to emergency calls or transport patients unless the attendant—or the driver, if the service has been exempted from the requirement to have an attendant—possesses a certificate or license evidencing compliance with the emergency medical training and educational standards for ambulance personnel established by the State Emergency Medical Service Authority in title 22 of this code. This requirement shall not apply during a "state of war emergency," duly proclaimed "state of emergency," or "local emergency," as defined in Government Code section 8558, when it is necessary to fully utilize all available ambulances in an area and it is not possible to have such ambulances operated or attended by persons with the qualifications required by this section.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504 and 2512, Vehicle Code; Section 1760.5, Health and Safety Code.

HISTORY

1. Amendment filed 10-27-82; effective thirtieth day thereafter (Register 82, No. 44).
2. Change without regulatory effect amending subsection (a) filed 1-22-91 (Register 91, No. 10).

§ 1100.4. Ambulance Identification.

The name of the public entity that operates an emergency ambulance service or the name under which the ambulance licensee is doing business or providing service shall be displayed on both sides and the rear of each emergency ambulance. The display of the name shall be in letters in sharp contrast to the background and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet. All ambulances operated under a single license shall display the same identification.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment filed 3–25–96; operative 4–24–96 (Register 96, No. 13).

§ 1100.5. Ambulance Location Report.

Entities providing emergency ambulance service shall notify the local office of the department whenever the usual location of an emergency ambulance is changed, an ambulance is acquired, or an ambulance is removed from service.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1100.6. Periodic Ambulance and Records Inspection.

Ambulances used for emergency service, personnel records and call records may be inspected periodically by the department to ensure compliance with requirements of the Vehicle Code and this title. Ambulances and records shall be made available for such inspection upon notice by a representative of the department.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1100.7. Record of Calls.

Every ambulance service shall maintain a current record of each emergency call either at the service address or the location where the responding ambulance is based. The record shall be retained for not less than three years and shall contain the following information:

- (a) Date and time of emergency call, location where service is needed, and identity of person receiving the call for ambulance service.
- (b) Identity of person or, when applicable, the name of the agency requesting an ambulance.
- (c) Identification of each ambulance and personnel dispatched, and record of siren and red light use.
- (d) Explanation of any failure to dispatch an ambulance as requested.
- (e) Time of dispatch and times of arrival and departure from the scene of emergency.
- (f) Destination of patient and time of arrival at destination.
- (g) Name or other identification of patient (if name is unavailable) or description of item requiring emergency transportation.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1100.8. Personnel Records.

Every ambulance service shall maintain a personnel file for each driver and attendant either at the address of the service or the location where the employee is based. Each personnel file shall contain the following information:

- (a) Effective date of employment.
- (b) Facsimiles of driver license, ambulance driver certificate, and current medical examination certificate of each driver.
- (c) Facsimile of the current certificate or license evidencing compliance with emergency medical training and educational standards for ambulance personnel established by the State Emergency Medical Service Authority.
- (d) Summary of work experience for the five years preceding the effective date of present employment.
- (e) An affidavit by each ambulance attendant and/or driver declaring, under penalty of perjury, that he/she is not subject to the applicable attendant or driver prohibitions contained in sections 1101(b) of this title or Vehicle Code section 13372.
- (f) Evidence of satisfactory completion of other driver and attendant training required by this article and the Vehicle Code.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2510, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 10–27–82; effective thirtieth day thereafter (Register 82, No. 44).
2. Change without regulatory effect amending subsections (d)–(f) filed 1–22–91 (Register 91, No. 10).

§ 1101. Ambulance Attendant.

The attendant on an ambulance transporting any person in apparent need of medical attention shall occupy the patient compartment and shall meet the requirements of this section.

(a) Qualifications. The attendant shall be at least 18 years of age and shall possess a certificate or license evidencing compliance with the emergency medical training and educational standards for ambulance personnel established by the State Emergency Medical Service Authority.

(b) Prohibitions. No person shall act at any time in the capacity of an ambulance attendant when such person:

(1) Is required under Section 290 of the Penal Code to register as a sex offender for any offense involving force, duress, threat, or intimidation.

(2) Habitually or excessively uses or is addicted to narcotics or dangerous drugs, or has been convicted during the preceding seven years of any offense relating to the use, sale, possession, or transportation of narcotics or addictive or dangerous drugs.

(3) Habitually and excessively uses intoxicating beverages.

(4) Has been convicted during the preceding seven years of any offense punishable as a felony and involving force, violence, threat, or intimidation, or has been convicted of theft in either degree during that period. Persons on parole or probation for such offenses or crimes involving force, violence, threat, or intimidation shall not act as ambulance attendants until the parole or probation is ended.

(5) Has committed any act involving moral turpitude, including fraud or intentional dishonesty for personal gain, within the preceding seven years.

(6) Has demonstrated irrational behavior or incurred a physical disability to the extent that a reasonable and prudent person would have reasonable cause to believe that his/her ability to perform the duties normally expected of an attendant may be impaired.

(c) Exceptions. Criminal prohibitions of this section notwithstanding, any person who holds a valid ambulance driver certificate issued by the Department of Motor Vehicles may serve as an ambulance attendant provided he/she meets the qualifications and possesses a certificate or license evidencing compliance with the emergency medical training and educational standards for ambulance personnel established by the State Emergency Medical Service Authority. Employment as an attendant may be authorized at the discretion of the Department of the California Highway Patrol when only medical and health standards related to driving abilities or a poor driving record precludes issuance of the driver certificate.

NOTE: Authority: Section 2512, Vehicle Code. Reference: Sections 2504, 2510, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (c) filed 10–27–82; effective thirtieth day thereafter (Register 82, No. 44).

§ 1102. Ambulance Driver.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment of subsections (b)(4) and (c) filed 10–27–82; effective thirtieth day thereafter (Register 82, No. 44).
2. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1102.2. Denial, Suspension, and Revocation of Ambulance Driver Certificate.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1102.4. Hearings.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1102.5. Hearing Review Committee.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

HISTORY

1. Amendment filed 10–27–82; effective thirtieth day thereafter (Register 82, No. 44).
2. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1102.6. Disciplinary Periods.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1102.8. Meaning of Conviction.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 10).

§ 1103. Ambulance Safety Equipment.

All safety equipment carried or installed shall be maintained in good working order and shall include but not be limited to:

- (a) A siren and steady burning red warning lamp that meet requirements established by the department.
- (b) Seat belts or equivalent restraints, for the driver and any front seat passenger.
- (c) A fire extinguisher of the dry chemical or carbon dioxide type with a minimum 4–B:C rating maintained as prescribed by the State Fire Marshal. The use of vaporizing liquid extinguishers is prohibited.
- (d) A portable, battery-operated light.
- (e) A spare wheel with inflated tire of appropriate load rating.
- (f) A jack and tools for wheel changes.
- (g) Map covering the areas in which the ambulance provides services.
- (h) Patient compartment door latches operable from inside and outside the vehicle on all emergency ambulances manufactured and first registered after January 1, 1980.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1103.2. Ambulance Emergency Care Equipment and Supplies.

Any equipment or supplies carried for use in providing emergency medical care must be maintained in clean condition and good working order.

(a) Essential equipment and supplies to be carried shall include as a minimum:

- (1) An ambulance cot and collapsible stretcher; or two stretchers, one of which is collapsible.
- (2) Straps to secure the patient to the stretcher or ambulance cot, and means of securing the stretcher or ambulance cot in the vehicle.
- (3) Ankle and wrist restraints. Soft ties are acceptable.
- (4) Sheets, pillow cases, blankets, and towels for each stretcher or ambulance cot, and two pillows for each ambulance.
- (5) Three oropharyngeal airways, one each of a size for adults, children and infants.
- (6) At least four pneumatic or rigid splints capable of splinting all extremities.
- (7) A resuscitator that meets the requirements of Vehicle Code Section 2418.5. A hand operated bag–valve–mask unit with clear masks of adult, child, and infant sizes capable of use with oxygen will meet this requirement.
- (8) Oxygen (USP), regulator, and means for administering oxygen, including adequate tubing and semiopen, valveless, transparent masks in adult, child, and infant sizes. Oxygen may be administered by resuscitator, bag mask unit, or inhalator. (Portability required.) Oxygen supply must be sufficient to provide a patient with not less than 10 liters per minute for 20 minutes.

(9) Clean bandages and bandaging supplies:

Twelve sterile bandage compresses or equivalent

Four 3– by 3–in. sterile gauze pads

Six 2–, 3–, 4–, or 6 –in. roller bandages

Two rolls of 1–, 2– or 3–in. adhesive tape

Bandage shears

Two 10– by 30–in. or larger universal dressings

(10) An emesis basin, or disposable bags and covered waste container.

(11) Portable suction equipment. Squeeze syringes alone are not sufficient.

(12) Two sandbags, loosely filled, or equivalent material to restrict movement.

(13) Two spinal immobilization devices, one at least 30–in. in length and the other at least 60–in. in length with straps for adequately securing patients to the devices. Combination short–long boards are acceptable.

(14) Half–ring traction splint for lower extremity with limb support slings, padded ankle hitch traction strap, and heel rest or an equivalent device.

(15) Blood pressure manometer, cuff, and stethoscope.

(16) Sterile obstetrical supplies including as a minimum: gloves, umbilical cord tape or clamps, dressings, towels, bulb syringe, and clean plastic bags.

(17) A gallon or more of potable water or two liters, saline solution in covered, secured plastic container.

(18) One bedpan or fracture pan.

(19) One urinal.

(b) Exception. Ambulances while in use for infant transportation or when staffed and equipped for use in conjunction with newborn intensive care nursery services as specified in Title 22 of this code, need not concurrently carry items of emergency care equipment or supplies that would interfere with the specialized care and transportation of an infant in an incubator or isolette.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment of subsection filed 12–14–87; operative 1–13–88 (Register 88, No. 14).

§ 1104. Dispatching Responsibilities.

Ambulance owners, drivers, dispatchers, and other persons directing the dispatch or operation of ambulances shall comply with the following requirements:

(a) Delays. Every person who dispatches an ambulance shall do so promptly or inform the person requesting such service of any delay, with the reasons therefor, and obtain the consent of the requestor before dispatching an ambulance under any circumstances that could delay it.

(b) Restrictions on Directing Use of Red Light and Siren. No person shall direct or request the use of the siren and red warning light (Code 3 operation) unless such person has reasonable cause to believe that speed in providing emergency ambulance service is essential to save a life, prevent undue suffering, or to reduce or prevent disability.

(c) Restrictions on Dispatch of Ambulances. The dispatch of an emergency ambulance where ambulance transportation is readily available from two or more ambulance services shall be in accordance with the following provisions:

(1) An ambulance service receiving an emergency call from a private person requesting an ambulance at the scene of a motor vehicle accident shall notify the appropriate law enforcement or other public agency dispatch center of the call. An ambulance shall be dispatched only upon instructions from that agency.

(2) When the dispatch of an ambulance is normally coordinated by a single public agency, an ambulance service receiving an emergency call from a private person requesting an ambulance at the scene of a motor vehicle accident shall notify the appropriate public agency dispatch center of the call. An ambulance shall be dispatched only upon instructions from the agency.

(3) No public or private ambulance service shall cause or permit any ambulance to be dispatched on the basis of information obtained by monitoring a radio frequency assigned to a law enforcement or other public agency except by specific request of, or prior arrangement with, the coordinating agency responsible for dispatching emergency ambulances.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1105. Ambulance Driver's Responsibilities.

(a) Delays. Every driver of an ambulance dispatched for emergency service shall respond promptly or inform the dispatcher of his/her inability to respond.

(b) Speed Restriction. In no event shall an ambulance driver exceed a speed of 15 miles per hour while disobeying any official traffic control

stop sign or stop signal. This subsection shall not apply to publicly owned and operated dual purpose law enforcement vehicles during law enforcement work.

(c) **Destination Restriction.** In the absence of decisive factors to the contrary, an ambulance driver shall transport emergency patients to the most accessible emergency medical facility equipped, staffed, and prepared to administer care appropriate to the needs of the patients.

(d) **Siren and Red Warning Light Use Restrictions.** Ambulance drivers shall not use the siren and red warning light (Code 3 operation) when traffic is congested to a degree that increased ambulance speed and right-of-way cannot be gained thereby. Siren and red warning lights shall be used with due regard for safe roadway operation of ambulances and shall not be used except under the following circumstances.

(1) When responding to an emergency call or when engaged in emergency services as defined in this article, and

(2) When speed in transporting the patient to an emergency medical care facility appears essential to prevent loss of life, undue suffering, or to reduce or prevent disability.

(e) **Driver Conditions.** No person shall drive or be directed to drive an ambulance when his/her ability to operate the ambulance safely is adversely affected by fatigue, illness, or any other cause nor when the vehicle is unsafe to operate.

(f) **Vehicle Condition.** Every driver shall inspect the ambulance prior to operation to determine that it is in safe condition, equipped as required, and that all vehicle equipment and installed medical equipment is in good working order.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1106. Owner's Responsibilities.

Every owner, operator, manager, or supervisor of an ambulance service shall comply with all the provisions of this article and Vehicle Code section 13373 and shall have the following supplementary responsibilities:

(a) **Driver Proficiency.**

Each driver shall be required to demonstrate that he/she is capable of safely operating the type of ambulance to which assigned before driving such vehicle on a highway unsupervised or in emergency service.

(b) **Staffing Qualifications.**

No person shall be permitted to drive an ambulance or act as the required attendant unless he/she meets all applicable provisions of this article. Any employee who does not meet the requirements of, or is not thoroughly familiar with the provisions of this article and Vehicle Code sections 21055, 21056, 21806, 21807 and 23103, shall be prohibited from driving an ambulance in emergency service.

(c) **Unlawful Operation.**

No owner shall knowingly require or permit the operation of any ambulance that is not in safe operating condition or not equipped and maintained as required by any law or this subchapter; or knowingly require or permit any driver to drive in violation of any law or regulation.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

HISTORY

1. Change without regulatory effect amending first paragraph and subsection (d) filed 1-22-91 (Register 91, No. 10).

§ 1106.2. Financial Responsibility.

No owner shall use any ambulance, or permit any ambulance to be used, to transport passengers for hire without maintaining ability to respond in damages as required by Vehicle Code Section 16500.

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2504, 2512 and 2542, Vehicle Code.

§ 1107. Ambulance Service Licensing Requirements.

Owners other than public agencies shall not permit their ambulances to respond to emergency calls unless they have obtained from the department a license to operate an emergency ambulance service. A license will be issued only to persons or entities operating 1 or more ambulances designed and operated exclusively as ambulances of which at least 1 is available 24 hours daily to provide emergency transportation.

(a) **EXCEPTIONS.** Exceptions to ambulance licensing requirements are as follows:

(1) License and vehicle identification certificate requirements shall not apply to publicly owned and operated ambulances, or vehicles operated as ambulances at the request of local authorities during any "state of war emergency," duly proclaimed "state of emergency," or "local emergency," as defined in Government Code Section 8558.

(2) License requirements shall not prevent peace officers from arranging for the transportation of any person in need of emergency medical care when a licensed ambulance is not available and such transportation is immediately required.

(3) An ambulance service that provides service only for special events or industrial employees and does not respond to calls from the general public is exempt from 24-hour availability as a licensing prerequisite.

(b) **License Applications.**

(1) Ambulance license applications shall contain such information as the department may deem necessary to determine whether any owner, partner, officer, or director shall be disqualified for any of the reasons set forth in Vehicle Code Sections 2541 and 2542. Information may include the business name, owner's name, address, fingerprints, birth date, social security number, driver license number, and personal history.

(2) Every license application shall be signed and verified by the owner applicant or an authorized representative.

(3) Every license application shall be accompanied by a list of ambulances to be operated under the license with each ambulance identified by year make/model, vehicle identification number, and license plate number.

(4) Every application for an initial license shall also be accompanied by:

(A) A fee of \$200.

(B) An inspection report on a form furnished by the department for each ambulance certifying satisfactory completion of a vehicle inspection performed not more than 30 days prior to the application date. The vehicle inspection shall be performed and the report signed by a representative of the department.

(C) An official brake adjustment certificate for each ambulance issued not more than 45 days prior to the application date. Submission of the certificate may be waived by the department when no licensed brake adjusting station is located within 30 miles provided the licensee certifies the brake system meets requirements of the Vehicle Code. The certificate will be waived if the ambulance qualifies under Section 430 of the Vehicle Code as a new vehicle.

(D) One acceptable fingerprint card for each applicant owner, partner, officer, director and controlling shareholder. The fingerprint card requirement may be waived upon application to the department from a corporation where the requirement would be burdensome because there exists a large number of officers, directors, or controlling shareholders.

(5) Every application for a renewal license shall also be accompanied by:

(A) A fee of \$150.

(B) One acceptable fingerprint card for each applicant owner, partner, officer, director and controlling shareholder added since last licensed.

(c) **License Cancellation and Replacement.** An ambulance license may be cancelled without prejudice when it has been issued through error or voluntarily surrendered. Any person who has voluntarily surrendered his license may immediately apply for a replacement license for the unexpired term without fee.

(1) Any licensee who changes the name of the business or service from that on the license shall surrender the license to the department for cancellation within 10 days thereafter and may apply for a replacement license.

(2) Surrender and cancellation will be permitted at any time at the request of the licensee.

(d) **Posting of Service Fees.** The licensee shall establish and maintain a schedule of fees covering usual service charges. The schedule shall be prominently posted in the business office.

(e) **Direct Telephone Service.** 24-hour availability for service includes but is not limited to 24-hour maintenance of direct telephone service

whereby both public agencies and the general public can request and obtain prompt emergency ambulance service.

NOTE: Authority cited: Sections 2402 and 2512, Vehicle Code. Reference: Sections 2501, 2502, 2503, 2504, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment of subsections (a)(1), (b)(2) and new subsection (b)(3) filed 10-27-82; effective thirtieth day thereafter (Register 82, No. 44).
2. Amendment filed 11-17-83; effective thirtieth day thereafter (Register 83, No. 47).
3. Amendment of subsection (b) filed 3-4-85; designated effective 4-1-85 pursuant to Government Code Section 11346.2(d) (Register 85, No. 10).
4. Amendment of subsection (b)(4)(C) filed 12-14-87; operative 1-13-88 (Register 88, No. 14).
5. Change without regulatory effect amending first paragraph and subsections (a)(1), (a)(3), (b)(3), (b)(4)(D), (b)(5)(B) and (e) filed 12-21-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 51).
6. Repealer of subsection (b)(4)(D) and subsection relettering, and repealer of subsection (b)(5)(B) and subsection relettering filed 7-31-96; operative 8-30-96 (Register 96, No. 31).

§ 1107.2. Ambulance Identification Certificate.

(a) Requirements. No privately owned or operated emergency ambulance shall be operated in emergency service or be used to transport a patient unless it carries a valid ambulance identification certificate or temporary operating authority issued for that ambulance. An identification certificate is issued by the department as evidence that the operator has obtained a license to operate an emergency ambulance service and that the ambulance identified thereon has been inspected and determined to be in compliance with requirements of the Vehicle Code and this title.

(b) Issuance. An ambulance identification certificate will be issued in conjunction with the initial license, and renewals thereof, for each ambulance to be operated under that license. An identification certificate will be issued for an additional ambulance acquired during the license year by a licensee provided a request is accompanied by the items listed in Section 1107(b)(4)(B) and (C). The vehicle must be inspected and the inspection report signed by a representative of the department.

(c) Validity. An ambulance identification certificate shall remain valid during the term of the license under which the certificate was issued, provided the licensee retains the license and possession and control of the vehicle and the ambulance meets all applicable requirements.

(d) Surrender. An ambulance identification certificate shall be surrendered to the department under any of the following conditions:

- (1) Change in ownership of the vehicle.
- (2) Transfer of possession or control of the ambulance.
- (3) Surrender or expiration of the license.

(4) Noncompliance with equipment requirements of statutes, or regulations. (The certificate may be returned when the vehicle is again in compliance.)

(5) Failure to submit an inspection report as required.

(e) Temporary Transfer of Emergency Ambulance. Provisions of preceding subsection (a) notwithstanding, a privately owned emergency ambulance for which an identification certificate has been issued and which is temporarily transferred to another licensee may be operated for not more than 30 days without a new identification certificate if all other requirements for equipment, identification, and operation are met. Before operating the ambulance, the new licensee shall obtain temporary operating authorization from the local office of the department. When an ambulance is transferred between licensees, the original licensee shall surrender the identification certificate to the department. The certificate may be returned to the original licensee upon repossession of the vehicle and submission of a signed inspection report for that ambulance. A brake certificate is not required in conjunction with a temporary transfer.

NOTE: Authority cited: Sections 2402 and 2512, Vehicle Code. Reference: Sections 2504, 2510, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment filed 10-27-82; effective thirtieth day thereafter (Register 82, No. 44).

2. Amendment of subsection (a) filed 11-17-83; effective thirtieth day thereafter (Register 83, No. 47).
3. Change without regulatory effect amending section heading and section filed 12-21-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 51).
4. Amendment of subsections (b) and (e) filed 7-31-96; operative 8-30-96 (Register 96, No. 31).

§ 1107.4. Temporary Operating Authorization.

A privately owned or operated ambulance inspected and approved by a member of the department may be temporarily operated by a licensee or applicant prior to receipt of the license and/or the ambulance identification certificate when authorized by the local California Highway Patrol Area Commander. Such authorization shall be carried in the vehicle. A temporary substitute for the identification certificate and the license, the authorization is valid for a period of up to 30 days. It shall be invalid when replaced by an ambulance identification certificate and/or license or when the license is denied.

NOTE: Authority cited: Sections 2402 and 2512, Vehicle Code. Reference: Sections 2504, 2510, 2512 and 2542, Vehicle Code.

HISTORY

1. Amendment filed 11-17-83; effective thirtieth day thereafter (Register 83, No. 47).
2. Change without regulatory effect amending section filed 12-21-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 51).

§ 1108. Exemption from Requirements.

(a) Discretionary Exemption. The department may, upon a showing of good cause, grant exemptions to requirements specified in this article. The department may require concurrence by the County Health Officer or the county emergency medical care committee where the ambulance service is provided, and may impose such conditions as deemed necessary.

(b) Mandatory Exemption. Exemptions mandated by Vehicle Code Section 2512 will be granted subject to the following conditions:

(1) Requests. Requests for exemptions by a county board of supervisors shall include the ambulance service name, the specific exemption requested, the findings of the county emergency medical care committee pertaining to the exemption, and a statement from the county board of supervisors that the exemption is necessary for public health and safety.

(2) Limitations. Each exemption shall be limited to a specific ambulance service and shall be applicable to ambulance operation only within the county of the board requesting the exemption.

(3) Exemption Renewal. Renewal requests should indicate that the conditions creating the need for exemptions have been reviewed and that the continued exemption is necessary for public health and safety.

(c) Exemption Expiration. Exemptions shall be valid for a period of not more than two years, unless rescinded earlier for cause. Exemptions are not transferable and shall expire upon change of ownership of the ambulance service.

(d) Termination. Exemptions may be terminated for cause, upon request of the county board of supervisors, or when the need for exemptions no longer exists.

NOTE: Authority and reference cited: Section 2512, Vehicle Code.

§ 1109. Grounds for Suspension or Revocation of License.

Grounds for disciplinary action enumerated in Vehicle Code Section 2542 include but are not limited to:

- (a) Violation of any provision of this article.
- (b) Unlawful use of sirens or warning lamps.
- (c) Frequent failure to respond or an evidenced lack of ability or intention to provide 24-hour service.
- (d) Failure to exercise reasonable care in handling patients or a demonstrated lack of competence in caring for patients or using required equipment.
- (e) Fraudulent billing practices or charging for services not provided and/or not necessary.

[The next page is 85.]

NOTE: Authority cited: Section 2512, Vehicle Code. Reference: Sections 2512 and 2542, Vehicle Code.

Article 2. Armored Cars

§ 1110. Scope of Regulations.

This article shall apply to licenses and vehicle inspections required prior to the operation of privately owned armored cars, in accordance with Chapter 2.5 of Division 2 of the Vehicle Code. Armored cars owned and operated by a public agency are exempt from the provisions of this article.

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 2501, 2510 and 21713, Vehicle Code.

HISTORY

1. Repealer and new Article 2 (§§ 1110 through 1113) filed 12-3-68 as an emergency; designated effective 1-1-69 (Register 68, No. 46). For prior history, see Register 63, No. 14.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 3-21-69 (Register 69, No. 12).
3. Repealer of Article 2 (§§ 1110-1113) and new Article 2 (§§ 1110-1113) filed 8-14-73; designated effective 9-20-73 (Register 73, No. 33).
4. Repealer of Article 2 (Sections 1110-1113) and new Article 2 (§§ 1110-1113) filed 10-4-77; designated effective 12-1-77 (Register 77, No. 41).

§ 1111. General Requirements.

General requirements for issuance or renewal of an armored car license are as follows:

(a) Eligibility for License. A license to operate privately owned armored cars may be issued only to:

- (1) Persons or firms regularly hired to transport money or other valuables that require special security
- (2) Financial institutions
- (3) Armored car dealers or manufacturers
- (4) Collectors of vehicles of historic value or special interest and originally designed, manufactured, or equipped as armored cars
- (5) Other persons or entities that can show legitimate need.

(b) License Applications. An armored car license application shall require such information as the department deems necessary to determine whether any applicant shall be disqualified on grounds set forth in Vehicle Code Sections 2541 and 2542.

(1) Information may include the business name, owner-applicant's name, address, fingerprints, birth date, social security number, driver license number, and personal history.

(2) Every license application shall be signed and verified by the owner-applicant or an authorized representative thereof.

(3) Each application for an initial or renewal license shall be accompanied by:

(A) A list of armored cars to be operated under the license with each vehicle identified by year model, make, vehicle identification number, and license plate number.

(B) One acceptable fingerprint card for each applicant owner, partner, officer, director and controlling shareholder. The fingerprint cards are not required with license renewal applications except for persons added since last licensed. The fingerprint card requirement may be waived upon application to the department from a corporation where the requirement would be burdensome because there exists a large number of officers, directors, or controlling shareholders.

(c) License Cancellation and Replacement. An armored car license may be canceled without prejudice when it has been issued in error or voluntarily surrendered, or has expired. Any person after surrendering a license voluntarily may immediately apply for a replacement license for the unexpired term without fee.

(1) Any licensee changing the name or address from that on the license shall surrender the license to the department for cancellation within 10

days thereafter, and may apply for a replacement license. Effective January 1, 1983, a change of address shall be reported within 10 days, but surrender of the license is not required.

(2) Surrender and cancellation will be permitted at any time at the request of the licensee.

(3) Any license expired over 30 days is no longer renewable and shall be canceled.

NOTE: Authority cited: Section 2501, Vehicle Code. Reference: Sections 2501, 2503, 2510, 2541 and 21713, Vehicle Code.

HISTORY

1. Amendment of subsection (a)(5) filed 6-17-82; effective thirtieth day thereafter (Register 82, No. 25).
2. Amendment of subsection (b) and (c)(1) filed 9-8-82; effective thirtieth day thereafter (Register 82, No. 37).

§ 1112. Armored Car Inspection and Identification Card.

Each armored car shall be inspected by a member of the department in conjunction with the initial issuance of the license or identification card. An identification card is issued for each armored car as evidence that the owner has obtained a license to operate an armored car and that the vehicle identified thereon has been inspected and determined to be in compliance with Vehicle Code requirements. The identification card shall be carried in the vehicle for which it is issued.

(a) Issuance and Retention. An armored car identification card will be issued initially in conjunction with the issuance of a license or upon request from a licensee for authority to operate an additional armored car, provided a satisfactory inspection report is submitted for each vehicle. Retention of the armored car identification card(s) is contingent upon continued compliance with licensing and equipment requirements.

(b) Expiration. An armored car identification card shall remain valid during the term of the license under which the card was issued, including renewals thereof, as long as the licensee retains the license and possession and control of the vehicle and the armored car meets all requirements.

(c) Surrender. An armored car identification card shall be surrendered to the department under any of the following conditions:

- (1) Change in ownership of the vehicle
- (2) Transfer of possession or control of the vehicle
- (3) Surrender or expiration of the license
- (4) Noncompliance with equipment requirements of statutes or regulations. (The card may be returned when the vehicle is again in compliance.)

(d) Registration and License Plates. A licensee shall notify the department of the license plate number of each armored car and any subsequent change in registration.

NOTE: Authority cited: Section 2501, Vehicle Code. Reference: Sections 2501, 2510, and 21713, Vehicle Code.

HISTORY

1. Amendment filed 9-25-81; effective thirtieth day thereafter (Register 81, No. 39).
2. Repealer of subsections (d) and (f) and relettering and amendment of subsection (e) to (d) filed 9-8-82; effective thirtieth day thereafter (Register 82, No. 37).

§ 1113. Temporary Operating Authorization.

An armored car inspected and approved by a member of the department may be operated temporarily by a licensee or applicant prior to receipt of the license and/or the armored car identification card when authorized by the local California Highway Patrol Area commander. Such authorization shall be carried in the vehicle. Temporary authorization shall be invalid when replaced by an armored car identification card and/or license or when the license is denied.

NOTE: Authority cited: Section 2501, Vehicle Code. Reference: Sections 2501, 2510 and 21713, Vehicle Code.

HISTORY

1. Repealer and new section filed 9-8-82; effective thirtieth day thereafter (Register 82, No. 37).

Article 3. Authorized Emergency Vehicles—Permits

§ 1120. Scope of Regulations.

The provisions of this article shall apply to authorized emergency vehicles operated under permits issued by the department pursuant to Vehicle Code Section 2416.

NOTE: Authority cited: Section 2416, Vehicle Code. Reference: Sections 2416 and 2417, Vehicle Code.

HISTORY

1. Repealer of Article 3 (Sections 1120–1124) and new Article 3 (Sections 1120–1124) filed 12–10–68 as an emergency; designated effective 1–1–69 (Register 68, No. 47). For former sections, see Registers 63, No. 14 and 65, No. 2.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 3–21–69 (Register 69, No. 12).
3. Repealer of Article 3 (Sections 1120–1124) and new Article 3 (Sections 1120–1124) filed 6–11–80; effective thirtieth day thereafter (Register 80, No. 24). For prior history, see Registers 75, No. 13, and 73, No. 13.
4. Editorial correction of NOTE (Register 81, No. 44).

§ 1121. Permit Issuance and Retention.

Issuance and retention of authorized emergency vehicle permits shall be subject to the following conditions.

(a) Application. A separate application for each vehicle shall be made on forms prescribed by the department.

(b) Brake Adjustment Certificate. An official brake adjustment certificate shall be submitted with each application for a permit and shall be dated not more than 45 days prior to the application date. Submission of the certificate may be waived by the department when a licensed brake adjusting station is not located within 30 miles and provided the applicant certifies that the brake system meets requirements of the Vehicle Code.

(c) Photographs. Two vehicle photographs, not less than 3 x 4 inches and taken close enough so that the vehicle fills the picture, shall be submitted, one showing the front and left side view and the other the rear and right side view. An application for reissuance of a permit need not be accompanied by new photographs, provided no changes have been made in the vehicle appearance.

(d) Vehicle Inspection Report. Each application shall include a certified departmental inspection report showing satisfactory completion of a compliance inspection performed not more than 30 days prior to the application. For an initial permit, the vehicle inspection shall be performed and the report certified by a representative of the department. For a renewal permit, the report may be certified by the permittee. Upon notice by the department, the vehicle shall be made available for an inspection by a representative of the department to verify compliance with equipment requirements.

(e) Eligibility Verification. Information may be required as needed to verify the applicant's eligibility for the permit.

(f) Permit Retention in Vehicle. The permit shall be carried in the vehicle for which it is issued.

(g) Permit Surrender and Cancellation. The permit remains the property of the department, is not transferable, and shall be surrendered to the department for cancellation upon:

- (1) Change of ownership or possession of the vehicle,
- (2) Loss of eligibility, when either the permittee or vehicle fails to meet established prerequisites,
- (3) Expiration, suspension, or revocation of the permit,
- (4) Discovery that the permit was issued through error or fraud.

(h) Permit Expiration and Reissuance. A permit for an authorized emergency vehicle shall expire not more than two years from the date of issuance or upon loss of eligibility. Expiration dates may be varied by the department as deemed necessary to facilitate scheduling of vehicle in-

spection. An application for reissuance may be submitted within the 30 days prior to expiration.

(i) Corrections or Changes. Corrections or any change of name, not involving a change of ownership, or a change of address or relocation of the permittee or vehicle shall be reported to the department within 10 days thereafter. Surrender of the permit for replacement to reflect such changes or other corrections may be required at the discretion of the department.

NOTE: Authority and reference cited: Section 2416, Vehicle Code.

HISTORY

1. Amendment of subsections (b) and (d) filed 9–8–82; effective thirtieth day thereafter (Register 82, No. 37).

§ 1122. Special Requirements.

The vehicle for which a permit is issued may be operated as an authorized emergency vehicle only when specially equipped and maintained as follows:

- (a) Special Devices. Each vehicle shall be equipped with:
 - (1) A siren and at least one steady burning red warning lamp that meet requirements established by the department;
 - (2) Seat belts, or equivalent passive restraints, for each seat utilized by personnel when such vehicles are being operated.
- (b) Maintenance. The body, mechanical parts of the vehicle, and all required equipment shall be maintained in serviceable condition at all times.

NOTE: Authority and reference cited: Section 2416, Vehicle Code.

§ 1123. Prohibitions.

Permitted authorized emergency vehicles shall not be operated displaying the red warning lamp and/or sounding a siren ("Code 3 operation") unless:

- (a) Operated by the person or entity to whom the permit is issued, and
- (b) There is reasonable cause to believe that an emergency exists or to apprehend a suspected violator of the law, and
- (c) The vehicle is equipped and maintained as required by the Vehicle Code and regulations adopted herein.

NOTE: Authority and reference cited: Section 2416, Vehicle Code.

HISTORY

1. Editorial Correction of NOTE (Register 81, No. 44).

§ 1124. Permit Denial, Suspension, or Revocation.

Grounds for denial, suspension, or revocation include but are not limited to the following:

- (a) Denial.
 - (1) The permit shall be denied unless the vehicle, proposed usage, and the applicant qualify as specified in Vehicle Code Section 2416 and this article.
 - (2) The permit may be denied if the applicant has had a permit suspended or revoked or has committed any act which, if committed by any permittee, would be grounds for the suspension or revocation of a permit.
- (b) Suspension or Revocation. The permit may be suspended or revoked upon a determination by the department that:
 - (1) The vehicle was operated as an emergency vehicle without reasonable cause.
 - (2) The vehicle is not equipped or maintained as required by the Vehicle Code or by regulations adopted thereunder.
 - (3) The vehicle or permittee no longer meets the prerequisites for the permit.
 - (4) The vehicle was operated in violation of any other provisions of law.

NOTE: Authority cited: Section 2416, Vehicle Code. Reference: Sections 2416 and 2417, Vehicle Code

HISTORY

1. Editorial Correction of NOTE (Register 81, No. 44).

Article 4. School Bus Contractor's License

§ 1130. License Issuance and Retention.

Issuance and retention of a school bus contractor's license shall be subject to the following conditions.

(a) Application. A separate application for each contractor shall be made on form "APPLICATION FOR SCHOOL BUS CONTRACTOR'S LICENSE", CHP 296 (REV 01-00) which is incorporated herein by reference. The form is furnished by the Department.

(b) Temporary License. Contractors who have paid the license fee may use either of the following as a temporary license for not more than 30 days:

(1) A copy of the contractor's completed application for a license and a copy of the check or money order indicating payment of fee.

(2) A telegraphic money order receipt, or copy thereof, made payable to the California Highway Patrol, indicating payment of fee for the contractor's license.

(c) License Surrender and Cancellation. The license remains the property of the Department, is not transferable, and shall be surrendered to the Department for cancellation upon:

(1) Change of ownership of the contractor's business,

(2) Expiration or suspension of the license,

(3) Discovery that the license was issued through error or fraud.

(d) License expiration or reissuance. A license for a school bus contractor shall expire not more than one year from date of issuance. An application for reissuance may be submitted within 60 days prior to expiration.

(e) Corrections or Changes. Corrections or any change of name not involving a change of ownership, or any change of address or relocation of the license shall be reported to the Department within 10 days thereafter. Surrender of the license for replacement to reflect name changes or other corrections may be required at the direction of the Department.

NOTE: Authority cited: Sections 2572 and 34501.5, Vehicle Code. Reference: Sections 2503 and 2570, Vehicle Code.

HISTORY

1. New section filed 5-14-90; operative 6-13-90 (Register 90, No. 23). For prior history, see Register 78, No. 33.
2. Change without regulatory effect amending subsection (a) and NOTE filed 7-3-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 27).
3. Change without regulatory effect amending subsection (a) filed 12-10-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 50).
4. Amendment of subsection (a) and amendment of NOTE filed 5-24-2001; operative 6-23-2001 (Register 2001, No. 21).

§ 1131. Substitution of Officials.

HISTORY

1. Amendment filed 1-19-65; effective thirtieth day thereafter (Register 65, No. 2).
2. Amendment filed 7-1-70 as procedural and organizational; designated effective 7-8-70 (Register 70, No. 27).
3. Repealer filed 8-14-78; designated effective 9-18-78 (Register 78, No. 33).

§ 1132. Exemptions.

HISTORY

1. Amendment filed 6-21-63; effective thirtieth day thereafter (Register 63, No. 10).
2. Amendment filed 1-19-65; effective thirtieth day thereafter (Register 65, No. 2).
3. Amendment filed 7-1-70 as procedural and organizational; designated effective 7-8-70 (Register 70, No. 27).
4. Repealer filed 8-14-78; designated effective 9-18-78 (Register 78, No. 33).

§ 1133. Special Exemptions.

HISTORY

1. Repealer filed 8-14-78; designated effective 9-18-78 (Register 78, No. 33).

§ 1134. Stop Order.

HISTORY

1. Repealer filed 6-21-63; effective thirtieth day thereafter (Register 63, No. 10).

Article 5. Color of Traffic Law Enforcement Vehicles

§ 1140. Scope.

This article shall apply to the color of motor vehicles used by police and traffic officers on duty for the exclusive or main purpose of enforcing the provisions of Divisions 10 or 11 of the Vehicle Code, as provided in Section 40800 of the Vehicle Code.

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 40800, Vehicle Code.

HISTORY

1. New Article 5 (Sections 1140 and 1141) filed 2-2-66; designated effective 3-4-66 (Register 66, No. 4).

§ 1141. Color Requirements.

Each motor vehicle shall have a distinctive exterior finish, exclusive of wheels and trim, as follows:

(a) Vehicles Except Motorcycles.

Vehicles, except motorcycles, shall be painted:

(1) Entirely white; or

(2) White, except that an area not less than and including the front door panels shall be black; or

(3) Black, except that an area not less than and including the front door panels shall be white; or

(4) Any other color, with any color front door panels.

(5) The indicia or name of governmental entity operating the vehicle shall be displayed in sharp contrast to the background on the front door panels and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

(b) Stripes. Painted stripes, if used, shall be no wider than 6 inches.

(c) Motorcycles. Each motorcycle shall have one of the following finishes:

(1) Entirely white; or

(2) The sides of the tank and fenders shall be white or the fenders may be entirely white or entirely black; the remaining portions of the motorcycle, which normally receive a painted or enameled finish, shall be black, white, or a combination of black and white, except that these surfaces may have a sharply contrasting accent color overlaying the predominant black and/or white background; or

(3) Any other color.

(4) The indicia or name of governmental entity operating the motorcycle shall be displayed in sharp contrast to the background on the sides of the fairing or tank and shall be of such size, shape, and color as to be readily recognizable during daylight hours from a distance of 50 feet.

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 40800, Vehicle Code.

HISTORY

1. Amendment filed 4-8-77; designated effective 5-9-77 (Register 77, No. 15).
2. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
3. Amendment of subsections (b) and (c)(2) filed 8-31-93; operative 10-1-93 (Register 93, No. 36).
4. Amendment of first paragraph and subsection (a)(4), new subsection (a)(5), amendment of subsection (c)(2) and new subsections (c)(3)-(4) filed 6-2-2008; operative 7-2-2008 (Register 2008, No. 23).

Chapter 6. Hazardous Materials

Article 1. Explosives Routes and Stopping Places

§ 1150. Applicability.

This article shall apply to the transportation of explosives subject to Division 14 (commencing with Section 31600) of the Vehicle Code.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 84, No. 16.
2. Amendment of NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1150.1. Designation of Routes and Stopping Places.

(a) The highways, safe stopping places, and inspection stops to be used for transportation of commodities listed in Section 1150 are set forth in Sections 1151.1 through 1153.12 (Maps 1 through 17A). Safe parking places are listed in Section 1154.

(b) Definitions.

(1) Safe Stopping Place. “Safe stopping place” means any place where a driver may stop for food, fuel, or other reason, provided the vehicle is attended at all times.

(2) Attended Vehicle. A vehicle is “attended” when the driver or person in charge of it is awake and occupies any part of it except the sleeper berth; or is within 100 ft. of the vehicle and has an unobstructed view of it.

(3) Safe Parking Place. “Safe parking place” means any off-highway location or terminal where the driver may park and leave a vehicle unattended.

(4) Inspection Stop. “Inspection stop” means any location specially designated as such in this article or any safe parking place or safe stopping place where vehicle inspections required by Section 31607 of the Vehicle Code may be performed.

(5) Required Inspection Stop. “Required inspection stop” means any place designated as such or any other place where vehicle inspection is mandatory.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31602, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 88, No. 26.
2. Amendment of NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1150.2. Routes Traveled and Stopping.

(a) Routes. No person shall drive or permit the driving of any vehicle transporting commodities listed in Section 1150 upon any highway not designated by this article. For pickup and delivery not over designated routes, the route selected must be the shortest-distance route from the pickup location to the nearest designated route entry location, and the shortest-distance route to the delivery location from the nearest designated route exit location.

(b) Access to Inspection Stops and Safe Stopping Places. If highway access is not provided, a highway other than one designated herein may be used to permit a vehicle or vehicle combination to proceed to and from an inspection stop or safe stopping place, provided the most direct route is used avoiding, to the extent practicable, places where crowds are assembled, streetcar tracks, tunnels, viaducts, and dangerous crossings.

(c) Stopping. No person shall stop a vehicle or vehicle combination transporting commodities listed in Section 1150 at any place not designated as a safe stopping place, safe parking place, improved public rest area as described in (d) of this section or inspection stop, except to comply with orders of a peace officer or an official traffic control device or unless the vehicle or vehicle combination is disabled.

(d) Public Rest Areas. An improved public rest area contiguous to a highway is deemed part of the highway for the purpose of this article.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31602, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 84, No. 16.
2. Amendment of subsections (c) and (d) and NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (a) filed 12–10–96; operative 12–10–96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).

§ 1150.3. En Route Inspections.

Inspection of tires and brakes required by Section 31607(c) of the Vehicle Code shall be performed at the following locations:

(a) En Route Inspection Stops. Inspection shall be performed at an inspection stop at least every four hours or 150 miles traveled, whichever occurs first, or as close thereto as is practicable, depending upon the proximity of such inspection stops.

(b) Top-of-Grade Inspection Stops. Regardless of elapsed time or miles traveled, vehicles shall be inspected at the top of and prior to descending any grade upon which the Department of Transportation has declared a speed limit for trucks of less than 55 miles per hour as provided by Section 22407 of the Vehicle Code. Such inspection shall be made off the roadway.

(c) Required Inspection Stops. Regardless of elapsed time or miles traveled, vehicles shall be inspected at any location designated herein as a required inspection stop.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31602, 31607, 31608, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 74, No. 14.
2. Amendment of NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1150.4. Detours.

Detours established on highways designated in this article may be used for transportation of commodities listed in Section 1150 pending subsequent revision of this article or designation of emergency routes as provided by Section 31617 of the Vehicle Code.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31602 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 84, No. 16.
2. Amendment of NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1150.5. Services and Products.

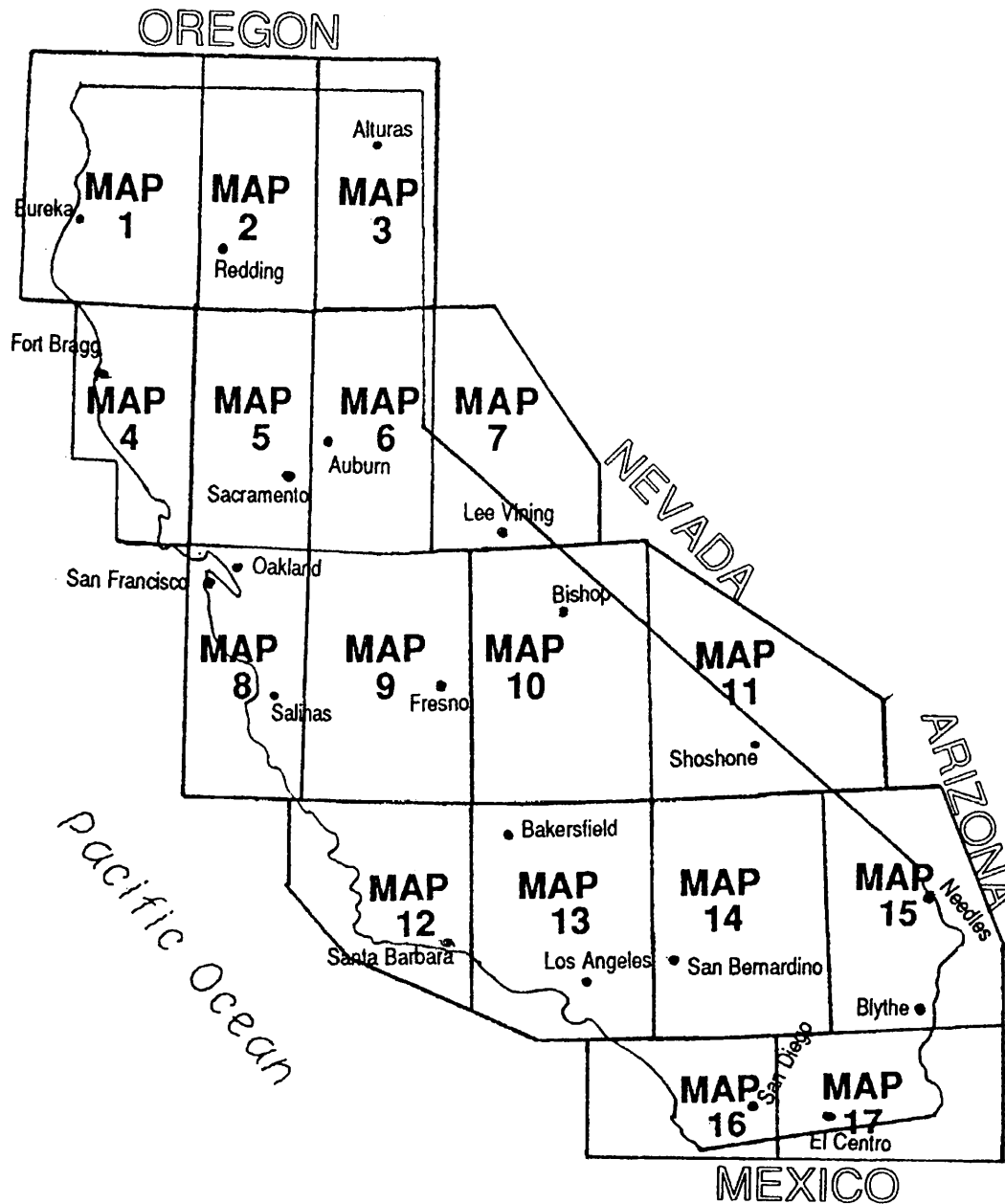
Services available at safe stopping places are indicated for purposes of convenience, but no recommendation of any product, service, or location is intended or should be inferred.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31602 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44).
2. Amendment of NOTE filed 10–17–94; operative 11–16–94 (Register 94, No. 42).

§ 1151. Map Index.



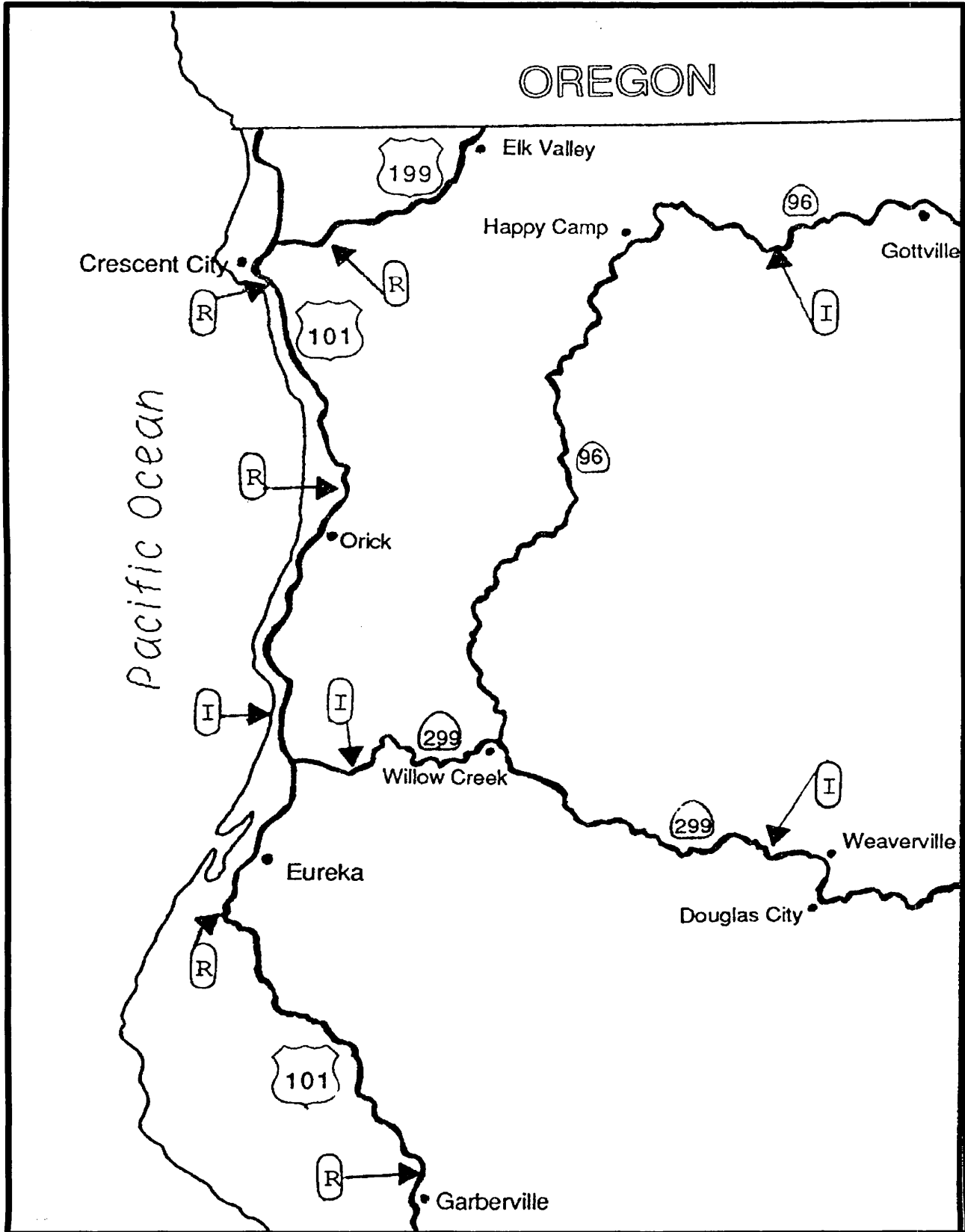
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 88, No. 26.
2. Amendment of NOTE filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1151.1. Routes and Stops—Map 1.

(a) Map 1.



R = REQUIRED INSPECTION STOP

SEE MAP 4

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 1.

(1) U.S. HIGHWAY 101.

(A) REQUIRED INSPECTION STOP (southbound vehicles): 9.7 miles south of Crescent City. West shoulder, immediately to the north of

the following signs: "Down Grade – Trucks Use Low Gears" and "Trucks 30 MPH."

(B) REQUIRED INSPECTION STOP (northbound vehicles): 20.5 miles north of Humboldt County line at marker DN-101-20.62. East shoulder. Marked by flashing lights and sign: "Brake Check Area."

(C) REQUIRED INSPECTION STOP (southbound vehicles): 52.2 miles south of Eureka at marker HUM-101-23.1, State of California scale pit.

(D) REQUIRED INSPECTION STOP (northbound vehicles): 8.3 miles north of Garberville at marker HUM-101-19.4, State of California scale pit.

(E) * INSPECTION STOP (southbound vehicles): State of California platform scales. (Little River) at Marker 101-HUM-120.8.

(F) Orick: A&P Truck Service, 120635 Highway 101, at Marker 101-HUM-120.8. 24 hour towing service, call (707) 488-6885.

(2) U.S. HIGHWAY 199.

(A) REQUIRED INSPECTION STOP (westbound vehicles): At west end of Collier Tunnel. Park on wide shoulder, west of rest area turnoff.

(3) STATE HIGHWAY 96.

(A) INSPECTION STOP: Milepost 71.31 at convergence of highway and Scott River. Known locally as "Steelhead," but not sign posted as such. No services.

(4) STATE HIGHWAY 299.

(A) * INSPECTION STOP (westbound vehicles): State of California platform scales, 31.5 miles west of Willow Creek.

(B) INSPECTION STOP: Oregon Mountain Summit, west of Weaverville at Milepost TRI-299-48.47.

* May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

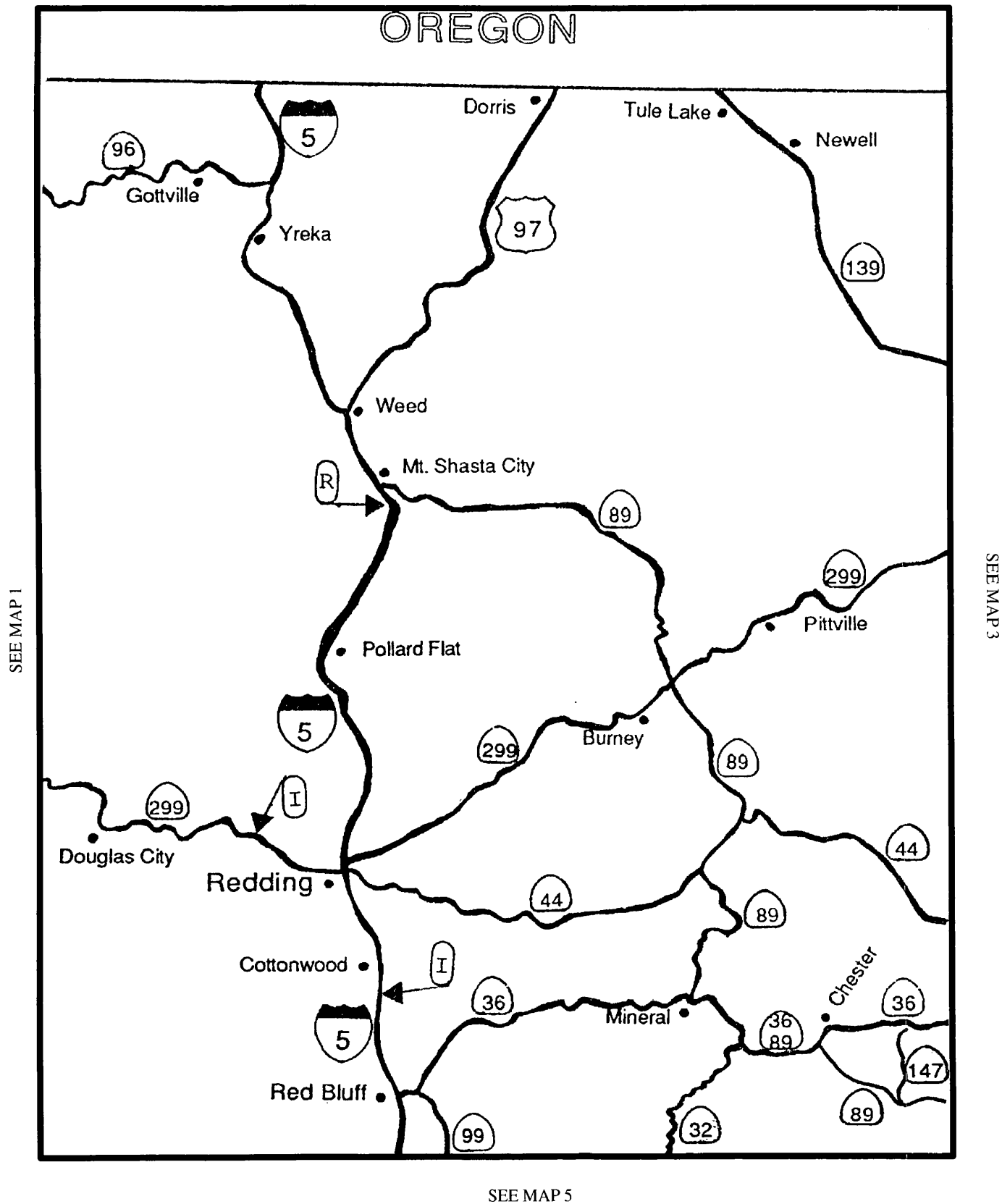
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 90, No. 7.
2. Amendment of subsections (b)(1)(B), (E), (F) and (G) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsections (b)(1)(E)-(F) and repealer of subsection (b)(1)(G) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1151.2. Routes and Stops—Map 2.

(a) Map 2.



R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 2.
(1) INTERSTATE HIGHWAY 5.

(A) *REQUIRED INSPECTION STOP (southbound vehicles): Mt. Shasta Vehicle Inspection Facility.

(B) *REQUIRED INSPECTION STOP (northbound vehicles): Cottonwood Inspection Facility, 2.5 miles south of Cottonwood. No Services. Scales closed when signs display "Scales Closed, Do Not Enter."

(C) *REQUIRED INSPECTION STOP (southbound vehicles): Cottonwood Platform Scales, 2 miles south of Cottonwood. No Services.

(D) Redding: Redding Truck Stop, 2731 South Market Street. Food, gasoline, diesel, propane, CFN Cardlock: 0700–2100 (Monday–Friday), 0700–1700 (Saturday), Closed Sunday.

(E) Pollard Flat: Pollard Flat USA, 24235 Eagles Roost Road, 33 miles north of Redding. Food, gasoline, diesel: 24 hours.

(2) STATE HIGHWAY 299.

(A) *INSPECTION STOP (eastbound vehicles): State of California platform scales, 6 miles west of Shasta. No services.

(c) Restrictions—Redding. Travel into or through Redding, except through traffic on I–5, shall be in accordance with the following:

(1) North and southbound traffic going west on SR–299 exit at the Central Redding–Eureka (SR–299) exit, proceed west on SR–299 to Pine Street, then north on Pine Street to Eureka Way, then west on Eureka Way

(SR–299).

(2) North and southbound traffic going east on SR–299 shall exit I–5 at the Burney–Alturas (SR–299) exit, then proceed east.

(3) North and southbound traffic going east on SR–44 shall exit I–5 at Lassen Park (SR–44) exit, and proceed east.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

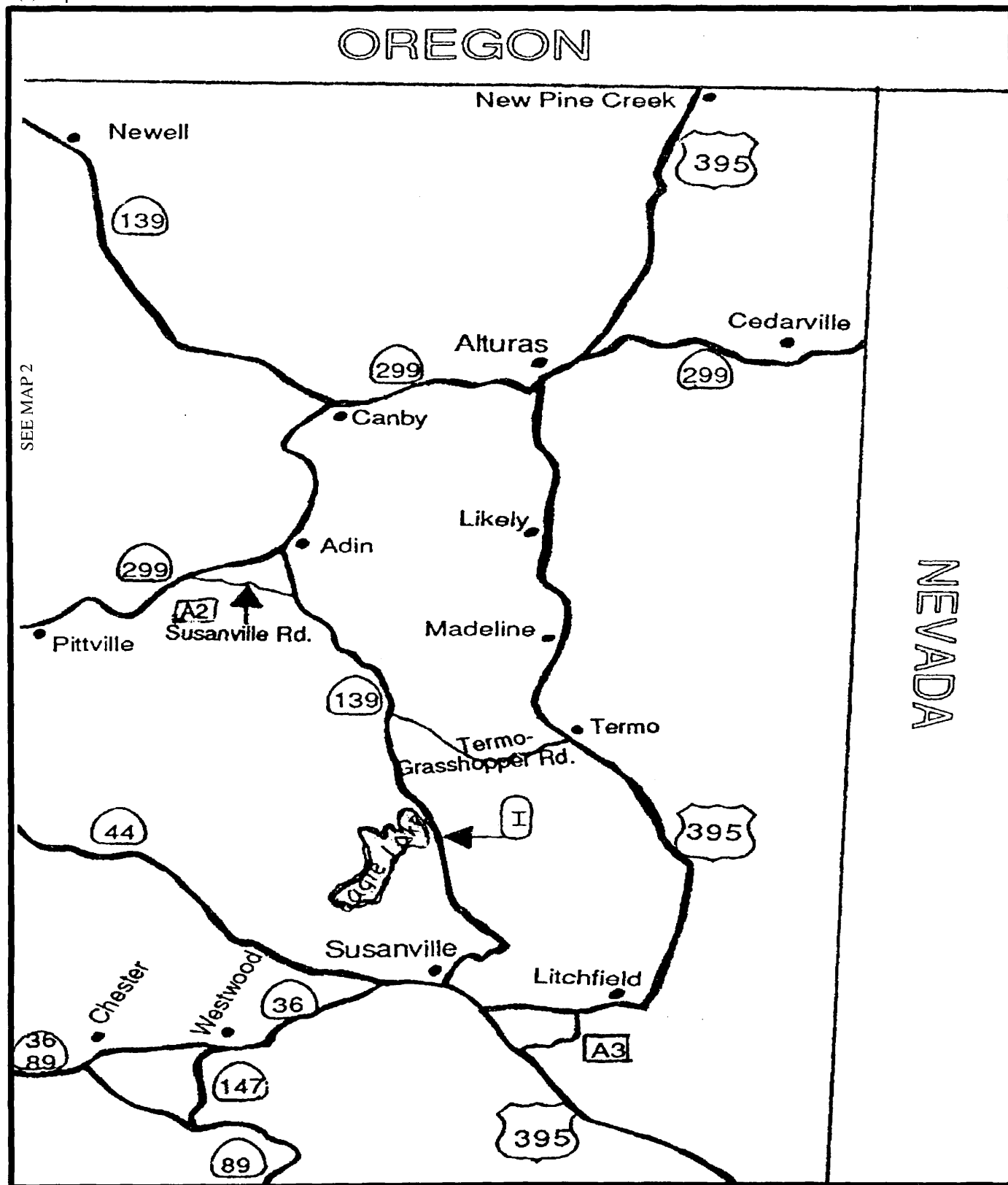
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 92, No. 12.
2. Repealer of subsection (b)(1)(D), redesignation and amendment of former subsection (b)(1)(E) to (b)(1)(D), new subsection (b)(1)(E) and amendment of subsection (b)(1)(F) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsections (b)(1)(B)–(C), repealer of subsections (b)(1)(E) and (c)(1) and subsection renumbering filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.3. Routes and Stops—Map 3.

(a) Map 3.



SEE MAP 6

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 3.

(1) U.S. HIGHWAY 395.

(A) INSPECTION STOP: State of California scale pit, 4 miles south of Janesville at post mile 50.

(B) Likely: Likely Cafe. Food: 0700–2000 (Monday–Saturday), 0800–1400 (Sunday).

(C) Likely: Likely Store. Gasoline, diesel, propane, grocery: daylight hours. Park on west side of highway.

(D) Madeline: Old Madeline Store (Closed) public phone. Park on west side of highway.

(E) Litchfield: Seven Acres Cafe. Food: 0600–2100. Park on east side of highway.

(2) STATE HIGHWAY 36.

(A) INSPECTION STOP (eastbound vehicles): State of California scale pit, 1.8 miles west of Susanville at post mile 22.

(3) STATE HIGHWAY 139.

(A) INSPECTION STOP: 25 miles north of Susanville at park area east of Eagle Lake.

(B) Tule Lake: Stronghold Cafe, Captain Jack Stronghold. Food:

0600–1900 (Tuesday–Sunday), 0600–1500 (Monday).

(4) STATE HIGHWAY 299.

(A) Canby: Sherer's Chevron Service Station. Gasoline, diesel, mini-mart, minor repairs: Mon–Sat 0700–2100, Sun 0700–1800.

(B) Canby: Sherer's Union Service Station. Gasoline, mini-mart, minor repairs: 0700–2100.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 91, No. 44.

2. Amendment of subsections (b)(1)(B)–(E), (b)(3)(B) and (b)(4)(B) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).

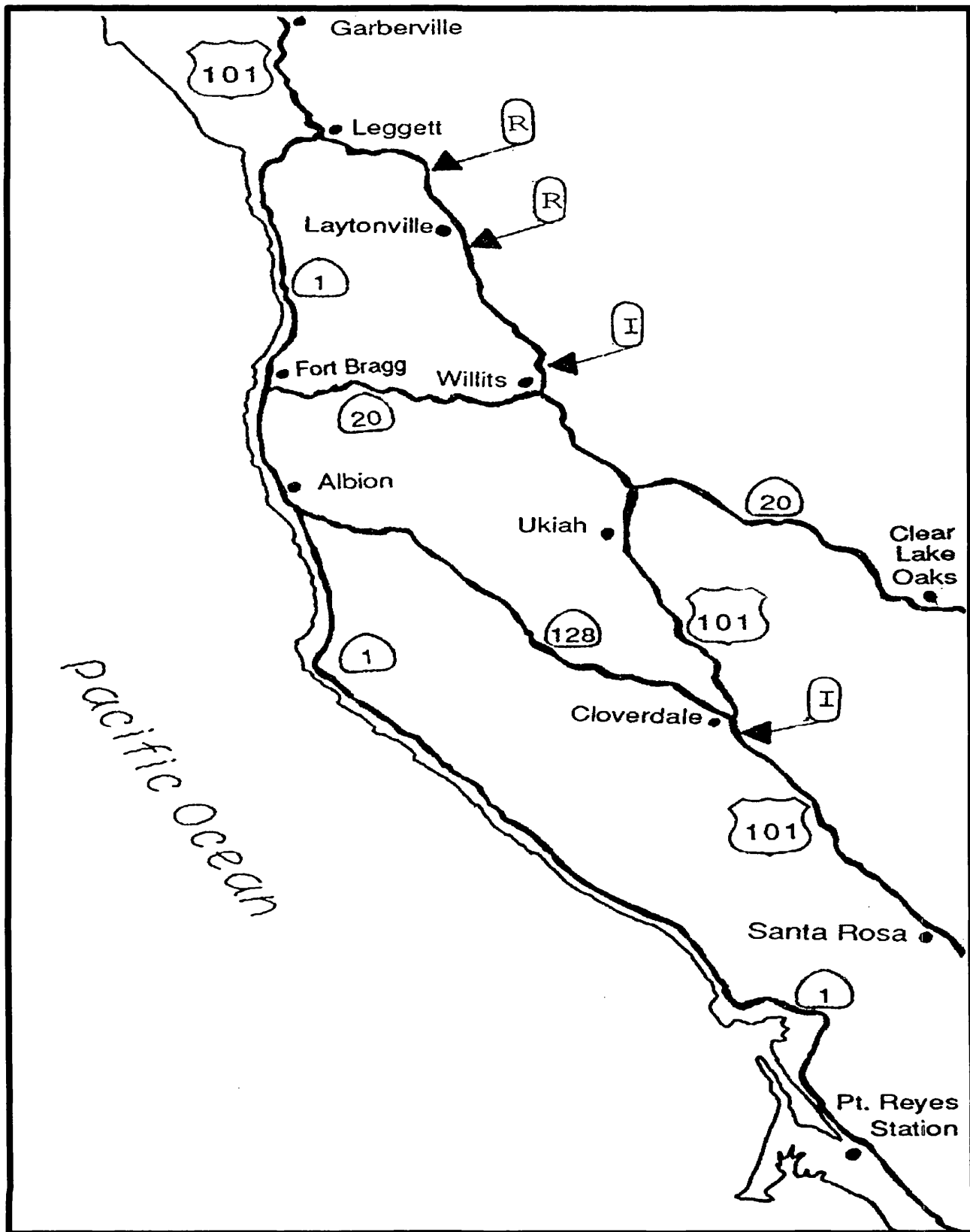
3. Editorial correction of HISTORY (Register 94, No. 42).

4. Amendment of subsections (b)(1)(D) and (b)(4)(A) and repealer of subsection (b)(4)(C) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.4. Routes and Stops—Map 4.

(a) Map 4.

SEE MAP 1



R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 4.

(1) U.S. HIGHWAY 101.

(A) REQUIRED INSPECTION STOP (southbound vehicles): 6.5 miles south of Cummings at Marker MEN-101-77.7; 0.8 mile south of Spy Rock County Road. Stop either side of summit.

(B) REQUIRED INSPECTION STOP (northbound vehicles): 4.2 miles south of Laytonville at Marker MEN-101-64.8, top of grade at north end of four lane roadway. Stop on wide dirt and gravel shoulder. No facilities.

(C) * INSPECTION STOP (southbound vehicles): State of California platform scales, 1.3 miles north of Willits.

(D) Laytonville: Gravier's Chevron Service. Gasoline, diesel, propane, tire repairs, and scales: Open 24 hours. Park on east side of highway.

(E) Ukiah: Jensen's Truck Stop, 1460 Lovers Lane. Gasoline, propane, diesel, major repairs: 24 hours. Located at junction of US-101 and North State Street.

(F) Ukiah: Jensen's Restaurant, 1550 Lovers Lane. Food: 24 hours.

Take North State Street (Old US-101) exit, near junction of US-101. Park in rear parking area of Jensen's Truck Stop.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

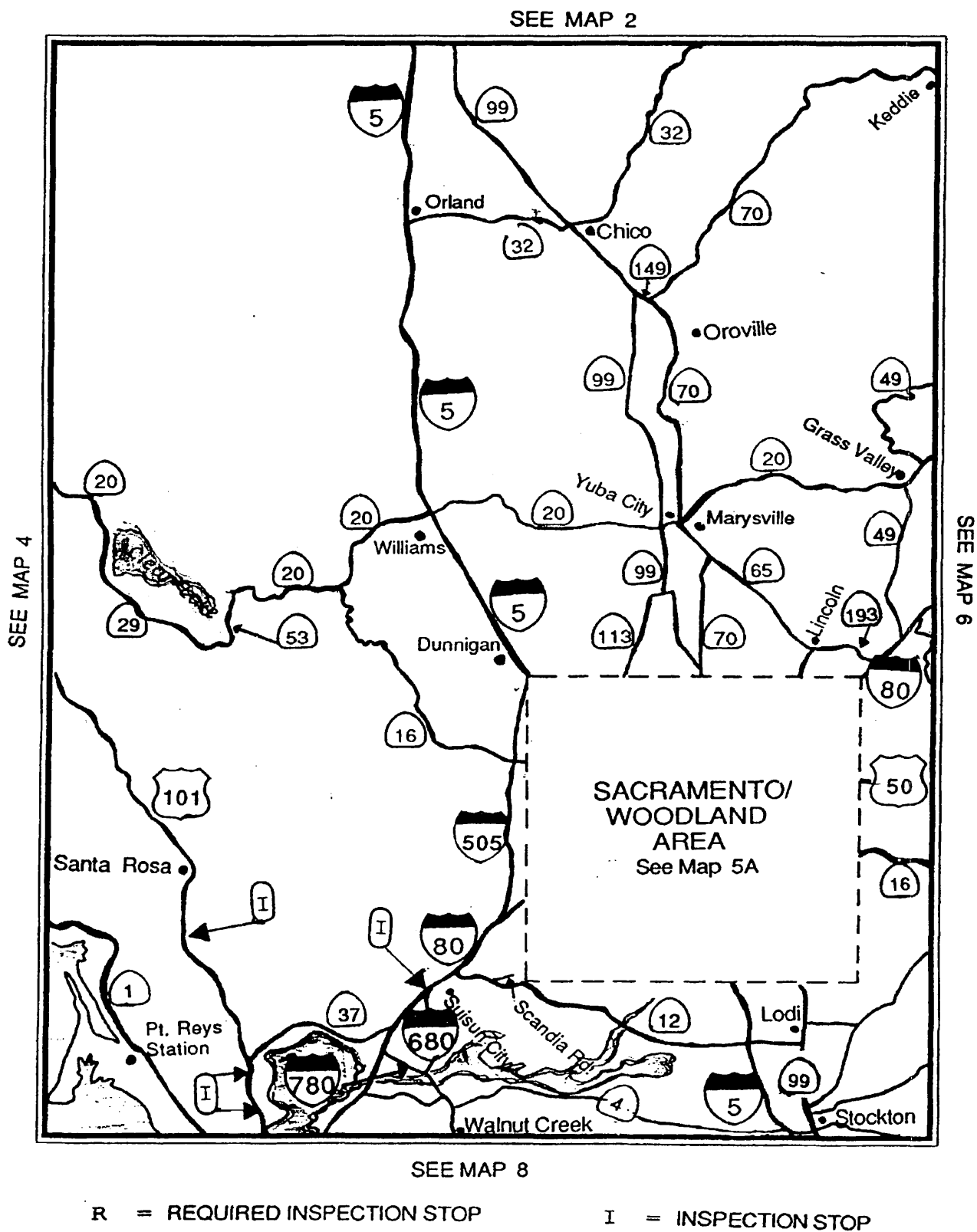
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 92, No. 12.
2. Amendment of subsection (b)(1)(A), repealer of subsection (b)(1)(D) and subsection redesignation, and amendment of subsections (b)(1)(D)-(F) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(1)(F) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. Amendment of subsections (b)(1)(D) and (b)(1)(F) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1151.5. Routes and Stops—Map 5.

(a) Map 5.



(b) Safe Stopping Places and Inspection Stops—Map 5.
 (1) INTERSTATE HIGHWAY 5

(A) Dunnigan: Dunnigan Truck Service. Food, gasoline, diesel, minor repairs: 24 hours. I-5 and County Road 8. Marked parking place for trucks transporting explosives.

(B) Lodi: Flying J, 15100 Thornton Road, gasoline, diesel: 24 hours. (209) 339-4066.

(2) INTERSTATE HIGHWAY 80.

(A) INSPECTION STOP: Cordelia Inspection Facility, 3 miles west of the city of Fairfield. No services. Scales closed when signs display: "Scales Closed, Do Not Enter."

(B) Suisun: Terminal Stations, Inc., 100 Suisun Valley Road. Food, gasoline, diesel, repairs, tire service: 24 hours. Four miles west of the city of Fairfield at Suisun Valley Road overcrossing.

(3) U.S. HIGHWAY 101.

(A) INSPECTION STOP (southbound vehicles): Truck parking area, 1.5 miles south of Cotati.

(B) *INSPECTION STOP (southbound vehicles): State of California platform scales, 3.9 miles south of SR-37.

(C) *INSPECTION STOP (northbound vehicles): State of California platform scales, 2 miles north of San Rafael.

(4) STATE HIGHWAY 70.

(c) Restrictions.

(1) Use of Tennessee Street in Vallejo is prohibited.

(2) Mare Island Annex of the Concord Naval Weapons Station is located at the south end of Mare Island off SR-37.

(3) Golden Gate Bridge. Northbound vehicles shall stop for inspection and bridge escort at the Toll Plaza. Southbound vehicles shall stop for inspection and bridge escort at the north abutment of the bridge. No explosive laden trucks are permitted on the bridge between the hours of 0630 and 0930 and between 1600 and 1900 on weekdays.

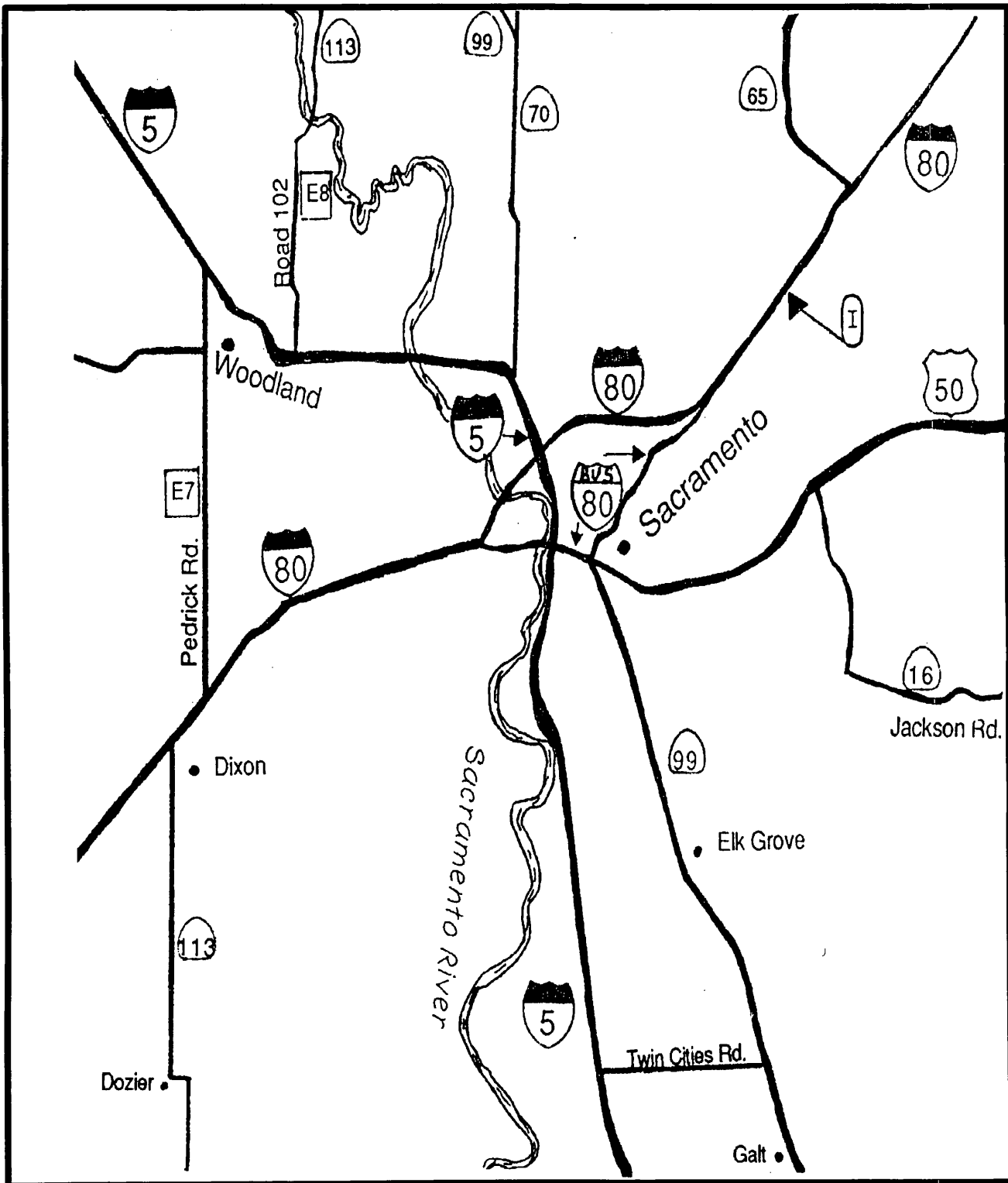
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 92, No. 12.
2. Repealer and new subsection (a), amendment of subsections (b)(1)(A), (b)(2)(B), (b)(4)(A), designation of subsection (c)(1), new subsections (c)(2)-(3) and repealer of first NOTE filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Repealer of subsection (b)(4)(A) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. New subsection (b)(1)(B) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1151.5.1. Routes and Stops—Map 5A.

(a) Map 5A.



I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 5A.

(1) INTERSTATE HIGHWAY 80.

(A) *INSPECTION STOP (both directions) State of California platform scales, 0.8 mile west of Antelope Rd.

(B) Sacramento 76 Auto/Truck Plaza, 2828 El Centro Rd. Food, gasoline, diesel, repairs: 24 hours. Approximately 1 mile west of I-5/I-80 junction. Exit at West El Camino Avenue to El Centro Road.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Amendment of subsection (b)(1)(B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).

(a) Map 6.



(b) Safe Stopping Places and Inspection Stops—Map 6.

(1) INTERSTATE HIGHWAY 80.

(A) REQUIRED INSPECTION STOP: Donner Summit. Public rest areas.

(B) REQUIRED INSPECTION STOP (westbound vehicles only): Blue Canyon brake check area, 0.5 mile west of Nyack.

(C) INSPECTION STOP: State of California Inspection Facility, Truckee. I-80 at Prosser Road. No services available.

(D) Nyack: Nyack Garage, 1 Nyack Road. Gasoline, diesel, towing, parts store: 24 hours. 24 hour road service call (800) 235-3611. Take Nyack Road exit from I-80.

(E) Nyack: Burger King 41800 Nyack Road. Food: 24 hours. Take Nyack Road exit from I-80.

(2) U.S. HIGHWAY 50.

(A) REQUIRED INSPECTION STOP: Echo Summit. Posted brake check area.

(3) U.S. HIGHWAY 395.

(A) Doyle: Midway Cafe, Doyle Drive. Food: 0700-2000 (summer), 0700-1900 (winter). Closed Mondays. Located North end of Doyle Loop.

(B) Walker: Mike's Auto & Truck Service. Gasoline, LPG, tire repair, heavy duty tow, minor repairs: 0800-1700 (Monday-Saturday). 24 hour road service call (530) 495-2345.

(C) Walker: The Mountain View Barbeque. Food: 1200-2000 (Wednesday - Saturday), 1200-1900 (Sunday). Winter hours 1600-2000 (Thursday - Sunday).

(4) STATE HIGHWAY 4.

(A) Camp Connell: Camp Connell Store. Food, gasoline: 0800-2000 (Monday-Thursday), 0800-2400 (Friday and Saturday). Located 3.2 miles east of entrance to Calaveras Big Trees State Park.

(5) STATE HIGHWAY 12.

(A) Burson: El Papagallo Cafe. Food: 1100-1400 and 1600-2200 (Tuesday-Thursday), 1100-2200 (Friday-Sunday). Located on Highway 12, three miles west of Valley Springs.

(6) STATE HIGHWAY 20.

(A) Nevada City: Five Mile House, 18851 State Highway 20. Food: 0700-2200 (Closed Tuesday and Wednesday). Five miles east of Nevada City.

(7) STATE HIGHWAY 49.

(A) Plymouth: Gold Country Cafe, 17830 Highway 49. Food: 0700-1900. Located 0.4 mile south of Plymouth.

(B) Camptonville: Indian Valley Outpost. Food, LPG: 0800-2200 (summer), 0900-1800 (Winter, Wednesday through Sunday only). Ten miles west of Downieville, on SR-49.

(C) Altaville: Gino's Shell Station, 429 South Main Street. Gasoline, diesel: 0800-1800.

(D) San Andreas: Hawkins Sierra Company (Exxon), 746 Poole Station Road. Gasoline, diesel, tire sales and repairs: 0800-1700 (Monday-Friday), 0800-1300 (Saturday). Located 0.2 mile south of SR-49 on Poole Station Road.

(8) STATE HIGHWAY 70.

(A) *INSPECTION STOP: State of California platform scales, 4 miles west of Keddie at junction of SR-70 and SR-89. No services available.

(B) East Quincy: Huffman Tire and Brake, 2205 East Main. Tire and brake repairs: 0800-1800 (Monday-Friday), 0900-1200 (Saturday).

(C) Quincy: BP Service Station (Tom's Sierra Company, Inc.), 2221 East Main. Gasoline, diesel: 0600-2100.

(9) STATE HIGHWAY 89.

(A) REQUIRED INSPECTION STOP: Luther Pass. Chain control area.

(B) REQUIRED INSPECTION STOP: Summit of Monitor Pass.

(C) INSPECTION STOP: Hope Valley, at junction of SR-88 and SR-89.

(D) Sierraville: Randolph Sales & Service (Chevron). Gasoline, diesel: 0900-1800 (summer), 0900-1730 (winter). East side of SR-89, 1 mile south of SR-49 and SR-89 junction.

(10) STATE HIGHWAY 99.

(A) Stockton: Cherokee Truckstop, 3535 East Cherokee Lane. Gasoline, diesel, propane, grocery: 24 hours.

(c) Winter Restrictions. I-80 between the Nevada state line and Applegate, US-50 over Echo Summit and SR-89 over Luther Pass are restricted to vehicles carrying a full complement of tire chains, adequate for installation as may be required on the vehicle or combination during periods of snowfall, from October through April.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

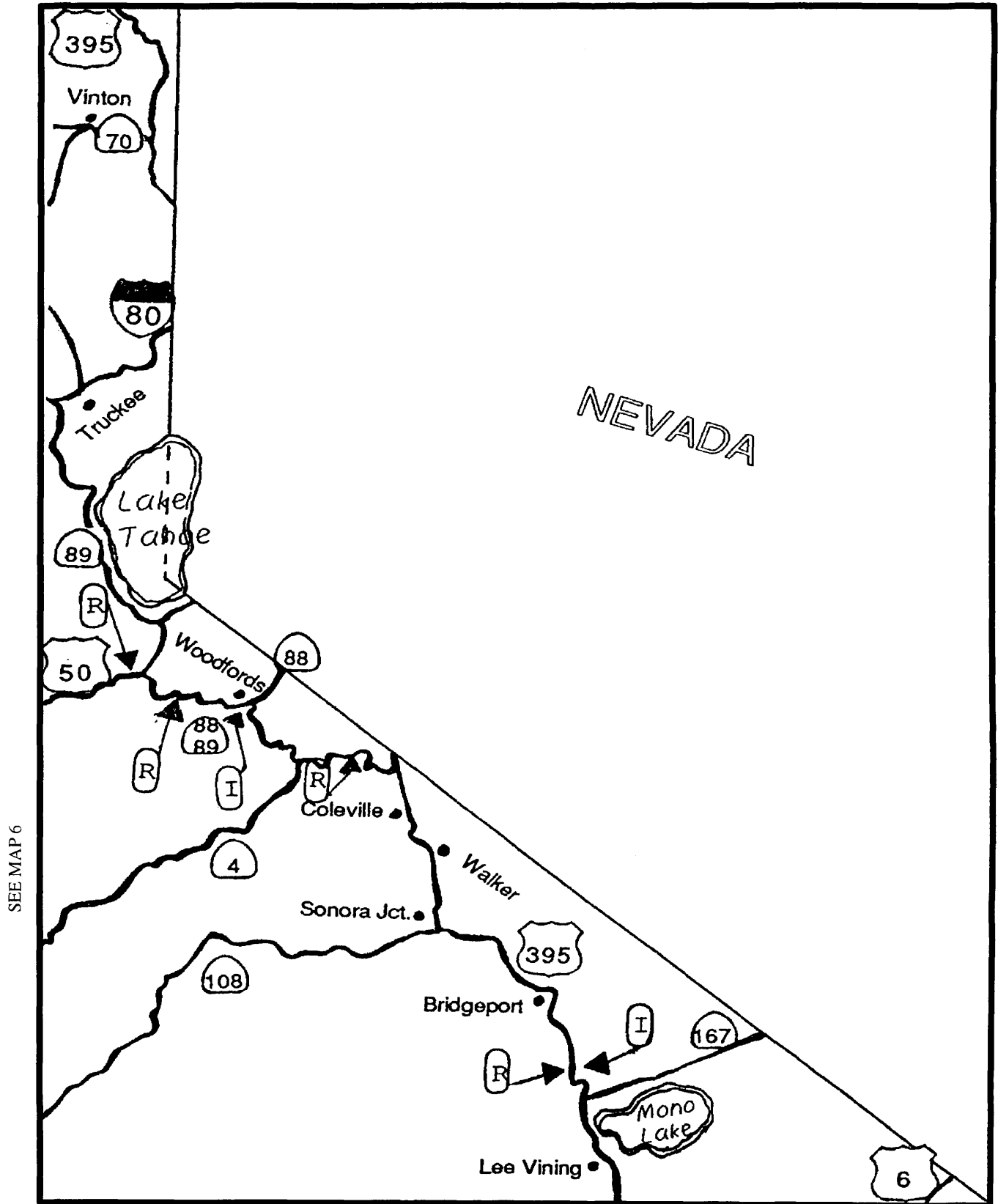
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 91, No. 15.
2. Amendment filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(7)(B) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. Repealer of subsection (b)(1)(D), subsection relettering, amendment of newly designated subsection (b)(1)(E) and subsection (b)(3)(B), and repealer and new subsection (b)(3)(C) and filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1151.7. Routes and Stops—Map 7.

(a) Map 7.



SEE MAP 6

SEE MAP 10

R = REQUIRED INSPECTION STOP I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 7.
 (1) U.S. HIGHWAY 50.

(A) REQUIRED INSPECTION STOP: Echo Summit. Posted brake check area.

(2) U.S. HIGHWAY 395.

(A) REQUIRED INSPECTION STOP (southbound vehicles): Conway Summit, 13 miles south of Bridgeport.

(B) INSPECTION STOP (northbound vehicles): Conway Summit, 12 miles north of Lee Vining.

(C) Walker: Mike's Auto & Truck Service. Gasoline, LPG, tire repair, heavy duty tow, minor repairs: 0800–1700 (Monday–Saturday). 24 hour road service call (530) 495–2345.

(D) Walker: The Mountain View Barbeque. Food: 1200–2000 (Wednesday – Saturday), 1200–1900 (Sunday). Winter hours 1600–2000 (Thursday – Sunday).

(3) STATE HIGHWAY 89.

(A) REQUIRED INSPECTION STOP: Summit of Monitor Pass.

(B) INSPECTION STOP: Hope Valley, at junction of SR–88 and SR–89.

(C) Sierraville: Randoph Sales & Service (Chevron) Gasoline, diesel: 0900–1800 (summer), 0900–1730 (winter). East side of SR–89, 1 mile south of SR–49 and SR–89 junction.

(c) Winter Restrictions—Monitor Pass. Restricted to vehicles carry-

ing a full complement of tire chains adequate for installation as may be required on the vehicle or combination during periods of snowfall, from October 1 through April.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 90, No. 30.
2. Repealer of subsection (b)(1)(B), amendment of subsection (b)(2)(C) and new subsection (b)(3)(C) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsections (b)(2)(A) and (b)(2)(C) and repealer and new subsection (b)(2)(D) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.7.1. [Reserved].

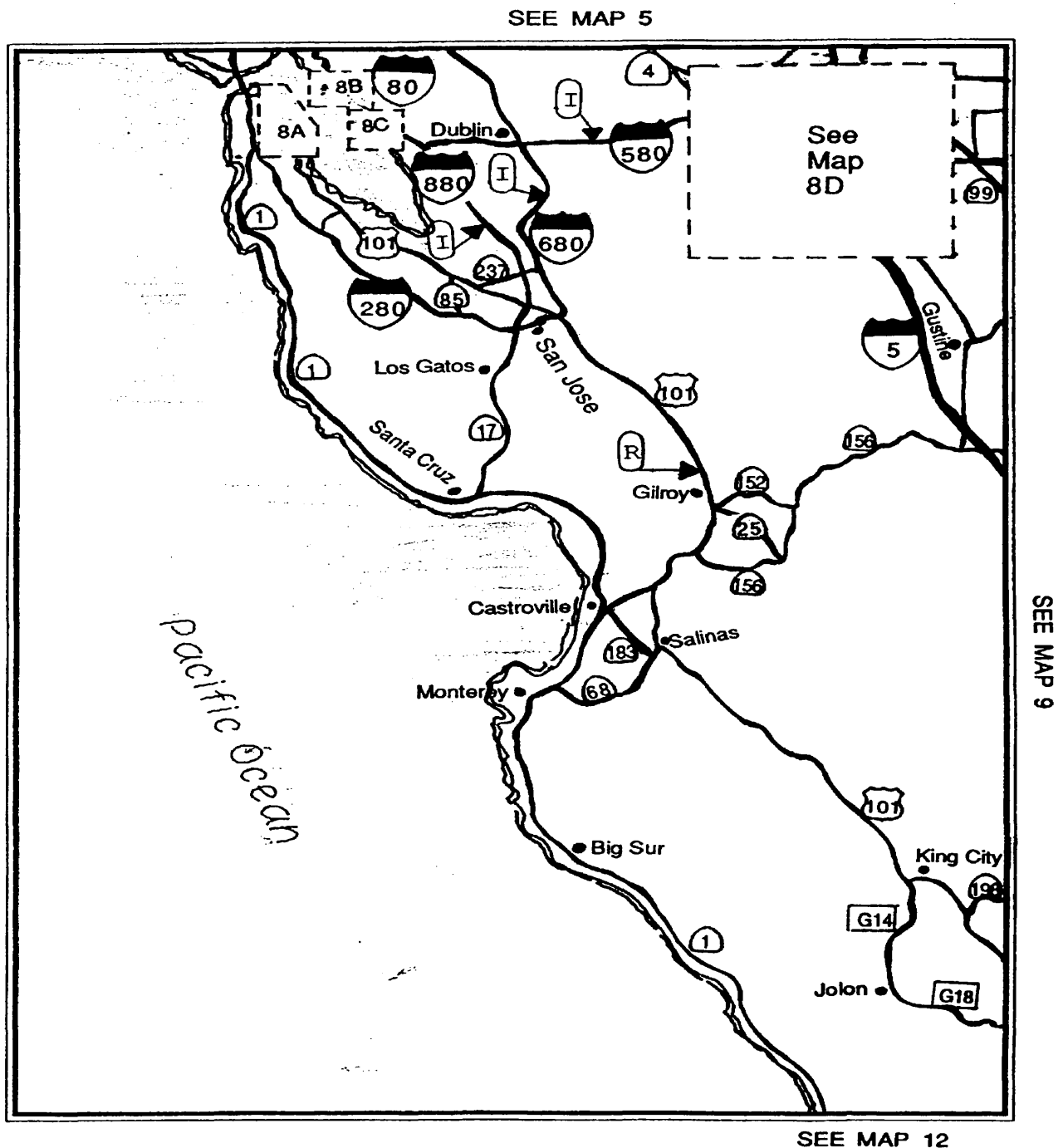
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1151.8. Routes and Stops—Map 8.

(a) Map 8.



R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 8.

(1) INTERSTATE HIGHWAY 580.

(A) INSPECTION STOP (east and westbound vehicles): State of California platform scales, Livermore. No services available.

(2) INTERSTATE HIGHWAY 680.

(A) INSPECTION STOP (northbound vehicles): State of California Inspection Facility on Mission Grade, south of Sunol.

(B) Indicated "Safe Parking Place" on west shoulder is improved parking area north of toll plaza may be used only upon direction and specific

approval by bridge personnel or a member of the California Highway Patrol.

(3) INTERSTATE HIGHWAY 880.

(A) *INSPECTION STOP (northbound vehicles): State of California inspection facility, 0.5 mile south of Auto Mall Parkway.

(B) *INSPECTION STOP (southbound vehicles): State of California platform scale, 0.5 mile south of Auto Mall Parkway.

(4) U.S. HIGHWAY 101.

(A) REQUIRED INSPECTION STOP (southbound vehicles): State of California Inspection Facility, north edge of city of Gilroy.

(B) REQUIRED INSPECTION STOP (northbound vehicles): State of California Inspection Facility, 0.5 mile south of San Martin Ave.

(5) STATE HIGHWAY 17.

(A) Los Gatos: Nonnos Summit Café (southbound vehicles only), 23123 Santa Cruz Highway. Food: 1000–1600 (Sunday – Friday) 1000–0000 (Saturday). Located one mile south of Santa Clara–Santa Cruz county lines.

* May be used as a “Safe Parking Place” when driver is given specific instruc-

tions by a member of the California Highway Patrol.

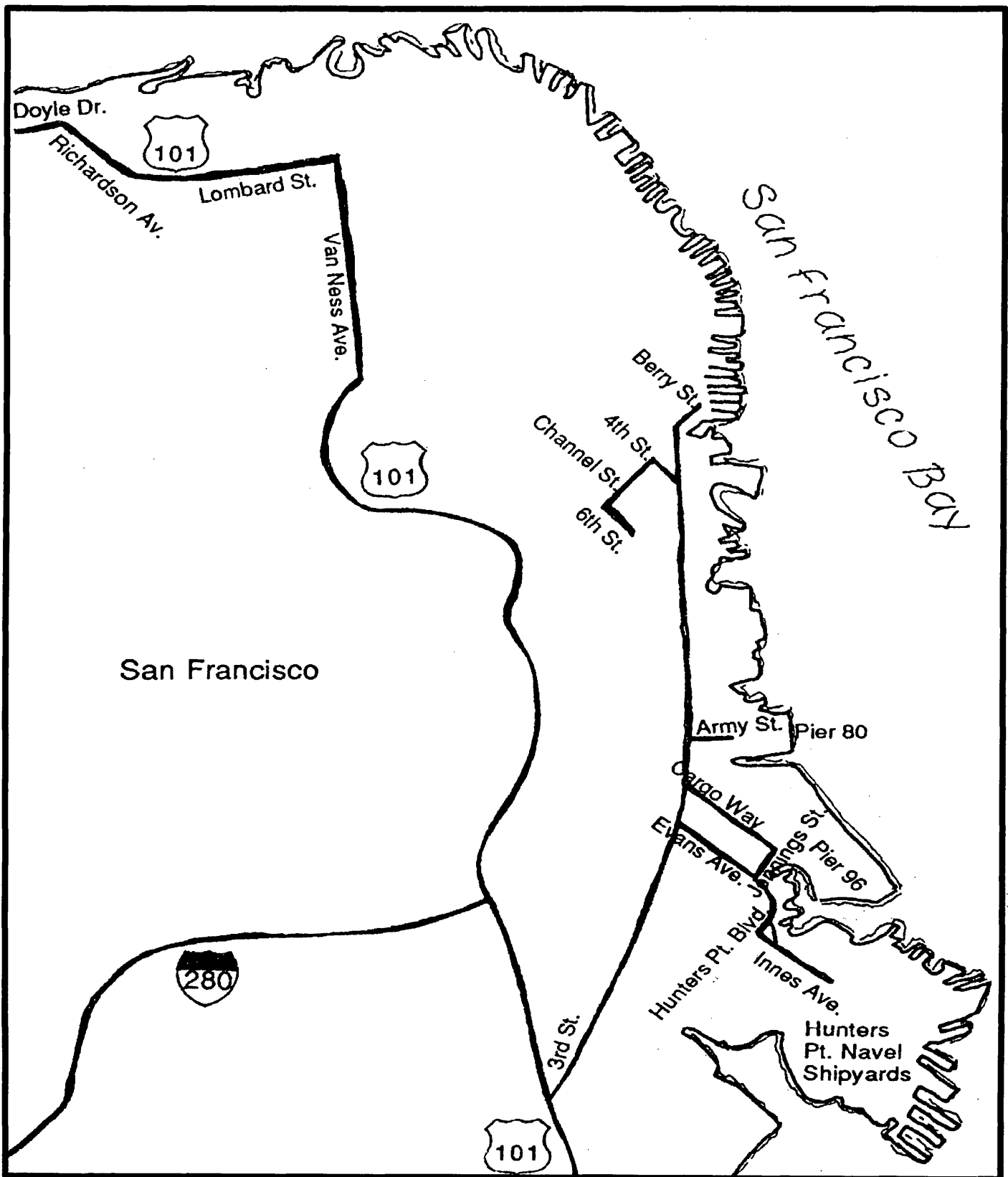
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 91, No. 15.
2. Repealer and new subsection (a), repealer of subsections (b)(5)–(b)(5)(A) and amendment and redesignation of former subsections (b)(6)–(b)(6)(A) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsections (b)(3)(A)–(B), new subsection (b)(4)(B) and amendment of subsection (b)(5)(A) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.8.1. Routes and Stops—Map 8A.

(a) Map 8A.



(b) Safe Stopping Places and Inspection Stops—Map 8A. There are no designated stopping places or inspection stops in the area encompassed by Map 8A.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601,

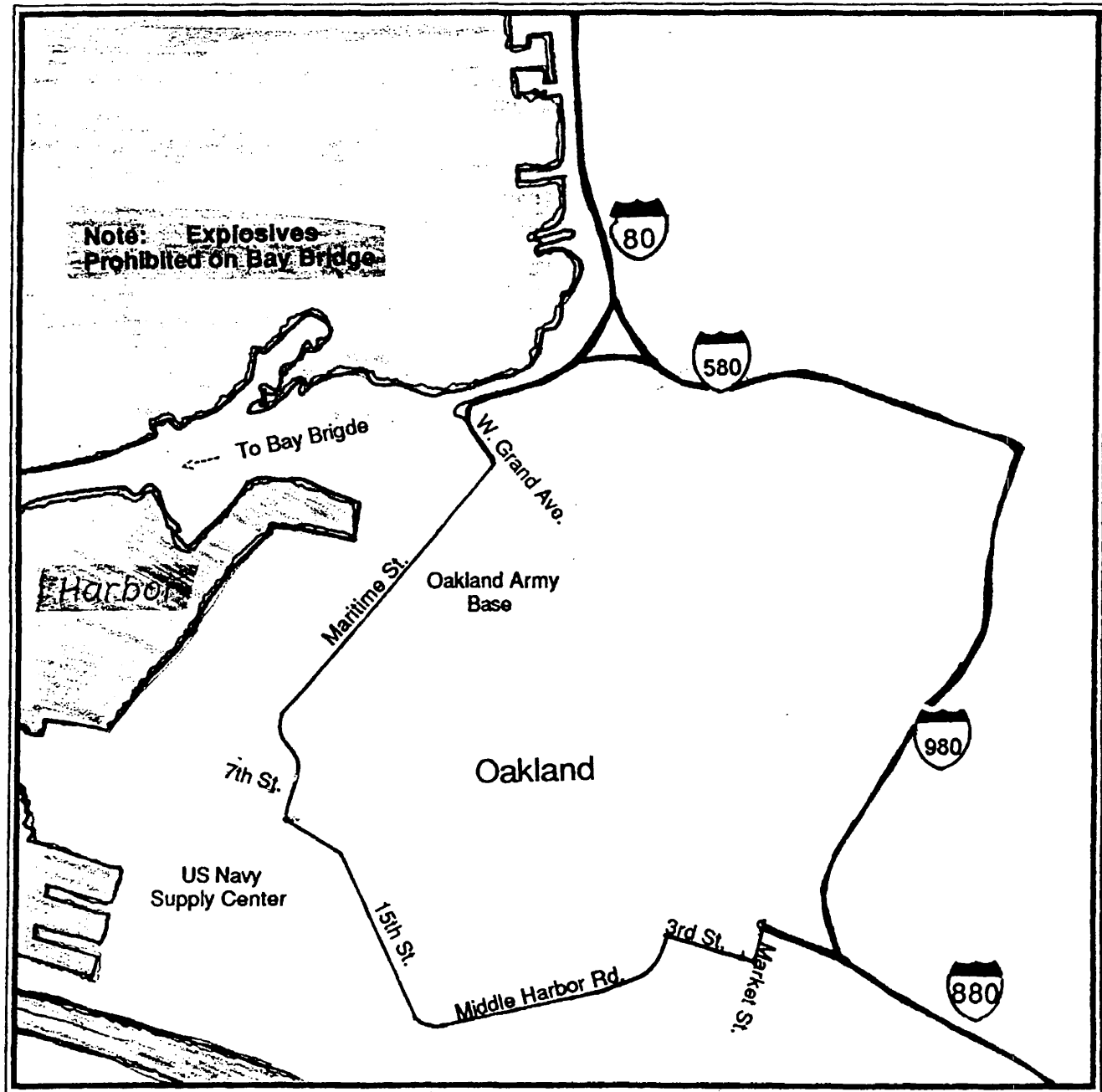
31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).

§ 1151.8.2. Routes and Stops—Map 8B.

(a) Map 8B.



(b) Safe Stopping Places and Inspection Stops—Map 8B. There are no designated stopping places or inspection stops in the area encompassed by Map 8B.

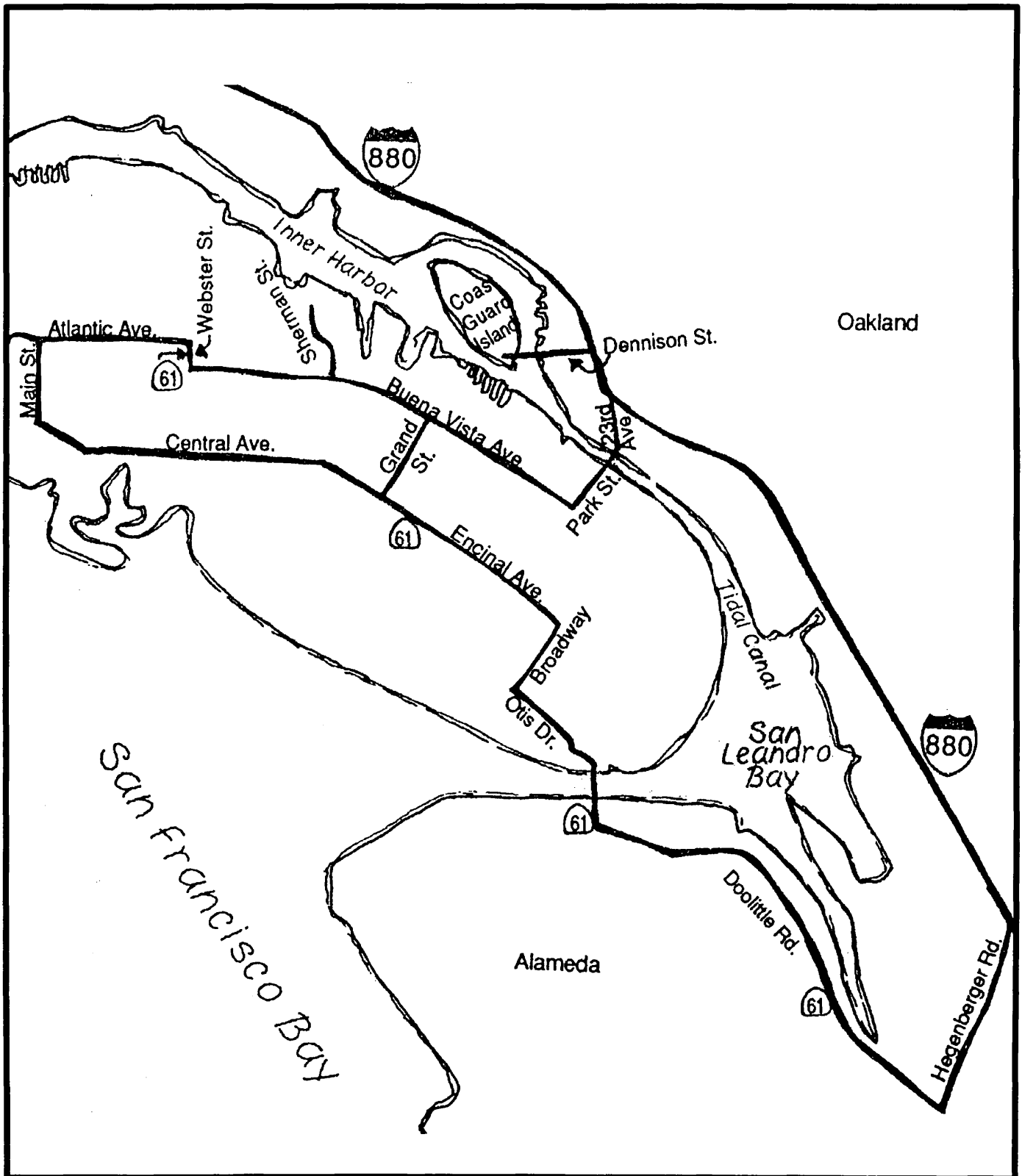
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Repealer and new subsection (a) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).

§ 1151.8.3. Routes and Stops—Map 8C.

(a) Map 8C.



(b) Safe Stopping Places and Inspection Stops—Map 8C. There are no designated stopping places or inspection stops in the area encompassed by Map 8C.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601,

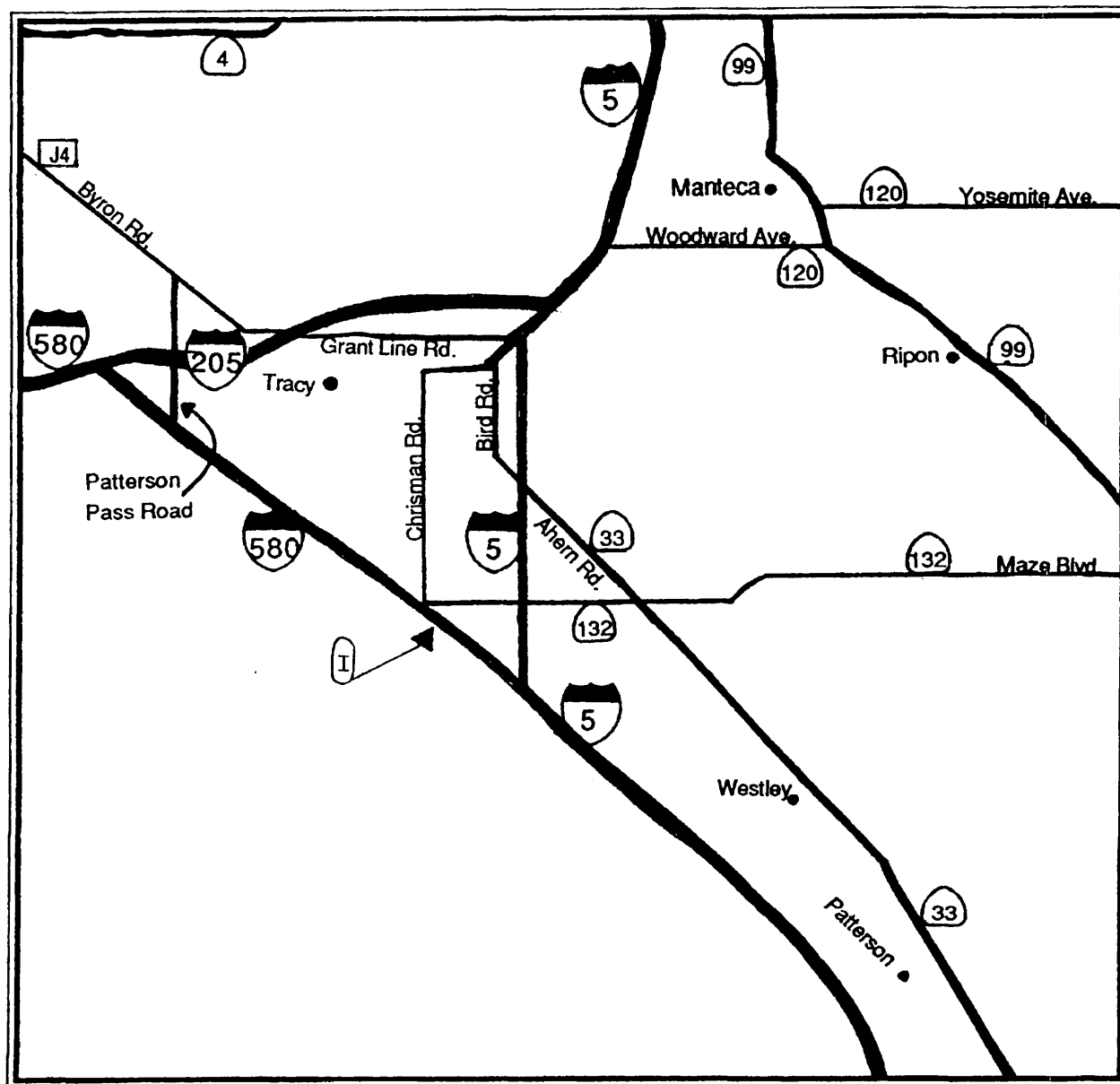
31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).

§ 1151.8.4. Routes and Stops—Map 8D.

(a) Map 8D.



I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 8D.

(1) INTERSTATE 5.

(A) INSPECTION STOP (south and northbound vehicles): Rest area, 0.5 mile south of San Joaquin–Stanislaus County line.

(B) Westley: Westley Triangle Truck Stop and Restaurant. Food, gasoline, diesel, tire repairs: 24 hours. East of I–5 at Westley exit.

(2) INTERSTATE HIGHWAY 205.

(A) Tracy: Tracy Auto/Truck Plaza, 7500 West 11th Street. Food, gasoline, diesel, propane, scales, tire repairs: 0600–2100. Business 205 at Chrisman Road. Corner of 11th Street and Chrisman Road.

(3) STATE HIGHWAY 99.

(A) Ripon: Jimco Truck Service Plaza, 1022 Frontage Road. Food, gasoline, diesel, LPG, tires, repairs: 24 hours. Located 0.2 mile north of

Ripon. Use Jacktone Road interchange, south 0.2 mile on East Frontage Road.

(B) Ripon: Flying J Travel Plaza, 1501 N. Jacktone Road. Food, gasoline, diesel (209) 599–4141.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10–28–92; operative 10–28–92 (Register 92, No. 44).
2. Repealer and new subsection (a) and amendment of subsections (b)(1)(A)–(B), (b)(2)(A) and (b)(3)(A) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. New subsection (b)(3)(B) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

(a) Map 9.



(b) Safe Stopping Places and Inspection Stops—Map 9.

(1) INTERSTATE HIGHWAY 5.

(A) *INSPECTION STOP: State of California platform scales, 2 miles north of SR-33 interchange.

(B) INSPECTION STOP: Nees Avenue Rest Area, 0.5 mile north of Nees Avenue.

(C) Santa Nella: Mid-Cal Auto/Truck Plaza, 12310 SR-33. Food, gasoline, diesel, minor repairs: 24 hours. Located at I-5 and SR-33 junction.

(D) Santa Nella: Rotten Robbie's Truck Stop, 12860 SR-33. Gasoline, diesel, food at mini-mart: 24 hours. Located at I-5 and SR-33 junction.

(E) Kettleman City: Kettleman City Beacon Truck Service, 33190 Hubert Way. Food, gasoline, diesel, tire service, repairs: 24 hours. Located 0.5 mile north of I-5 on SR-41.

(2) STATE HIGHWAY 33.

(A) INSPECTION STOP: Patterson Receiving Station, south of Patterson.

(B) Santa Nella: Mid-Cal Auto/Truck Plaza, 12310 SR-33. Food, gasoline, diesel, minor repairs: 24 hours. I-5 and SR-33 junction.

(C) Santa Nella: Rotten Robbie's Truck Stop, 12860 State Route 33. Gasoline, diesel, food at mini-mart: 24 hours. Located at I-5 and SR-33 junction.

(D) Dos Palos: Cattleman's Restaurant, 16575 South Highway 33, Food: 0700-1900 (Monday through Saturday). Located 0.5 mile south of SR-152.

(E) Three Rocks: Three Rocks Cafe. Food: 0600-1800 (winter), 0600-2000 (summer). Located four miles north of I-5.

(F) Tracy: Green Valley Transportation Inc., 30131 S. Hwy 33.

(3) STATE HIGHWAY 41.

(A) Coarsegold: Quick Serve Market, 35311 Highway 41. Food, gasoline, diesel, minor tire repairs: 0700-2200 (Monday through Saturday), 0800-2200 (Sunday).

(B) Kettleman City: Kettleman City Beacon Truck Service, 33190 Hubert Way. Food, gasoline, diesel, tire service, repairs: 24 hours. Located 0.5 mile north of I-5 on SR-41.

(4) STATE HIGHWAY 99.

(A) INSPECTION STOP (south and northbound vehicles): Rest area,

0.5 mile north of Merced-Stanislaus county line.

(B) *INSPECTION STOP (northbound vehicles) State of California Chowchilla River Inspection Facility. Located at merced county line.

(C) Legrand: Diesel Country Truck Stop (northbound vehicles): 8040 South Highway 99. Food, gasoline, diesel: 24 hours. Located 1.5 miles north of Merced-Madera county line. Located 1.5 miles north of Merced-Madera county line.

(5) STATE HIGHWAY 132.

(A) Modesto: Fruit Yard, 7948 Yosemite Boulevard. Food, gasoline, diesel: 0600-2300. Located seven miles east of Modesto, at Geer Road.

(B) Modesto: The Mint Club, 7000 Maze Boulevard. Food: 0800-2400. Located six miles west of Modesto, at Hart Road.

(C) Modesto: Smart Stop, 6943 Maze Boulevard. Food, gasoline, diesel: 0500-2200. Located on northeast corner of SR-132 and Hart Road.

(6) STATE HIGHWAY 140.

(A) INSPECTION STOP: Parking area adjacent to turnout, 7 miles east of Merced-Mariposa county line at intersection with Old Highway.

(B) Catheys Valley: The Oasis Gas Station, 2675 Highway 140E. Food, gasoline, grocery: 0600-2200.

(7) STATE HIGHWAY 152.

(A) REQUESTED INSPECTION STOP (westbound vehicles): Pacheco Pass, 0.5 mile west of the Merced county line.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

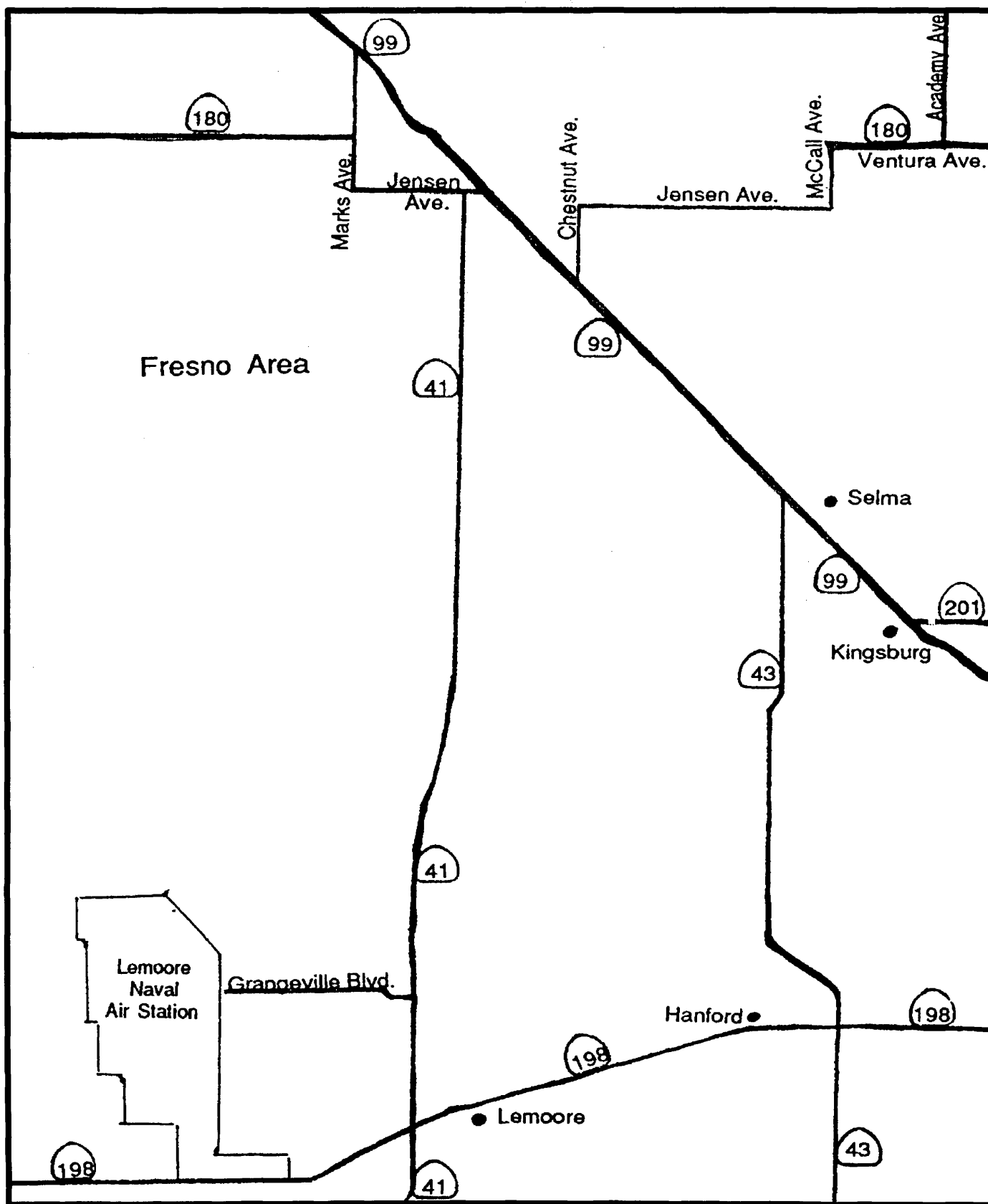
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 91, No. 15.
2. Amendment filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Repealer and new subsection (a) (Map 9), and amendment of subsection (b)(4)(B), repealer of subsection (b)(4)(C) and subsection relettering filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. Amendment of subsection (b)(2)(E), new subsection (b)(2)(F) and amendment of subsection (b)(3)(A) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1151.9.1. Routes and Stops—Map 9A.

(a) Map 9A.



(b) Safe Stopping Places and Inspection Stops—Map 9A.

(1) STATE HIGHWAY 41.

(A) Lemoore: Adolfo's Silver Buckle Restaurant, 44 North 19 1/2 Street. Food: 0600–2200. Exit SR-41 at Bush Street, park in truck parking area.

(B) Lemoore: West Lemoore Service Station, 1790 West Bush Street. Gasoline, diesel, tire and minor repairs: 0600–2200 (Monday through Saturday), 0700–2200 (Sunday). Exit SR–41 at Houston Avenue.

(2) STATE HIGHWAY 99.

(A) Fresno: Klein's Truck Stop, Hwy 99 at Herndon, Fresno, CA. Food, gas, fuel, tire and minor repairs. 24 Hours.

(B) Fresno: Beacon 5th Wheel Truck Stop, 3767 South Highway 99. Food, gasoline, diesel, tire and minor repairs: 24 hours.

(C) Fowler: Texaco Star Mart, Hwy 99 at Manning. Food, gas, fuel, mobile repairs: 24 hours.

(c) Restrictions—Fresno. Northbound vehicles on SR–41 turn east on Jenson Avenue to SR–99, then north to Belmont Avenue. South on Marks Avenue to SR–180.

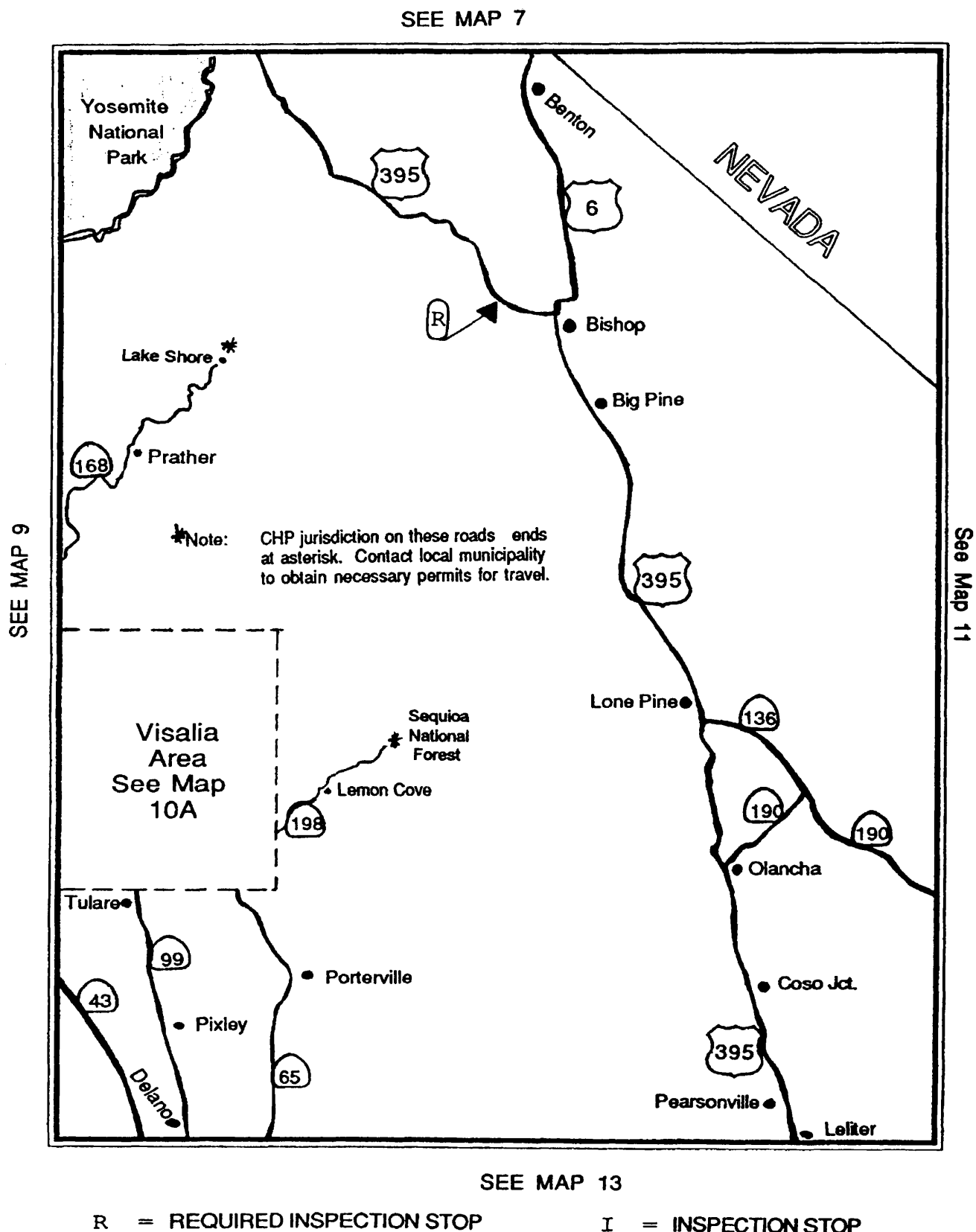
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10–28–92; operative 10–28–92 (Register 92, No. 44).
2. Amendment of subsections (b)(1)(A)–(B) and (b)(2)(A)–(c) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Amendment of subsection (b)(2)(A) and repealer and new subsection (b)(2)(C) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.10. Routes and Stops—Map 10.

(a) Map 10.



(b) Safe Stopping Places and Inspection Maps—Map 10.

(1) U.S. HIGHWAY 6.

(A) REQUIRED INSPECTION STOP (southbound): State of California Agricultural Inspection Station, Benton, 5 miles south of the Nevada state line.

(2) U.S. HIGHWAY 395.

(A) REQUIRED INSPECTION STOP (southbound vehicles): Sherwin Hill Grade, 19.3 miles north of Bishop at Milepost MNO 6.96.

(B) Coso Junction: Coso Junction Ranch Store. Food, gasoline: 0500–2300. US 395 at Coso Road, 30 miles south of Lone Pine.

(C) Bishop: Tom's Place. Food: 0600–2130. Located 23 miles north of Bishop. Adequate parking within sight of cafe.

(D) Inyokern: Brady's Mini-Mart, 4467 Junction 395/SR-14. Food at mini-mart, gasoline, minor repairs: 1000–2200. Located 0.5 mile north of SR-14 and US-395 junction.

(E) Pearsonville: Pearsonville Shell, 102 North Pearson Road. Food, fuel, 24 hours. No repairs. Located on US 395 at the Inyo/Kern County Line.

(F) Olancha: Ranch House Cafe. Food: 0600–2000. Park a safe distance from restaurant.

(G) Bishop: Inyo Shell Y Mart, 1274 North Main Street. Food, fuel, no repairs. Open 24 hours. Located at the Junction of US 395 and US 6.

(3) STATE ROUTE 99.

(A) Delano: Pioneer Restaurant, 700 Woollomes Avenue. Food: 24 hours. Located 0.5 mile south of Delano at Woollomes and SR-99.

(B) Delano: Akal Travel Plaza, Avenue 16 & Highway 99. Food, gasoline, diesel: 24 hours. Southbound vehicles take Avenue 16 exit 2 miles north of Delano. Northbound vehicles take Avenue 24 exit.

(C) Tulare: Lyn's Cafe, 1066 East Rankin Avenue. Food, gasoline, diesel: 24 hours. Use the Avenue 200 exit from SR-99. Park on west side of SR-99.

(D) Pixley: U.S.A. Truck Stop, 451 North Park Road. Fuel: 24 hours. Use Court Street exit from SR-99.

(E) Earlimart: Mart Fuel Stop. Food, gas, diesel: 24 hours.

(c) Restrictions—State Highway 190: Single vehicles only between Saline Valley Road (post mile 41.67) and Stove Pipe Wells (post mile 86.05).

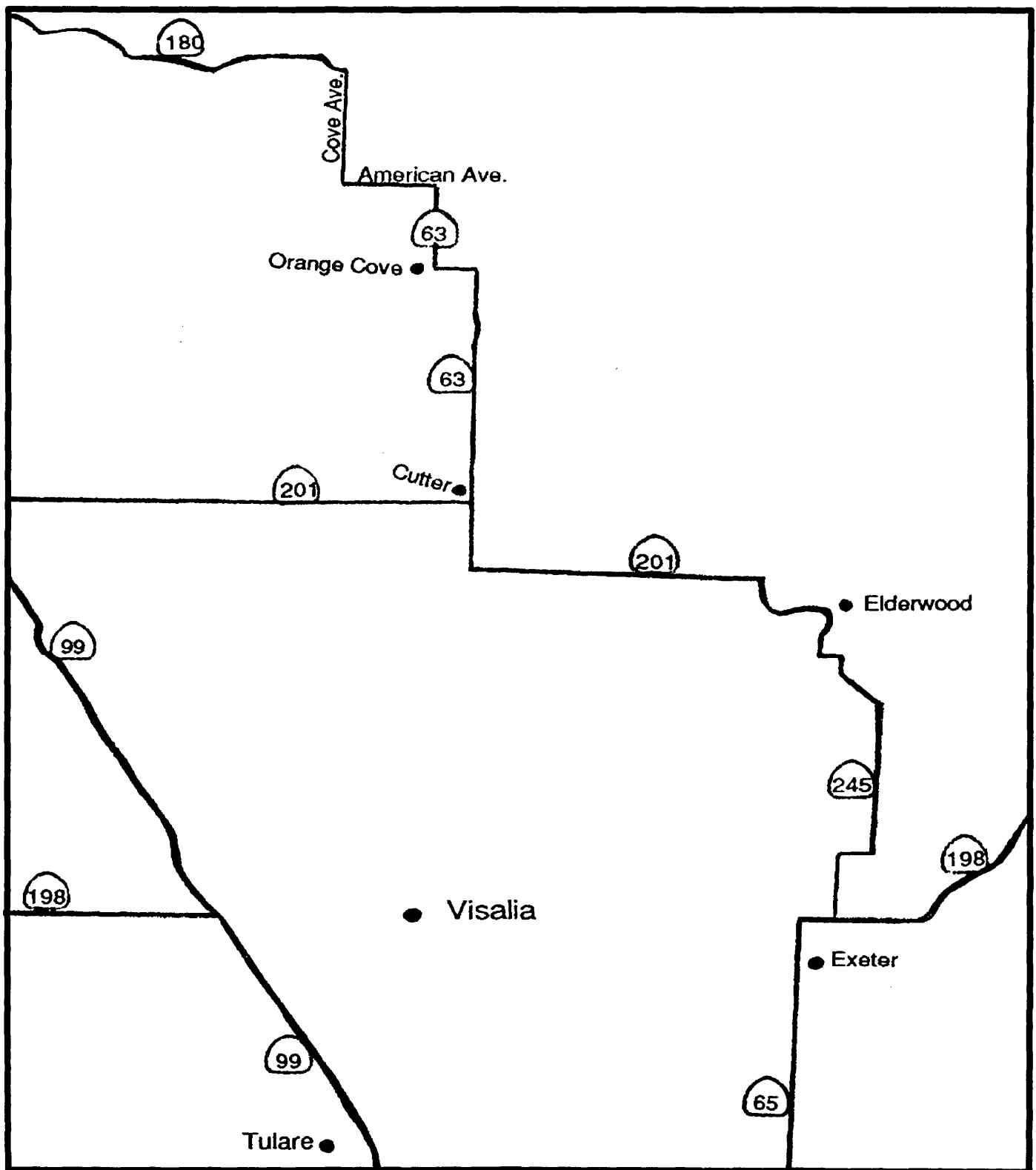
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 92 No. 12.
2. Repealer and new subsection (a), amendment of subsections (b)(1)(A), (b)(2)(B)–(H), (b)(3)(A), new subsections (b)(3)(B) and (E) and subsection redesignation and amendment filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(1)(A) filed 12–10–96; operative 12–10–96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. Amendment of subsection (b)(1), new subsection (b)(1)(A), repealer of subsections (b)(2)(C)–(D), subsection relettering, amendment of newly designated subsection (b)(2)(E), new subsection (b)(2)(G) and amendment of subsection (b)(3)(B) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1151.10.1. Routes and Stops—Map10A.

(a) Map 10A.



(b) Safe Stopping Places and Inspection Stops—Map 10A. There are no designated stopping places or inspection stops in the area encompassed by Map 10A.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).

§ 1151.11. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1151.12. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1151.13. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1151.14. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152. [Reserved].

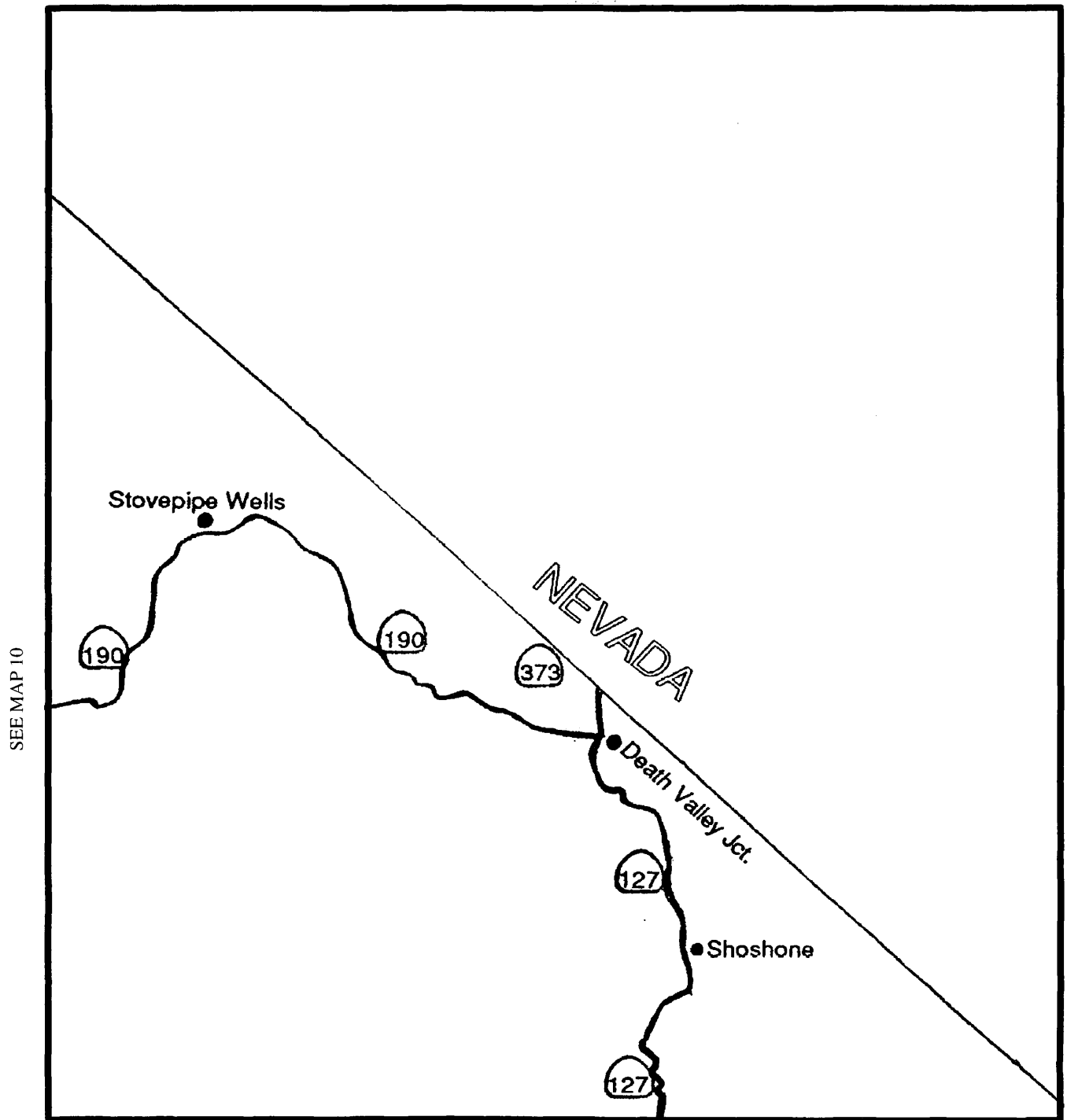
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152.1. Routes and Stops—Map 11.

(a) Map 11.



R = REQUIRED INSPECTION STOP I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 11. There are no designated stopping places or inspection stops in the area encompassed by Map 11.

(c) Restrictions—State Highway 190: Single vehicles only between Saline Valley Road (post mile 41.67) and Stove Pipe Wells (post mile 86.05).

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601,

31602, 31607, 31611, 31614 and 31616, Vehicle Code.

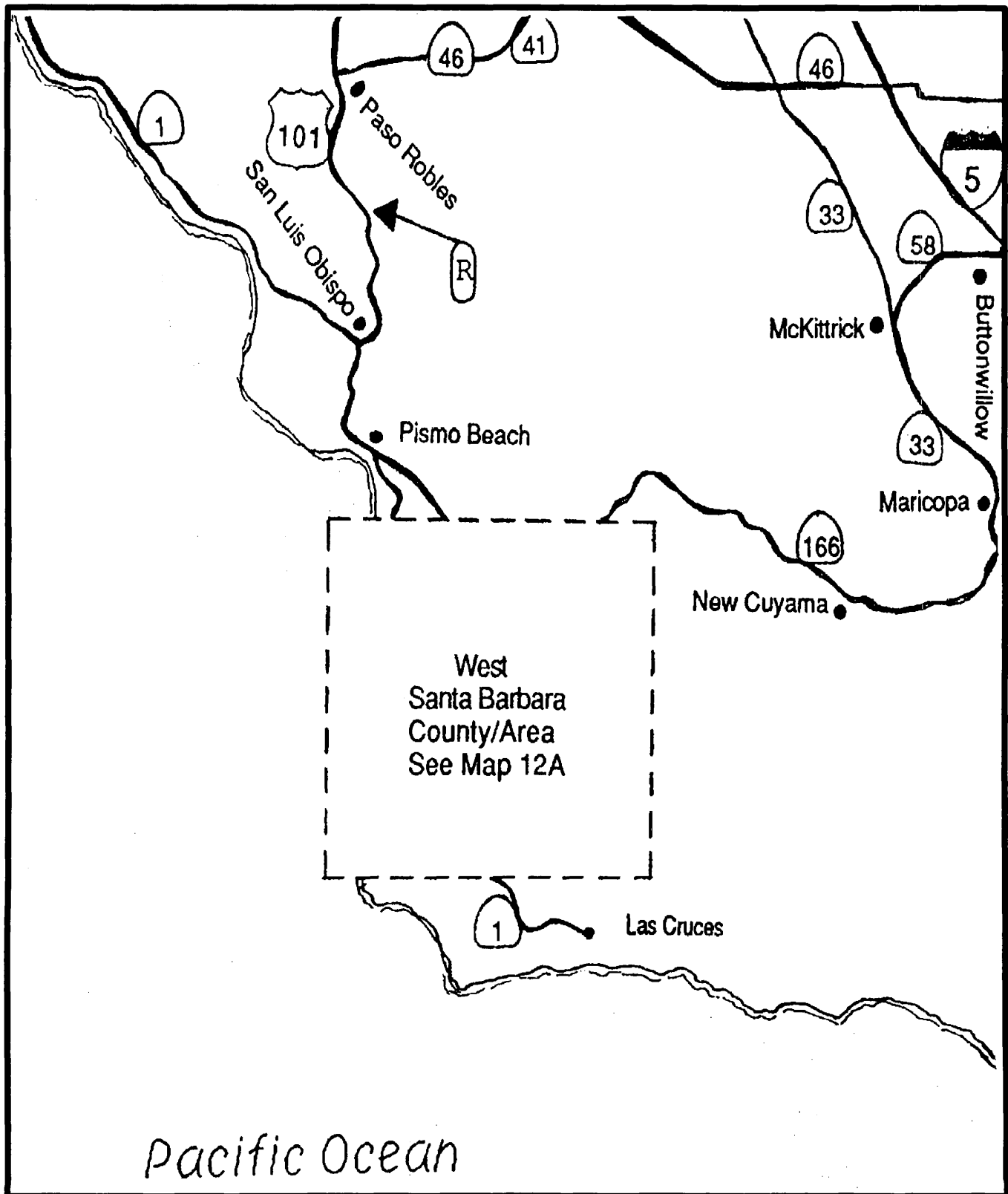
HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 92, No. 12.
2. Amendment of subsection (b) and repealer of subsections (b)(1)–(b)(1)(A) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1152.2. Routes and Stops—Map 12.

(a) Map 12.

SEE MAP 9



R = REQUIRED INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 12.

(1) U.S. HIGHWAY 101.

(A) REQUIRED INSPECTION STOP (southbound vehicles): Summit of Cuesta Grade, 10.4 miles south of Atascadero. No services.

(B) Paso Robles: Paso Robles Diesel Service. Diesel, towing, major repairs: 24 hours. 2348 Golden Hill Drive, Paso Robles, CA 93446.

(C) Paso Robles: San-Paso Truck & Auto. Food, gasoline, diesel, tire repairs: 24 hours. Located 3.5 miles North of Paso Robles. Exit US-101 at Wellsona Road.

(2) STATE HIGHWAY 33.

(A) McKittrick: McKittrick Market. Food: 0500-1900 (Monday-Friday), 0600-1800 (Saturday). Located at junction of SR-58 and SR-33. Park across from fire station on west side of highway.

(3) STATE HIGHWAY 46.

(A) Lost Hills: Burns Brothers, 14814 Aloma. Food, gasoline, diesel: 24 hours. Located at intersection of SR-46 and I-5.

(B) Paso Robles: Golden Oaks Cafe, 2400 Golden Hill Road. Food:

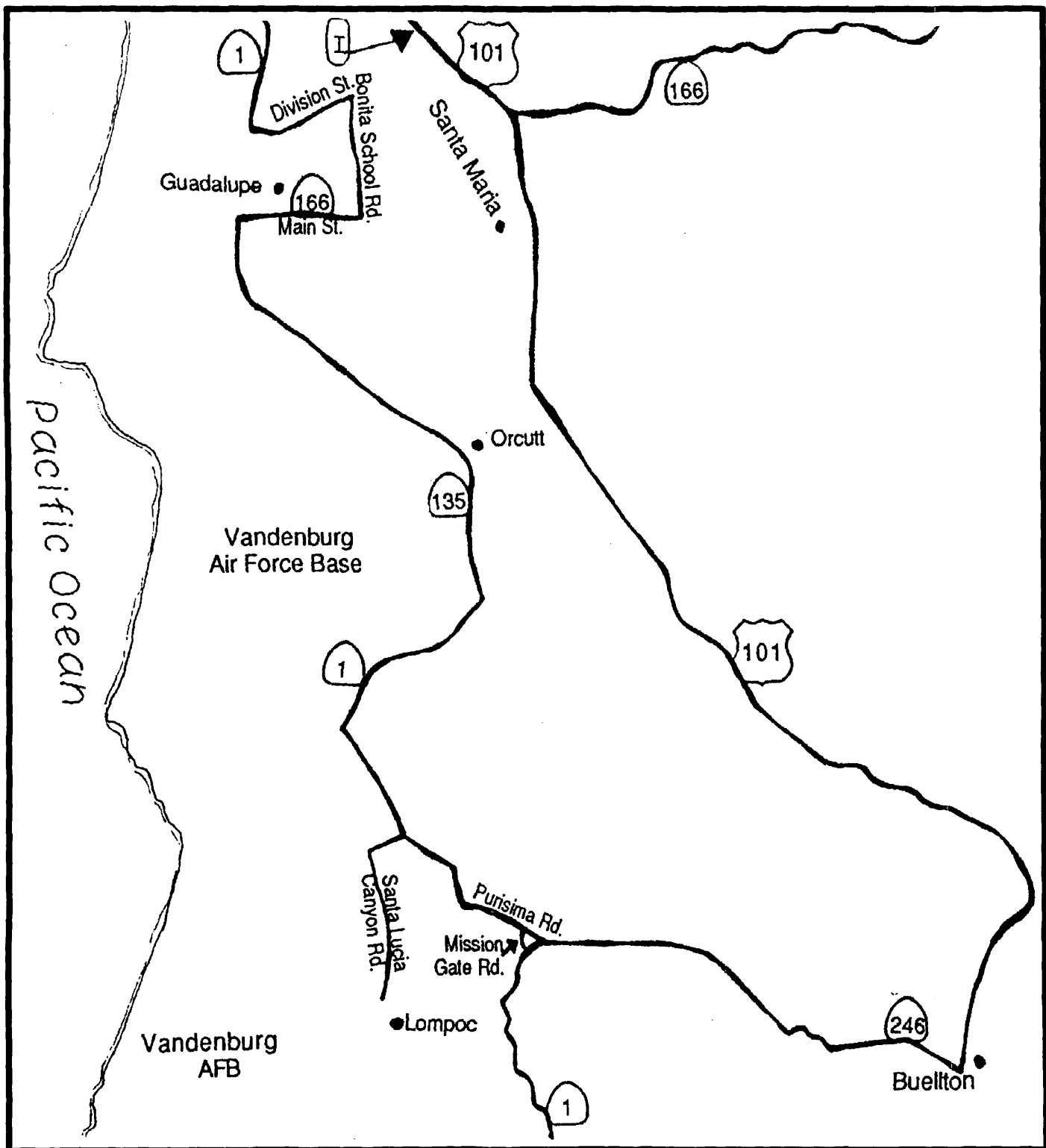
0600-2000. Located two miles east of Paso Robles at Golden Hill Street.
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 88, No. 26.
2. Amendment of subsections (b)(1)(B)-(C), (b)(2)(A), new subsection (b)(3)(A) and redesignation and amendment of former subsection (b)(3)(B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(1)(B) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.2.1. Routes and Stops—Map 12A.

(a) Map 12A.



I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 12A.

(1) U.S. HIGHWAY 101.

(A) *INSPECTION STOP (northbound vehicles): Rest area, 8.4 miles north of Santa Maria River Bridge. No services.

(B) Santa Maria: The Fuel Connection, 1155 East Betteravia Road. Food, gasoline, diesel, minor repairs: 24 hours. Located on east side of highway; U.S. 101 at Betteravia Road.

(c) Special Restrictions—Vandenberg AFB—Lompoc Area.

Transportation to and from Vandenberg Air Force Base shall be in accordance with the following:

(1) From the north (Santa Maria) to Lompoc Gate. South on SR-1 to Vandenberg AFB main gate, continue south on SR-1 to Santa Lucia Canyon Road. West on Santa Lucia Canyon Road to Lompoc Gate.

NOTE: Upon arrival at Lompoc Gate, request air force law enforcement escort to final destination.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

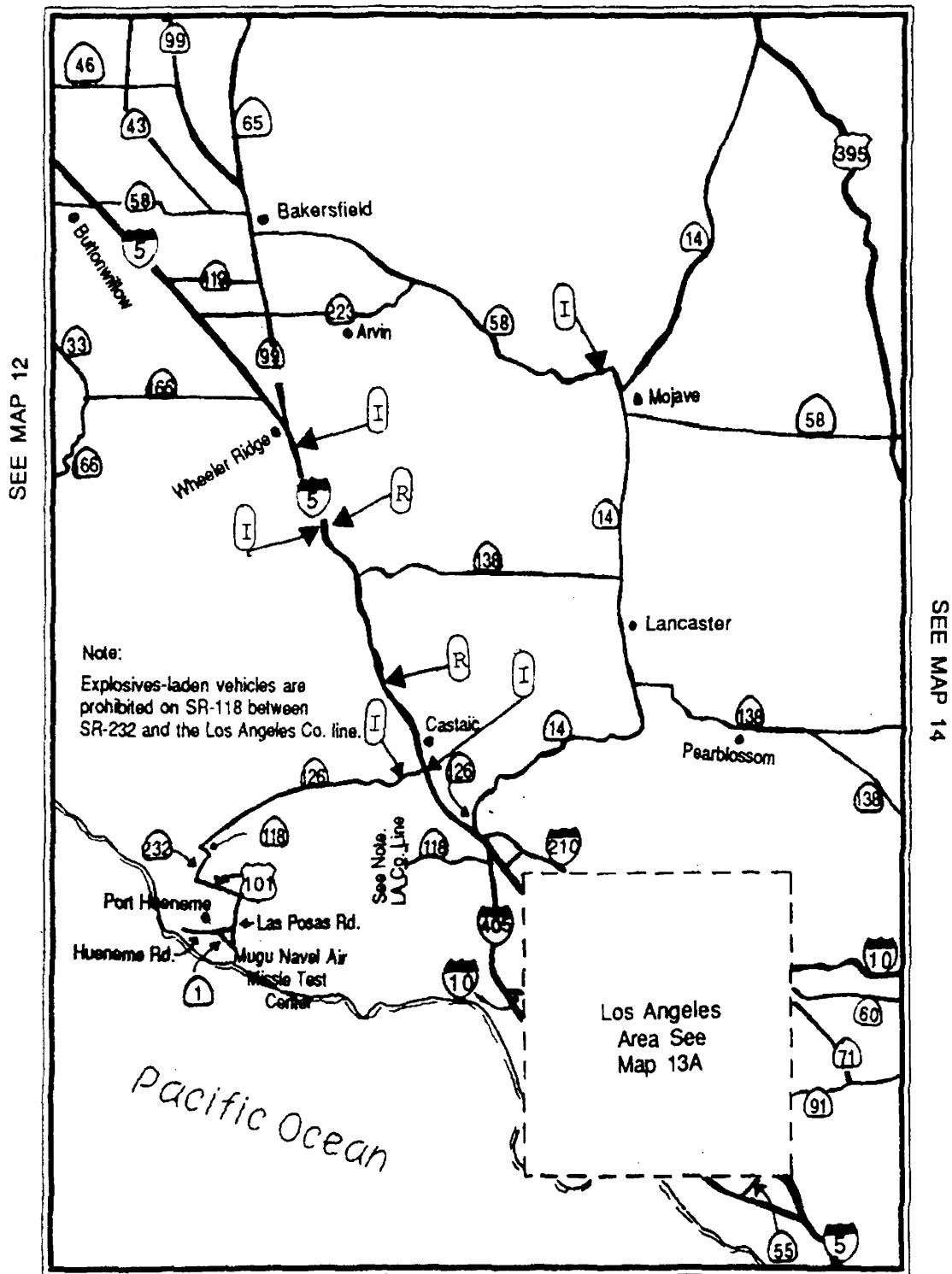
HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Amendment of subsection (b)(1)(B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).

§ 1152.3. Routes and Stops—Map 13.

(a) Map 13.

SEE MAP 10



SEE MAP 16

R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 13.

(1) INTERSTATE HIGHWAY 5.

(A) REQUIRED INSPECTION STOP (Northbound vehicles): Lebec Rest Area 0.6 miles north of Kern–Los Angeles County line. No food or fuel.

(B) REQUIRED INSPECTION STOP (southbound vehicles): Whitaker Summit truck inspection area. Eight miles north of Castaic.

(C) *INSPECTION STOP (southbound vehicles): State of California platform scales, Wheeler Ridge, 31 miles south of Bakersfield. No services.

(D) INSPECTION STOP (southbound vehicles): Tejon Pass, 1 mile north of Gorman. Designated truck inspection area. No services.

(E) *INSPECTION STOP (northbound vehicles): State of California Castaic Inspection Facility, 0.25 mile south of junction I–5 and SR–126. No food or fuel.

(F) Buttonwillow: Bruce’s Buttonwillow Auto/Truck Plaza. Food, gasoline, repairs: 24 hours. Located at junction of I–5 and SR–58.

(G) Arvin: Truck Stops of America – Wheeler Ridge, 5800 Wheeler Ridge Road. Food, gasoline, diesel, repairs, money transfer service: 24 hours. Located at I–5 and Laval Road.

(H) Castaic: McDonalds, 27701 Lake Hughes Road. Food: 24 hours. Take Lake Hughes exit.

(I) Castaic: Giant Truck Stop of Castaic, 31711 Castaic Road. Food, gasoline, diesel, repairs: 24 hours. Take Lake Hughes exit from I–5.

(J) Castaic: Castaic Garage, 32254 Castaic Road. Towing, repairs: 24 hours. Take Lake Hughes exit.

(K) Castaic: Cafe Mike, 31537 Castaic Road. Food: 24 hours. Take Lake Hughes exit.

(L) Frazier Park: Flying J, 42810 Frazier Mountain Park Road. Food, gasoline, diesel: 24 hours. (661) 248–2600.

(2) STATE HIGHWAY 14.

(A) INSPECTION STOP: Escondido Summit, 9 miles southwest of Palmdale, designated truck rest area.

(B) Mojave: Giant Truck Stop of Mojave, 16600 Sierra Highway. Gasoline, diesel, minor repairs: 24 hours. Located 0.5 mile south of SR–14 and SR–58 junction.

(3) STATE HIGHWAY 58.

(A) INSPECTION STOP (westbound vehicles): State of California platform scales, 6 miles west of Mojave. No food or fuel.

(B) Mojave: Jerry’s Restaurant, 2348 Highway 58. Food: 24 hours. Located at junction of SR–58 and SR–14 (south end of town).

(4) STATE HIGHWAY 99.

(A) Bakersfield: Bear Mountain Truck Stop, 15840 Costajo Road. Food, gasoline, diesel, scale: 24 hours. Located four miles south of SR–119 interchange. Use Bear Mountain Boulevard exit from SR–99.

(B) Bakersfield: Doug’s Truck Scales/Kelly’s Café, 8730 Golden State Highway. Food: 0500–2100 (Monday through Friday), 0500–1400 (Saturday), 0600–1400 (Sunday), Scales: 0800–1700 (Monday through Friday). Located five miles north of Bakersfield; SR–99 at 7th Standard.

(C) Pumpkin Center: Mikuls Pumpkin Center Truck Terminal. Food, diesel: Open Saturday 0700–1700, open Sunday 1800 until Friday 2200 hours, 24–hour operation. Located at SR–99 and SR–119. 8 miles south of Bakersfield. Approximately 5 acres of parking space.

(D) Bakersfield: Flying J, 17047 Zachary Avenue. Food, gasoline, diesel, showers. 24 hours. Located 12 miles north of Bakersfield, use the Merced Avenue off-ramp from SR–99. 250 parking spaces.

(5) STATE HIGHWAY 138.

(A) Pearblossom: Cottonwood Truckstop and Cafe, 12754 Pearblossom Highway. Food, diesel: 24 hours. Park west or north of restaurant, off highway, 50 ft. from buildings.

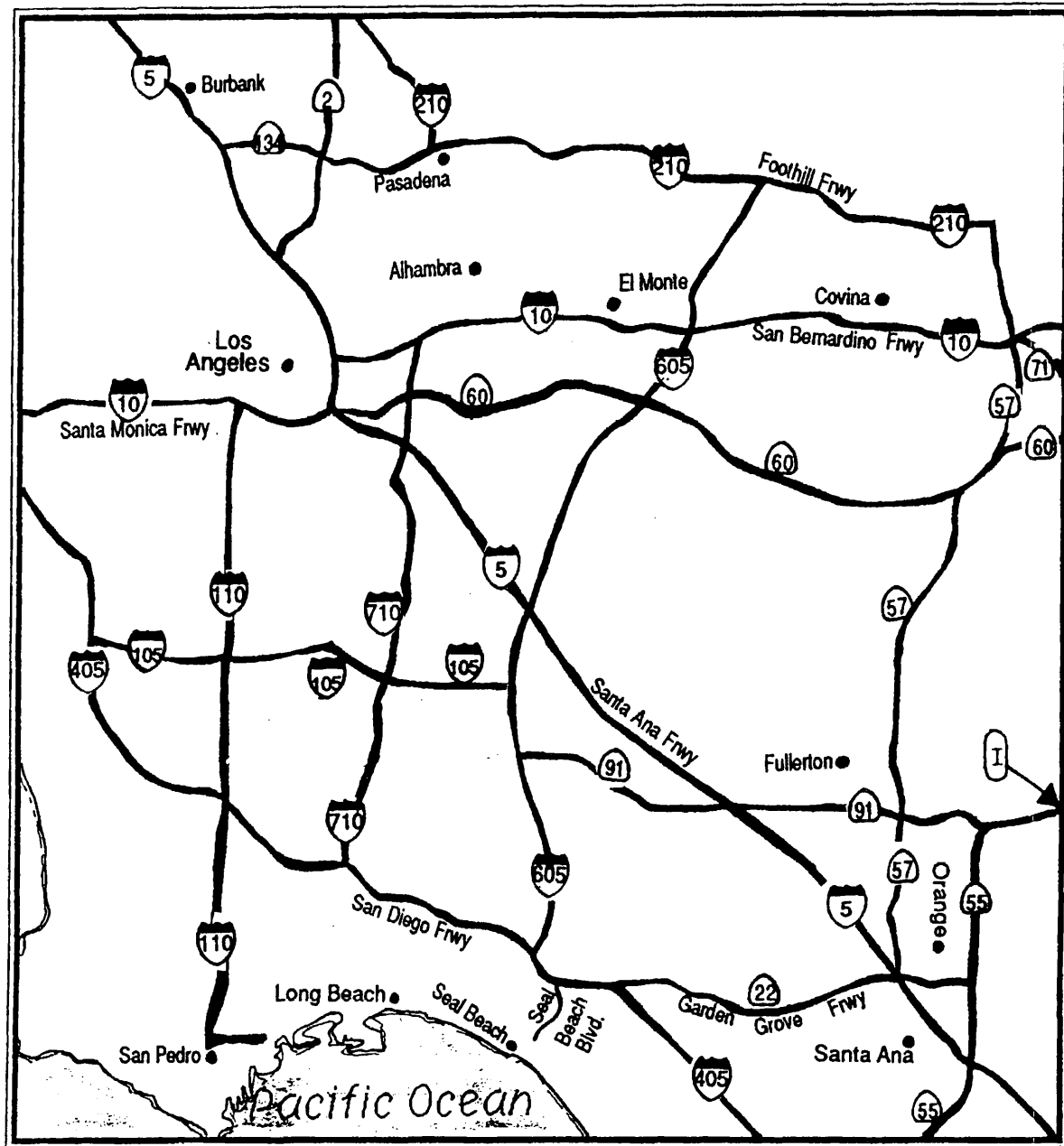
(c) Restrictions—State Highway 118. Explosives–laden vehicles are prohibited on SR–118 between SR–232 and the Los Angeles county line. NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 91, No. 15.
2. Amendment filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Repealer and new subsection (a) (Map 13), amendment of subsections (b)(1)(A) and (b)(1)(E), repealer of subsection (b)(1)(F) and subsection relettering filed 12–10–96; operative 12–10–96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. New subsection (b)(1)(L), amendment of subsections (b)(4)(A)–(C) and new subsection (b)(4)(D) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1152.3.1. Routes and Stops—Map 13A.

(a) Map 13A.



R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 13A.

(1) INTERSTATE HIGHWAY 10.

(A) Ontario: Ontario 76 Auto/Truck Plaza, East Guasti Road. Food, gasoline, diesel, propane, tire repairs: 24 hours. Take the Milliken Avenue exit from I-10. Parking for 250 vehicles.

(B) Ontario: Truckstops of America, 4325 Guasti Road. Food, gasoline, diesel, store, scales, controlled parking: 24 hours. Take the Milliken Avenue exit from I-10. Ask for security at gate for fueling and parking areas.

(2) STATE HIGHWAY 91.

(A) INSPECTION STOP (east and westbound vehicles): State of California platform scales, 1 mile west of Weir Canyon Road.

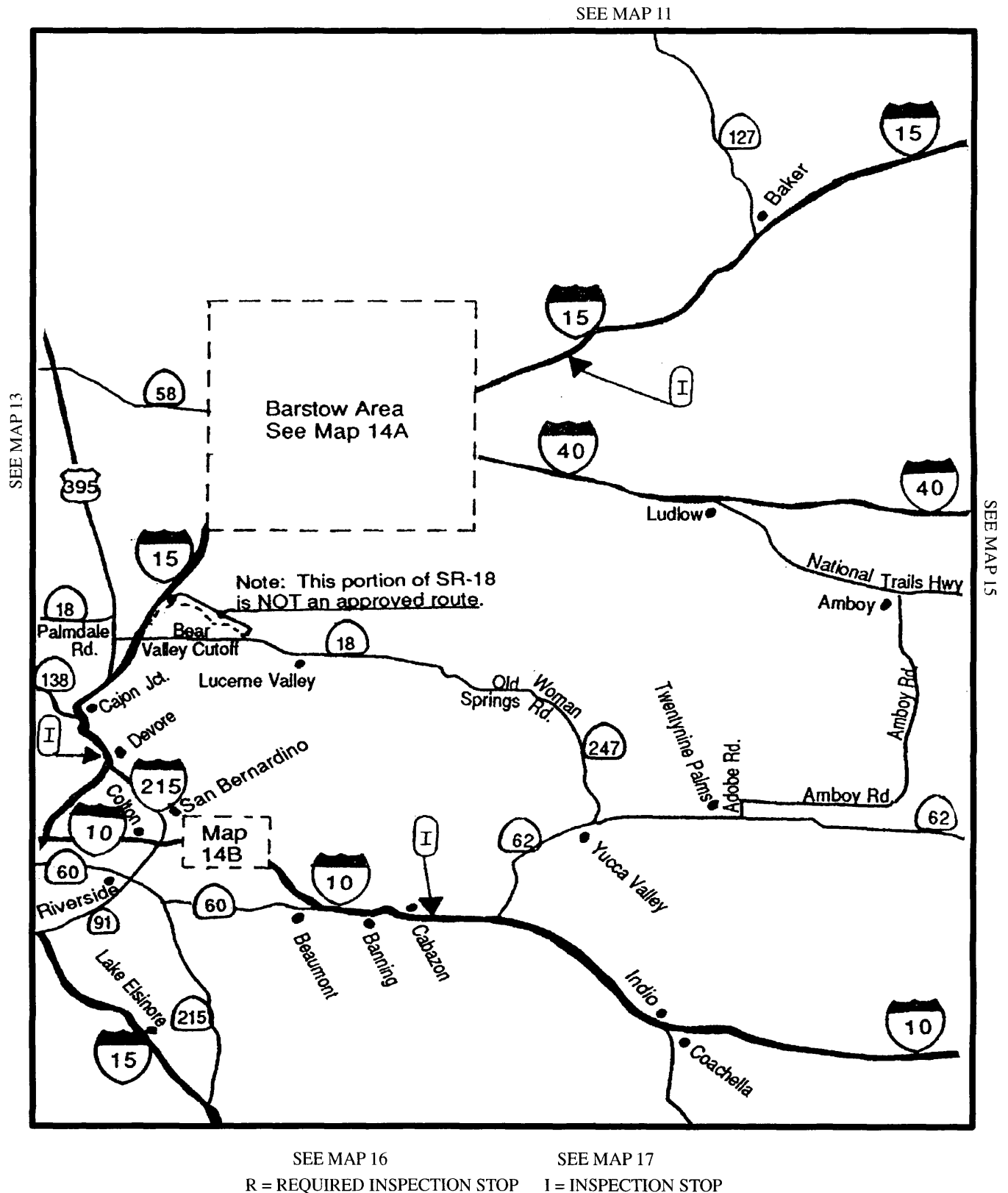
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Repealer and new subsection (a), amendment of subsection (b)(1)(A) and new subsection (b)(1)(B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).

§ 1152.4. Routes and Stops—Map 14.

(a) Map 14.



(b) Safe Stopping Places and Inspection Stops—Map 14.

(1) INTERSTATE HIGHWAY 10.

(A) *INSPECTION STOP (east and westbound vehicles): State of California platform scales (eastbound) and inspection facility (westbound), 1 mile east of Banning.

(B) Cabazon: Wheel Inn Restaurant, 50900 Semiolo Drive. Food: 24 hrs. Take Main Street exit from I-10.

(C) North Palm Springs: Pilot Travel Center #307, 19997 Indian Avenue. Food, diesel: 24 hours.

(D) Thousand Palms: Flying J Truck Stop, 72235 Varner Road. Food, gasoline, diesel: 24 hours. Take Ramon Road exit from I-10.

(E) Colton: Dieterich International Truck Sales, Inc., 2200 East Steel Road. Repairs: 0800-0100 (Monday-Friday), 0800-1200 (Saturday). Take South Waterman Avenue exit from eastbound I-10, west on Redlands Boulevard to Steel Road.

(F) Colton. Bekin Truck Stop, 23659 Steel Road. Food, Diesel, Mini-Mart 24 hours. Tires 0800 to 1700 hours. Eastbound I-10 to Waterman Avenue, South off ramp, West on Redlands Boulevard to Steel Road. West Bound to Waterman Avenue, West on Hospitality Lane to Hunts Lane, South on Hunts Lane to Steel Road.

(G) Coachella: Burns Brothers Truck Stop, 46155 Dillion Road. Food, gasoline, diesel, repairs: 24 hours.

(2) INTERSTATE 15.

(A) INSPECTION STOP: Clyde V. Kane Rest Stop, 22 miles east of Yermo. Restrooms and water. No food or fuel.

(B) INSPECTION STOP (both directions): State of California platform scales, just south of SR-138 intersection.

(C) Lake Elsinore: ARCO Service Station/AM-PM Mini Mart (Le Blanc's), 17595 Grand Avenue. Food, gasoline: 0500-2130.

(D) Victorville: Peggy Sue's Diner, I-15 and Stoddard Wells Road. Food.

(3) INTERSTATE HIGHWAY 40.

(A) Ludlow: Ludlow Cafe and Service Station. I-40 at Crucero Road. Food, gasoline, diesel, tire repair: 0600-2200.

(4) U.S. HIGHWAY 395.

(A) Phelan: Outpost Truck Stop, 8685 Highway 395, (at I-15), Hesperia. Food, fuel, wash rack and repairs: 24 hours.

(B) Pilot Truck Stop, 8701 Highway 395 (at I-15), Hesperia. Food and fuel.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

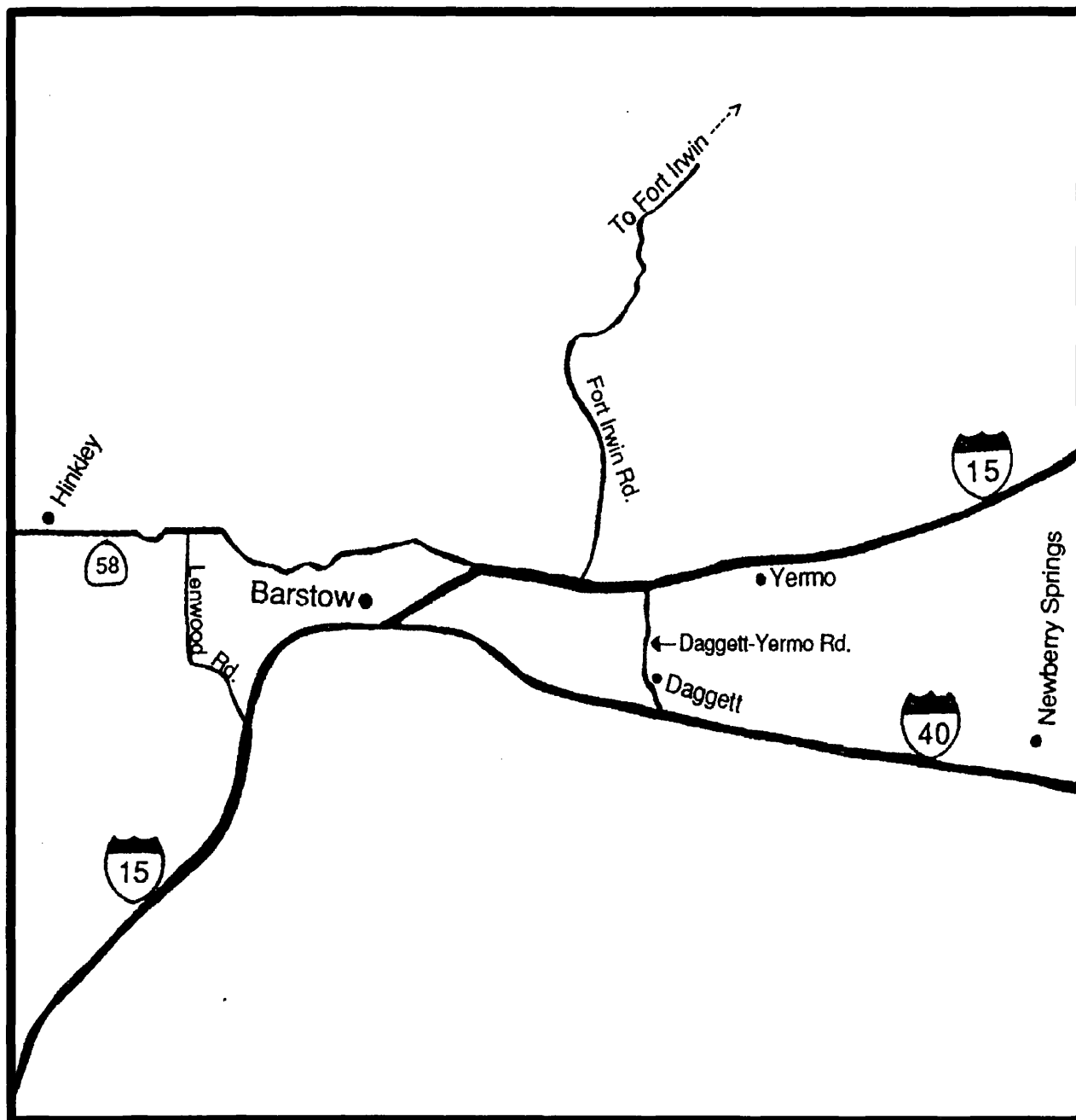
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 88, No. 26.
2. Amendment of subsections (b)(1)(B)-(E), (b)(2)(C)-(D), (b)(3)(A) and (b)(4)(A) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. New subsection (b)(1)(E) and subsection relettering filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. New subsection (b)(1)(C), subsection relettering, amendment of subsections (b)(2)(D) and (b)(4)(A) and new subsection (b)(4)(B) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.4.1. Routes and Stops—Map 14A.

(a) Map 14A.



(b) Safe Stopping Places and Inspection Stops—Map 14A.

(1) INTERSTATE HIGHWAY 15.

(A) Barstow: Rip Griffin Truck Travel Center, 2930 Lenwood Road. Food, gasoline, diesel, repairs: 24 hours. Take Lenwood Road exit from I-15.

(B) Barstow: Heart Land Truck Stop, 2250 West Main Street. Food, gasoline, diesel, propane, minor repairs: 24 hours.

(C) Barstow: Flying J Travel Plaza, 2611 Fisher Boulevard. Food, gasoline, diesel: 24 hours. 760-253-7043.

(2) INTERSTATE HIGHWAY 40.

(A) Newberry Springs: Desert Diesel. Gasoline, diesel: 24 hours. Take National Trails Highway or Newberry Springs exits from I-40.

(B) Newberry Springs: Bagdad Cafe, 46548 National Trails Highway.

Food: Sunrise to sunset. Take Newberry Springs or Fort Cady exit from I-40.

*May be used as a "Safe Parking Place" when driver is given specific instructions by a member of the California Highway Patrol.

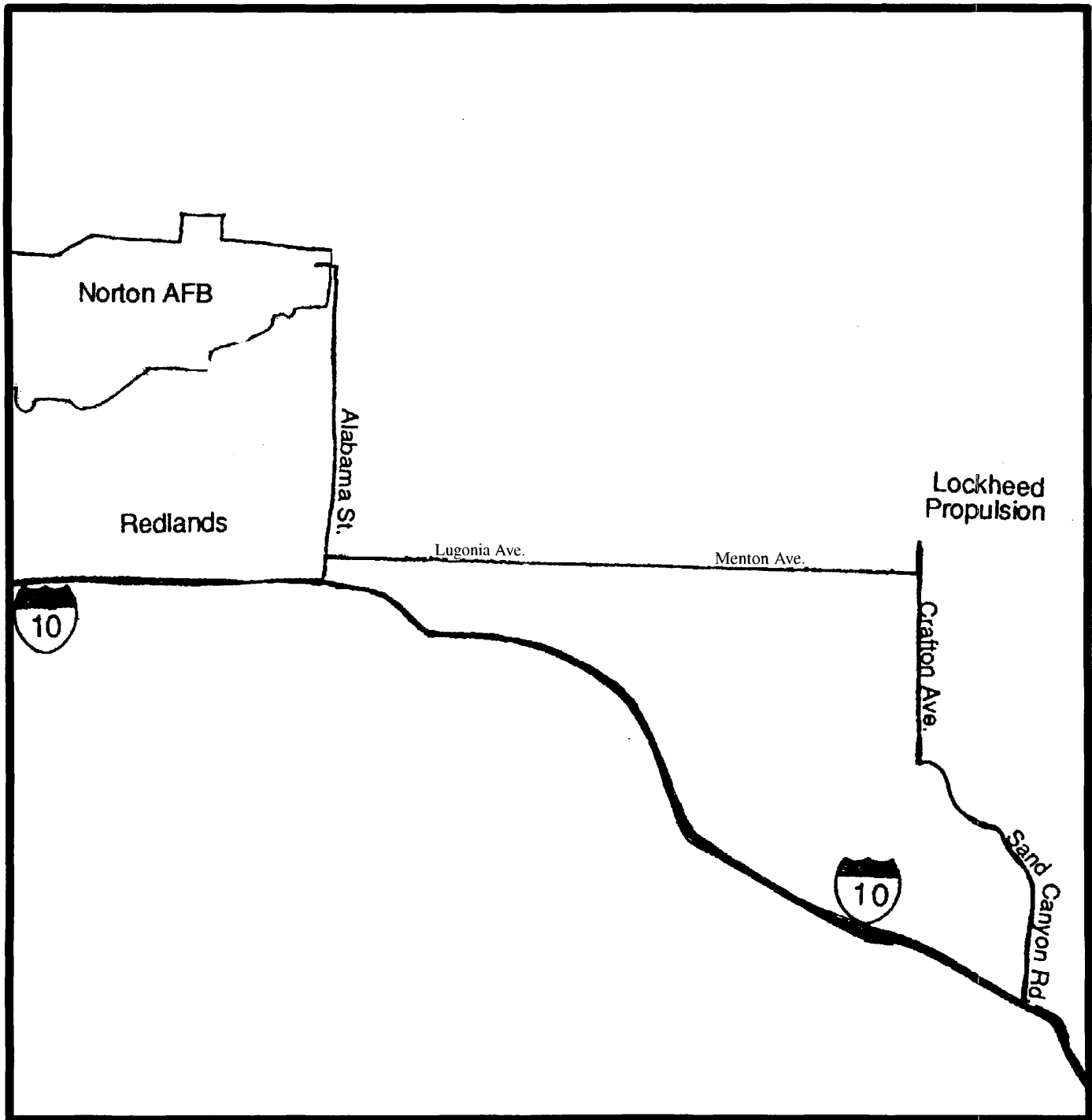
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Amendment of subsections (b)(1)(A)-(B) and (b)(2)(A)-(B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Amendment of subsection (b)(1)(B) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
4. New subsection (b)(1)(C) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.4.2. Routes and Stops—Map 14B.

(a) Map 14B.



(b) Safe Stopping Places and Inspection Stops—Map 14B. There are no designated stopping places or inspection stops in the area encompassed by Map 14B.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601,

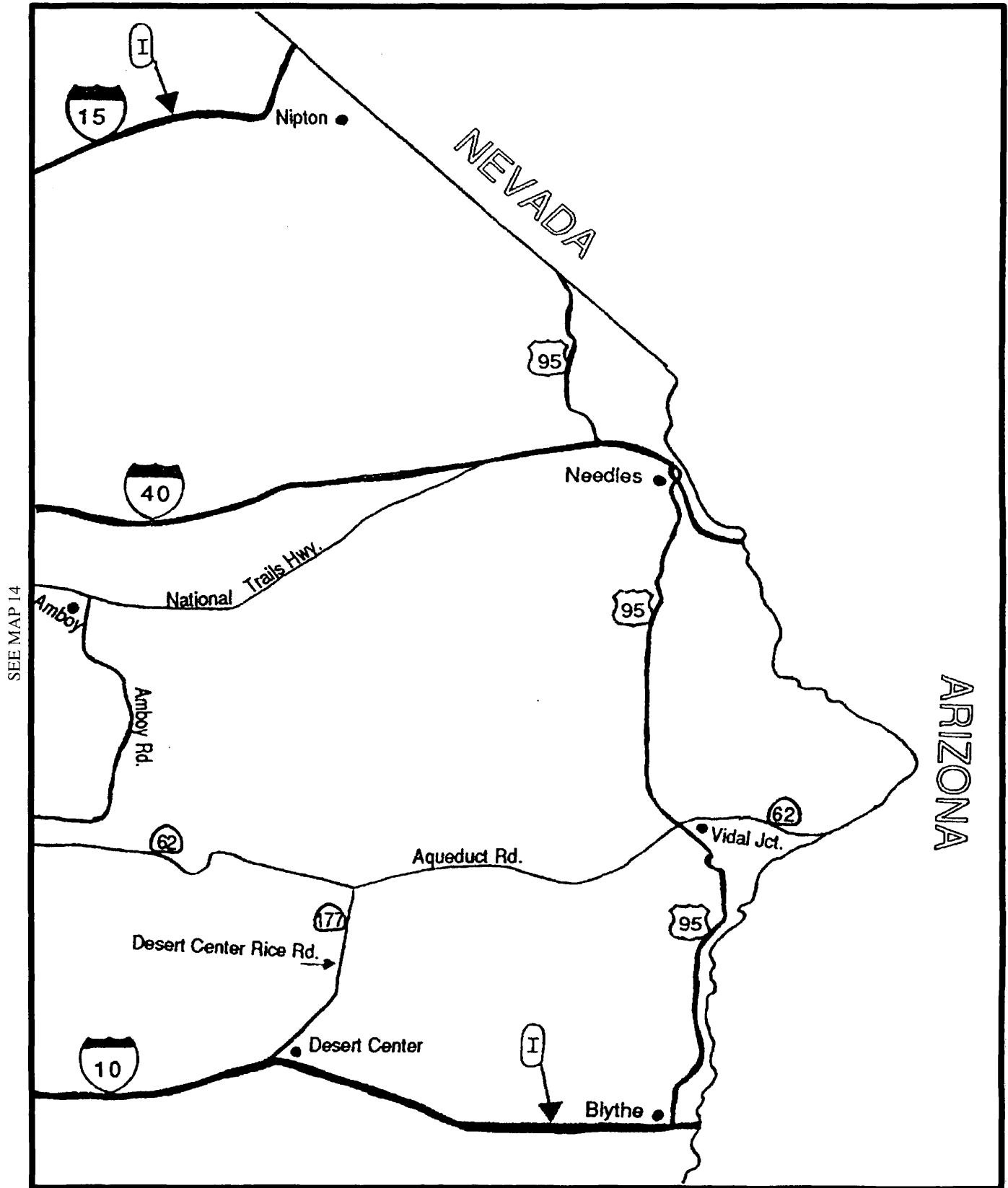
31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).

§ 1152.5. Routes and Stops—Map 15.

(a) Map 15.



SEE MAP 17

R = REQUIRED INSPECTION STOP I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 15.
 (1) INTERSTATE HIGHWAY 10.

(A) INSPECTION STOP (westbound vehicles): State of California
 platform scales, 8 miles west of Blythe.

(B) Desert Center: Texaco Station and Desert Center Cafe, 44321 Ragsdale Road. Food, gasoline: 24 hours. Take Desert Center exit from I-10, proceed to Frontage Road.

(C) Blythe: Blythe Unocal 76/Truck Terminal. Food, gasoline, diesel, wash rack, repairs: 24 hours. Take Mesa Verda Drive exit from I-10.

(2) INTERSTATE HIGHWAY 15.

(A) INSPECTION STOP: Cima Rest Area, 24 miles west of Nevada State Line. Restrooms and water.

(B) Nipton: Halloran Springs Service Station and Restaurant. Food, gasoline, diesel: 24 hours. Take Halloran Springs Road exit from I-15; 18 miles north of Baker.

(3) U.S. HIGHWAY 95.

(A) Vidal Junction: Vidal Junction Cafe and Texaco Station, US-95 at SR-62. Food, gasoline: 0800-1600.

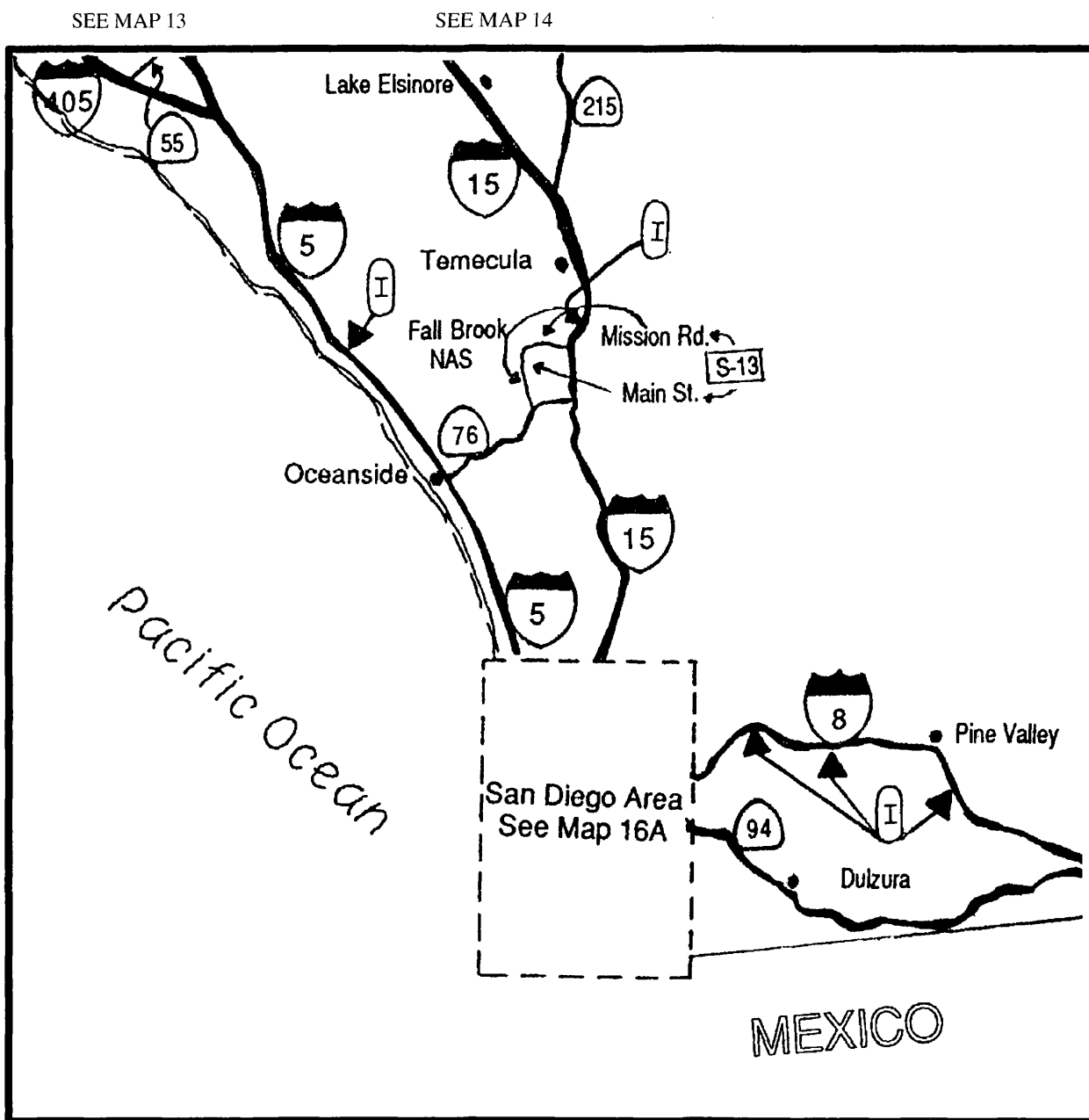
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 88, No. 26.
2. Amendment of subsections (b)(1)(B)-(C), (b)(2)(B) and (b)(3)(A) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).

§ 1152.6. Routes and Stops—Map 16.

(a) Map 16.



R = REQUIRED INSPECTION STOP

I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 16.

(1) INTERSTATE HIGHWAY 5.

(A) INSPECTION STOP (north and southbound vehicles): State of California commercial vehicle inspection and scale facility, 15 miles north of Oceanside.

(2) INTERSTATE HIGHWAY 8.

(A) INSPECTION STOP (westbound vehicles): 2 miles west of Dunbar Lane. Telephone only.

(B) INSPECTION STOP (eastbound vehicles): Viewpoint on I-8 at Milepost 35.50, 6 miles east of Alpine.

(C) INSPECTION STOP (eastbound and westbound vehicles): Rest area at Milepost 49.00. Telephone and restroom available.

(D) REQUIRED INSPECTION STOP (eastbound vehicles) Brake check area at milepost 76.50.

(E) Pine Valley: Major's Coffee Shop, Old Highway 80. Food: 0600–2000. Located 0.7 mile north of I-8 on Old US-80. Park in rear.

(3) INTERSTATE HIGHWAY 15.

(A) INSPECTION STOP (southbound and northbound vehicles): State of California Scale and Inspection Facility, 5 miles south of Temecula at Rainbow Valley off-ramp. No services available.

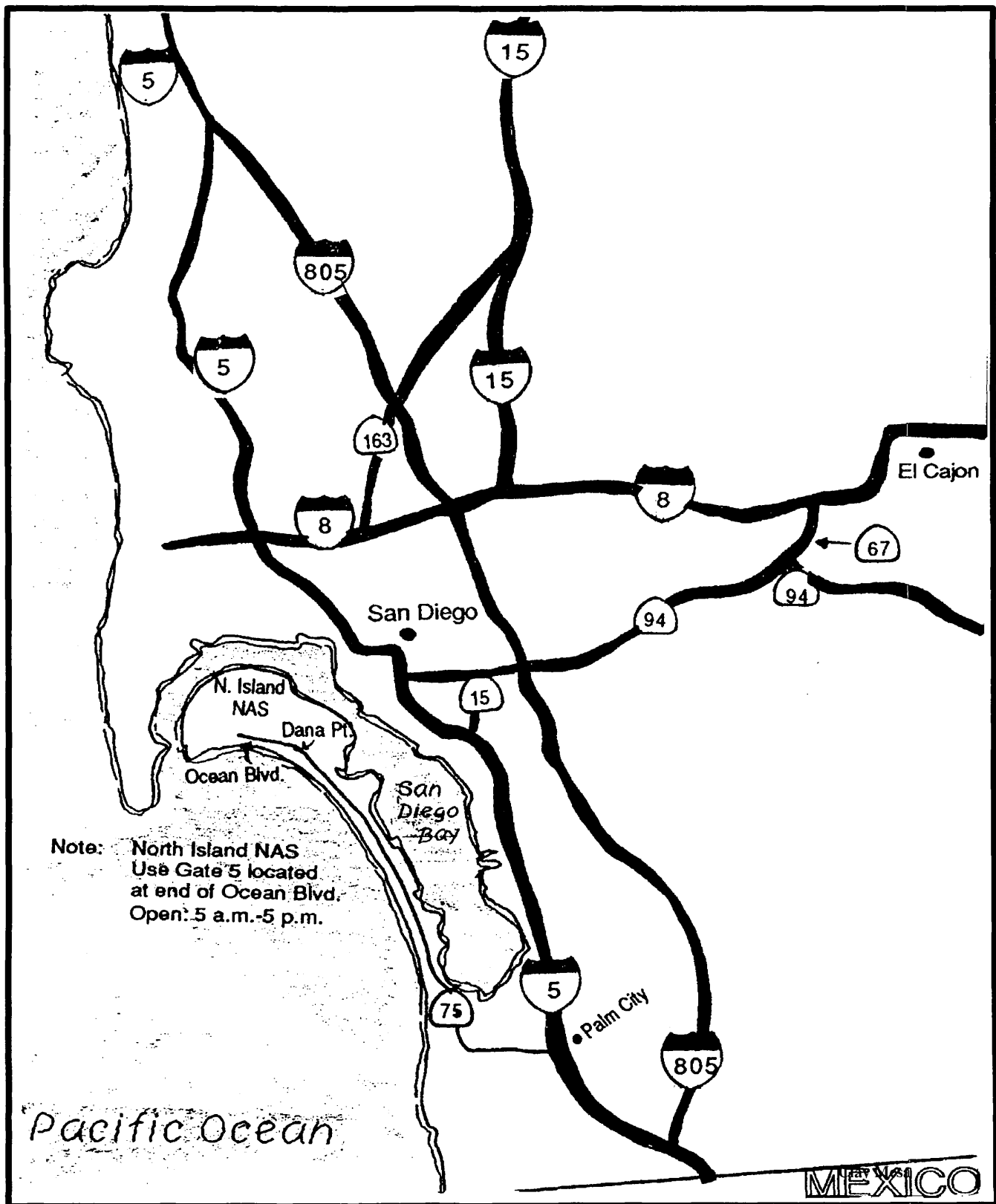
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 89, No. 5.
2. Amendment of subsections (b)(2)(A) and (D) filed 10–17–94; operative 11–16–94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(2)(B), new subsection (b)(2)(D) and subsection relettering filed 12–10–96; operative 12–10–96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
5. Amendment of subsection (b)(2)(C) filed 12–23–2004; operative 1–22–2005 (Register 2004, No. 52).

§ 1152.6.1. Routes and Stops—Map 16A.

(a) Map 16A.



(b) Safe Stopping Places and Inspection Stops—Map 16A. There are no designated stopping places or inspection stops in the area encompassed by Map 16A.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601,

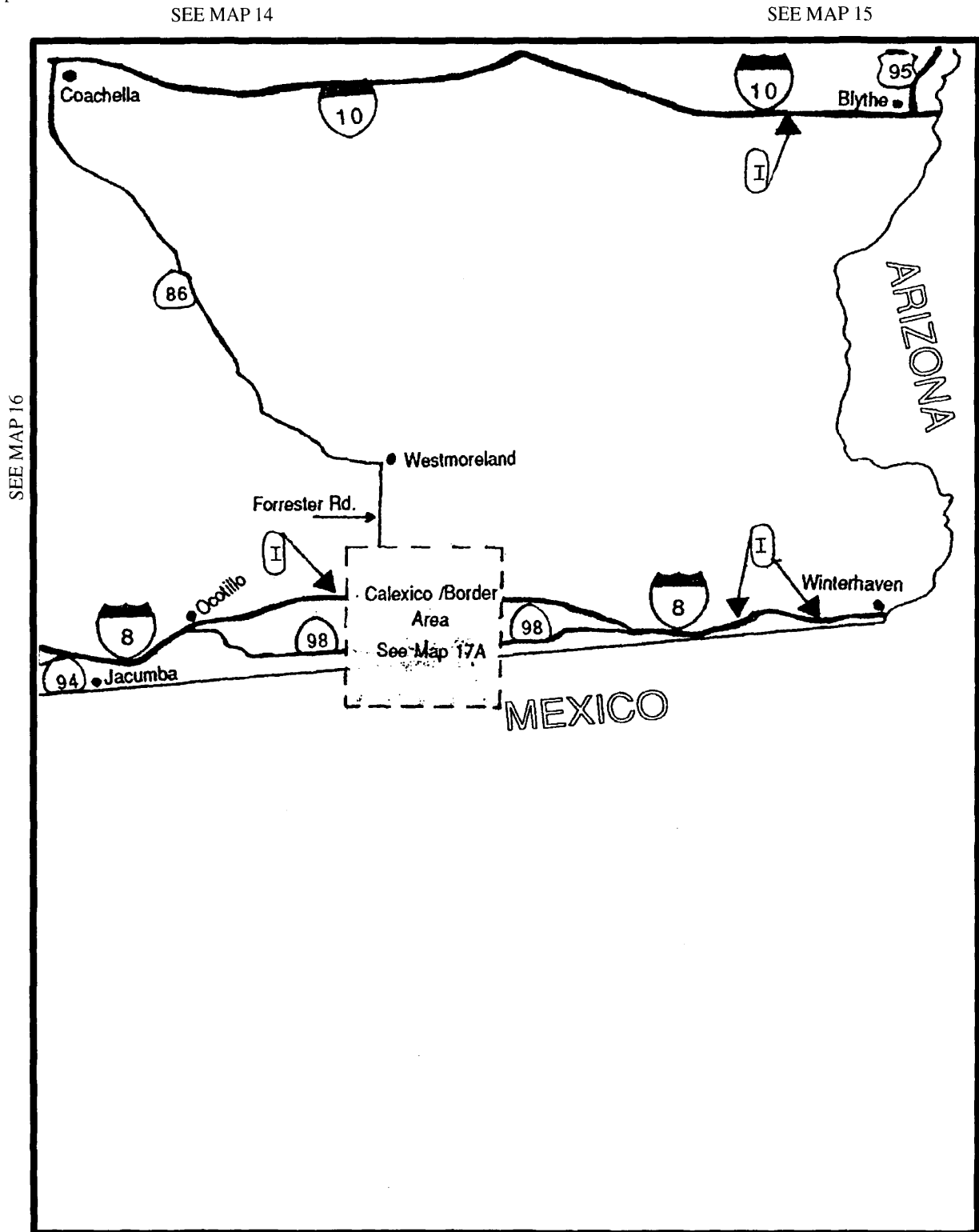
31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).

§ 1152.7. Routes and Stops—Map 17.

(a) Map 17.



R = REQUIRED INSPECTION STOP I = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 17.

(1) INTERSTATE HIGHWAY 8

(A) INSPECTION STOP (east and westbound vehicles): Rest area, 8 miles west of El Centro.

(B) INSPECTION STOP (east and westbound vehicles): Rest area, 20 miles west of Winterhaven.

(C) INSPECTION STOP (westbound vehicles): State of California platform scales, Sidewinder, 8 miles west of Winterhaven.

(D) Ocotillo: Desert Fuel Stop. Gasoline, diesel: 0600–2200. Food: 0600–2100. Park on north side of highway.

(E) Jacumba: Woodward's Shell Station. Food at mini-mart, gasoline: 24 hours. Take Carrizo Gorge exit from I-8. Park off roadway behind stations.

(2) INTERSTATE HIGHWAY 10.

(A) INSPECTION STOP (westbound vehicles): State of California platform scales, 8 miles west of Blythe.

(B) Blythe: Blythe Unocal 76/Truck Terminal. Food, gasoline, diesel, wash rack, repairs: 24 hours. Take Mesa Verda Drive exit from I-10.

(3) STATE HIGHWAY 94

(A) Barrett Junction: Barrett Junction Café & Mercantile, 1020 Barrett Lake Road. Food: 1100-2000 (Tuesday-Friday), 0900-2100 (Saturday and Sunday), Closed Mondays. Located at SR-94 and Barrett Lake Road.

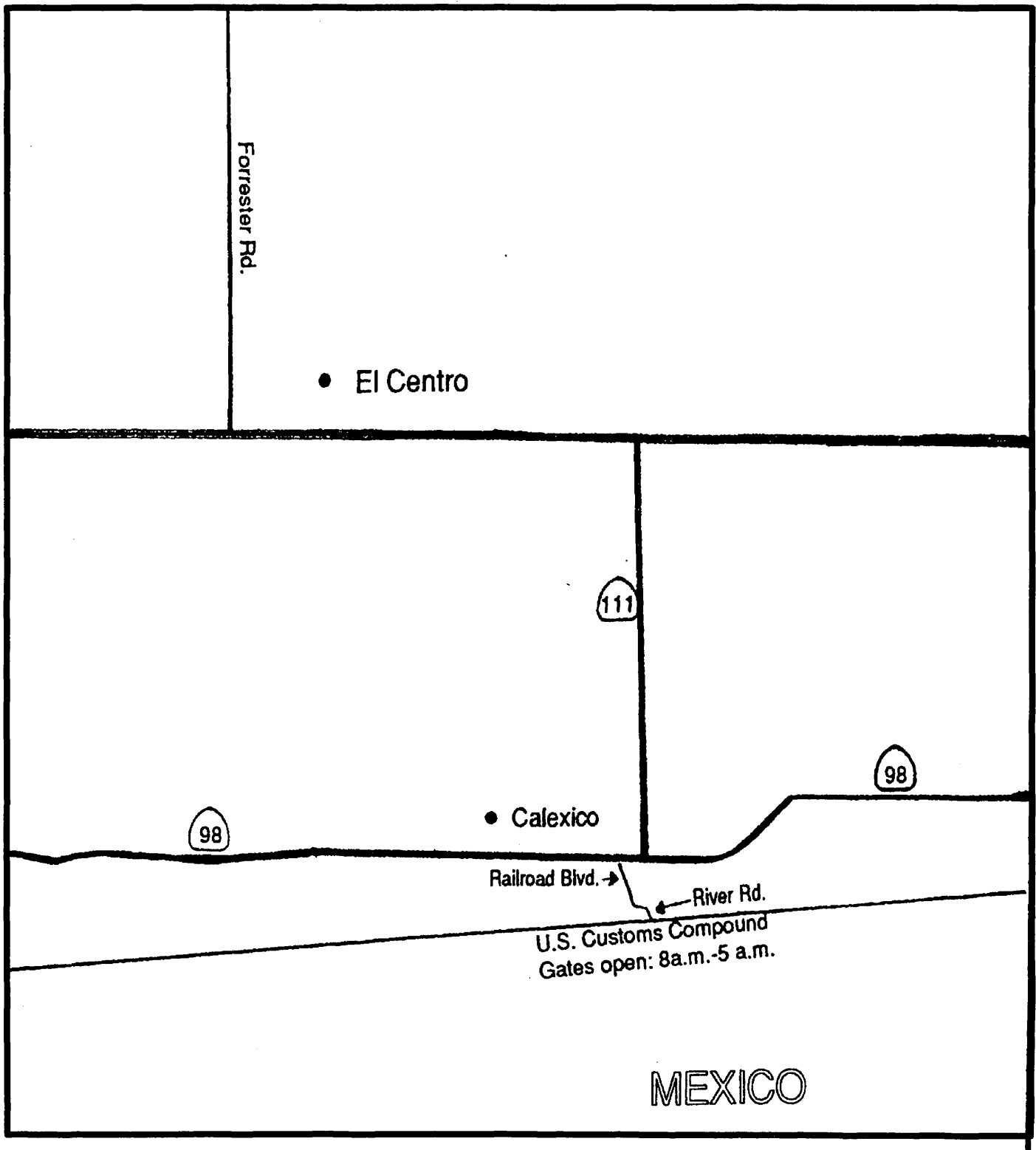
NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10-28-92; operative 10-28-92 (Register 92, No. 44). For prior history, see Register 90, No. 30.
2. Amendment of subsection (b)(1)(D), repealer of subsection (b)(1)(E) and subsection amendment and redesignation, and amendment of subsections (b)(2)(B) and (b)(3)(A) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. Editorial correction of HISTORY (Register 94, No. 42).
4. Amendment of subsection (b)(3)(A) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.7.1. Routes and Stops—Map 17A.

(a) Map 17A.



(b) Safe Stopping Places and Inspection Stops—Map 17A.

(1) U.S. HIGHWAY 7

(A) *INSPECTION STOP (northbound vehicles): Calexico Inspection Facility, just north of International Border.

(2) INTERSTATE HIGHWAY 8

(A) El Centro: Pressley's Peterbilt, I-8 at Dogwood Road. Repairs: 0800-1700. 24 hour road service call (619) 353-1820.

(B) El Centro: Country Kitchen Restaurant, 379 East Ross. Food: 0600-2200. Located on SR-111, 0.5 mile north of I-8.

(C) El Centro: Imperial Eight Truck Plaza, I-8 at SR-86. Gasoline, diesel, propane, food, showers, store, laundry, public scale. No repairs. 24 hours. (619) 352-8800.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-28-92; operative 10-28-92 (Register 92, No. 44).
2. Amendment of subsections (b)(1)(A) and (B) filed 10-17-94; operative 11-16-94 (Register 94, No. 42).
3. New subsection (b)(1)(C) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
4. New subsections (b)(1)-(b)(1)(A) and subsection renumbering filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.8. Safe Parking Places.

Use of safe parking places shall be governed by the following:

(a) General. Only vehicles authorized by the owners of safe parking places shall be permitted access to such locations. In addition, except for State of California platform scales, use of safe parking places may be subject to safety requirements and restrictions imposed by local fire officials.

(b) Locations: Only the following terminals and locations may be used as safe parking places:

Bloomington: Roadway Express, Inc., 17630 Valley Boulevard.
 Bloomington: Tri-State Motor Transit, 264 Jurupa Avenue
 Byron: Diablo Transportation, Inc., 5401 Byron Hot Springs Road.
 Calwa: Santa Fe Trail Transportation Co., Calwa Santa Fe Yards.
 Fresno: ABF (Arkansas Best Freight) Systems, Inc., 330 S. Teilman Avenue.

Fresno: Roadway Express, 2440 Church Avenue.
 Lakeside: M. J. Baxter Drilling Co., 12485 Highway 67.
 Long Beach: McDonnell Douglas Corp., 3855 Lakewood Boulevard.
 Manteca: ABF (Arkansas Best Freight) Systems, Inc. W. Yosemite Avenue and Swanson Road.

Milpitas: Doudell Trucking Co., 555 E. Capitol Avenue.
 Pico Rivera: ABF (Arkansas Best Freight) Systems, Inc., 8001 Telegraph Road.

Plymouth: E.I. duPont de Nemours & Co., Inc. c/o King Explosives, Inc., (north of Highway 16, at Forest Home Road.)

Sacramento: Applegate Drayage, 325 North 5th Street.

Sacramento: ABF (Arkansas Best Freight) Systems, Inc., 3250 47th Avenue.

Suisun: Baggett Transportation Co., 3809 Bithell Lane.

Suisun: Tri-State Trucking, 3841 Bithell Lane.

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. New section filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.
2. Amendment of subsection (b) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).
3. Amendment of subsection (b) filed 12-23-2004; operative 1-22-2005 (Register 2004, No. 52).

§ 1152.9. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152.10. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152.11. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152.12. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1152.13. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.1. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.2. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.3. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.4. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.5. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.6. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.7. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.8. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10-17-94; operative 11-16-94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.9. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.10. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.11. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1153.12. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Reservation of section number filed 10–17–94; operative 11–16–94 (Register 94, No. 42). For prior history, see Register 92, No. 44.

§ 1154. [Reserved].

NOTE: Authority cited: Section 31616, Vehicle Code. Reference: Sections 31601, 31602, 31607, 31611, 31614 and 31616, Vehicle Code.

HISTORY

1. Repealer and new section filed 10–28–92; operative 10–28–92 (Register 92, No. 44). For prior history, see Register 92, No. 12.
2. Repealer filed 10–17–94; operative 11–16–94 (Register 94, No. 42).

Article 2. Escorting of Inhalation Hazard Shipments

§ 1155. Application of Article.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. New article 1.3 (sections 1155–1157.1) filed 12–21–77 as an emergency; designated effective 1–1–78. Certificate of Compliance included (Register 77, No. 52).
2. Renumbering of article 1.3 (sections 1155–1157.1) to article 2 (sections 1155–1157.1) filed 7–8–81; effective thirtieth day thereafter (Register 81, No. 28). For history of former article 2, see Register 78, No. 33.
3. Repealer filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
4. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
5. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1155.1. Definitions.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. Amendment filed 7–8–81; effective thirtieth day thereafter (Register 81, No. 28).
2. Repealer filed 9–7–84; effective thirtieth day thereafter (Register 84, No. 36).
3. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
4. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1155.2. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1155.3. Escort Vehicle Equipment.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. Repealer filed 9–7–84; effective thirtieth day thereafter (Register 84, No. 36).
2. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
3. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1155.4. Co–driver and Drivers Hours.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. Repealer filed 9–7–84; effective thirtieth day thereafter (Register 84, No. 36).
2. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
3. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1155.6. Inhalation Hazard Transport Vehicle Equipment.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
2. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1155.8. Escort Procedures.

NOTE: Authority cited: Sections 32102 and 32108, Vehicle Code. Reference: Sections 32102, 32107 and 32108, Vehicle Code.

HISTORY

1. New section filed 11–25–91; operative 3–24–91 (Register 92, No. 8).
2. Change without regulatory effect repealing section filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

§ 1156. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.1. [Reserved].

NOTE: Authority and reference cited: Section 2702.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.2. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.3. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.4. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.5. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.6. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

[The next page is 128.9.]

§ 1156.7. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1156.8. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

Article 2.5. Inhalation Hazard Shipments; Routes and Stopping Places

§ 1157. Scope of Article.

- (a) This article designates the through routes, safe stopping places, re-

quired inspections stops, and inspection stops to be used for the transportation of inhalation hazards in bulk packaging pursuant to Division 14.3 (commencing with Section 32100) of the Vehicle Code.

(b) This Article shall not apply to packagings containing only inhalation hazard material residue as defined in Vehicle Code Section 32101(c).

NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3–17–92; operative 4–16–92 (Register 92, No. 17).
2. Change without regulatory effect adopting new article 2.5 filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).

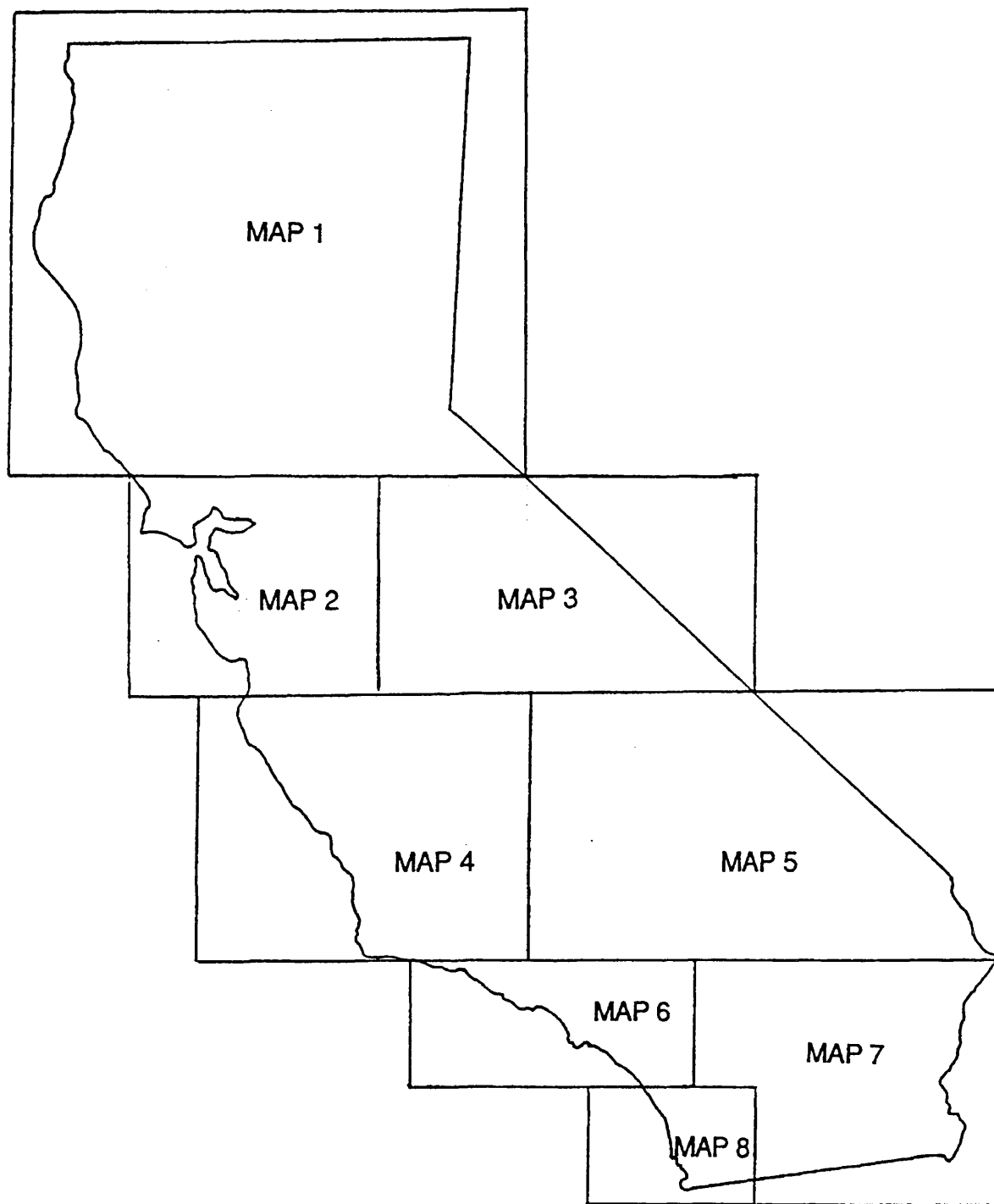
§ 1157.1. [Reserved].

NOTE: Authority and reference cited: Section 2402.7, Vehicle Code.

HISTORY

1. Change without regulatory effect reserving section number filed 11–16–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46). For prior history, see Register 84, No. 36.

§ 1157.2. Map Index.

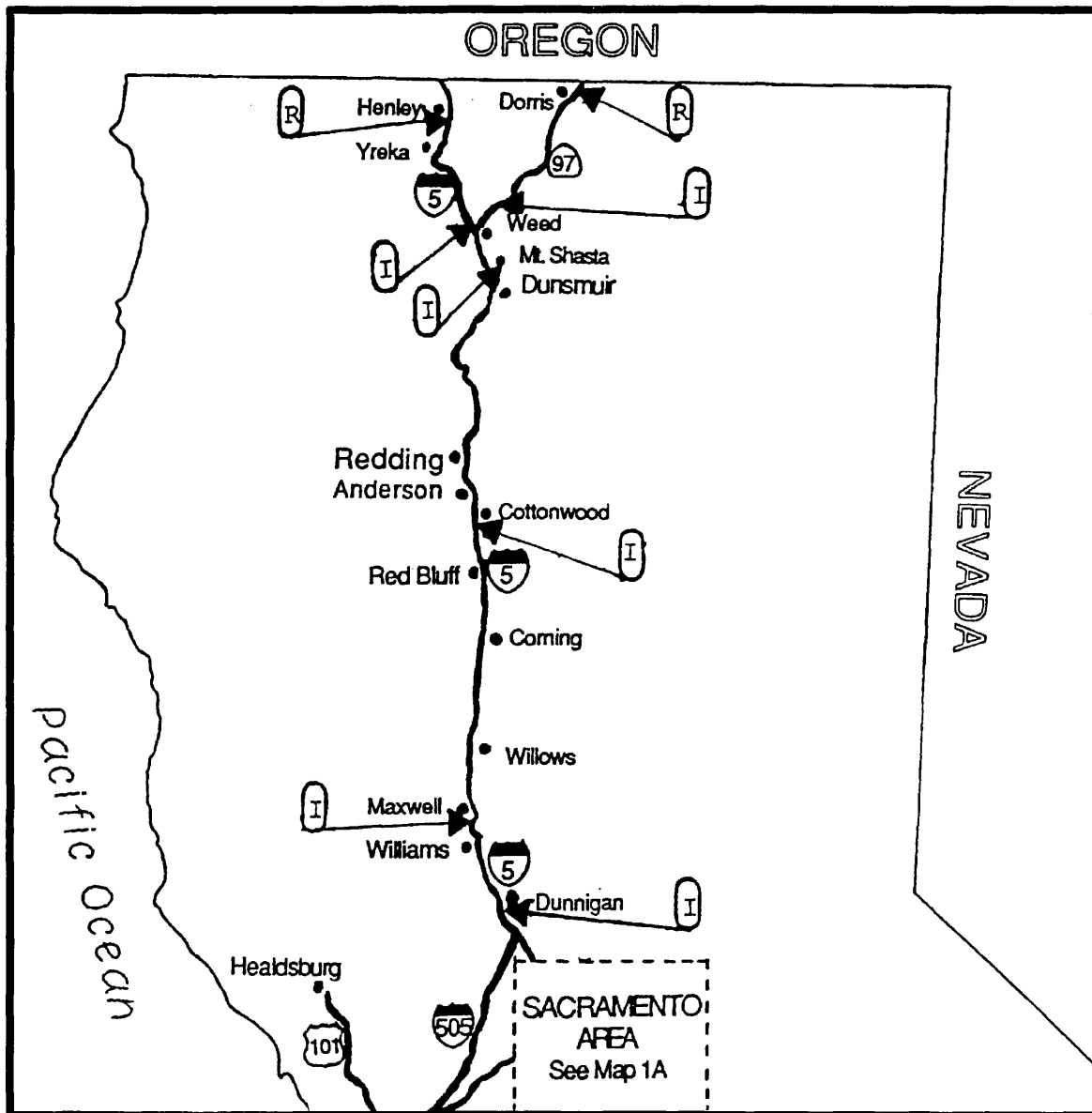


HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.4. Routes and Stops—Map 1.

(a) Map 1.



SEE MAP 2

(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops —Map 1.

(1) INTERSTATE HIGHWAY 5.

(A) REQUIRED INSPECTION STOP (southbound): State of California rest area, 2.5 miles south of Henley, approximately 10 miles south of the Oregon State Line.

(B) INSPECTION STOP (northbound and southbound): State of California rest area, 4 miles north of Weed.

(C) INSPECTION STOP (southbound): State of California inspection facility, Mount Shasta.

(D) INSPECTION STOP (northbound and southbound): State of California platform scales, 2 miles south of Cottonwood.

(E) INSPECTION STOP (northbound and southbound): State of California rest area, Maxwell Road Crossing, 2.5 miles south of Maxwell.

(F) INSPECTION STOP (northbound and southbound): State of California rest area, Dunnigan, I-5 just north of County Road 6.

(G) Corning: Petro Inc. Truck Stop, 2151 South Avenue at County Road 99W. Food, fuel, repairs: 24 hours.

(H) Dunnigan: Bosse's Dunnigan Truck Service, I-5 and County Road 8. Food, fuel, minor repairs: 24 hours.

(2) INTERSTATE HIGHWAY 505. None.

(3) US HIGHWAY 101. None.

(4) STATE ROUTE 97.

(A) REQUIRED INSPECTION STOP (southbound): State of California rest area, 5 miles south of Hebron Pass.

(B) INSPECTION STOP (northbound and southbound): State of California rest area, Grass Lake, 29 miles north of Weed.

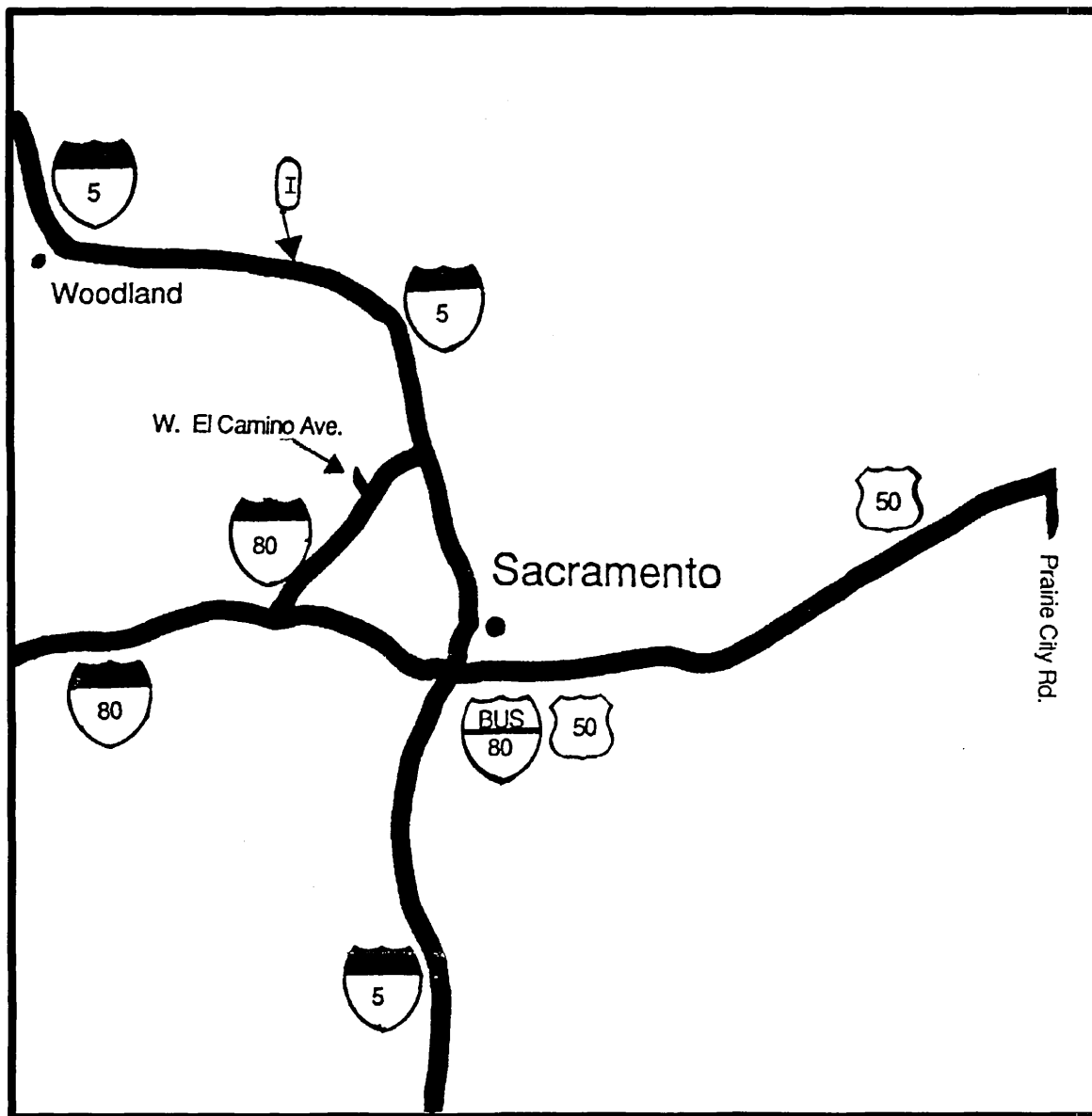
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.6. Routes and Stops—Map 1A.

(a) Map 1A.



(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops —Map 1A.

(1) INTERSTATE HIGHWAY 5.

(A) INSPECTION STOP (southbound): State of California, Elkhorn Rest Area, near Sacramento Metro Airport, I-5 at Airport Boulevard.

(2) INTERSTATE HIGHWAY 80.

(A) Sacramento: Sacramento 76 Auto/Truck Plaza, 2828 El Centro Road. Exit at West El Camino Avenue to El Centro Road. Food, fuel, repairs: 24 hours.

(3) US HIGHWAY 50. None.

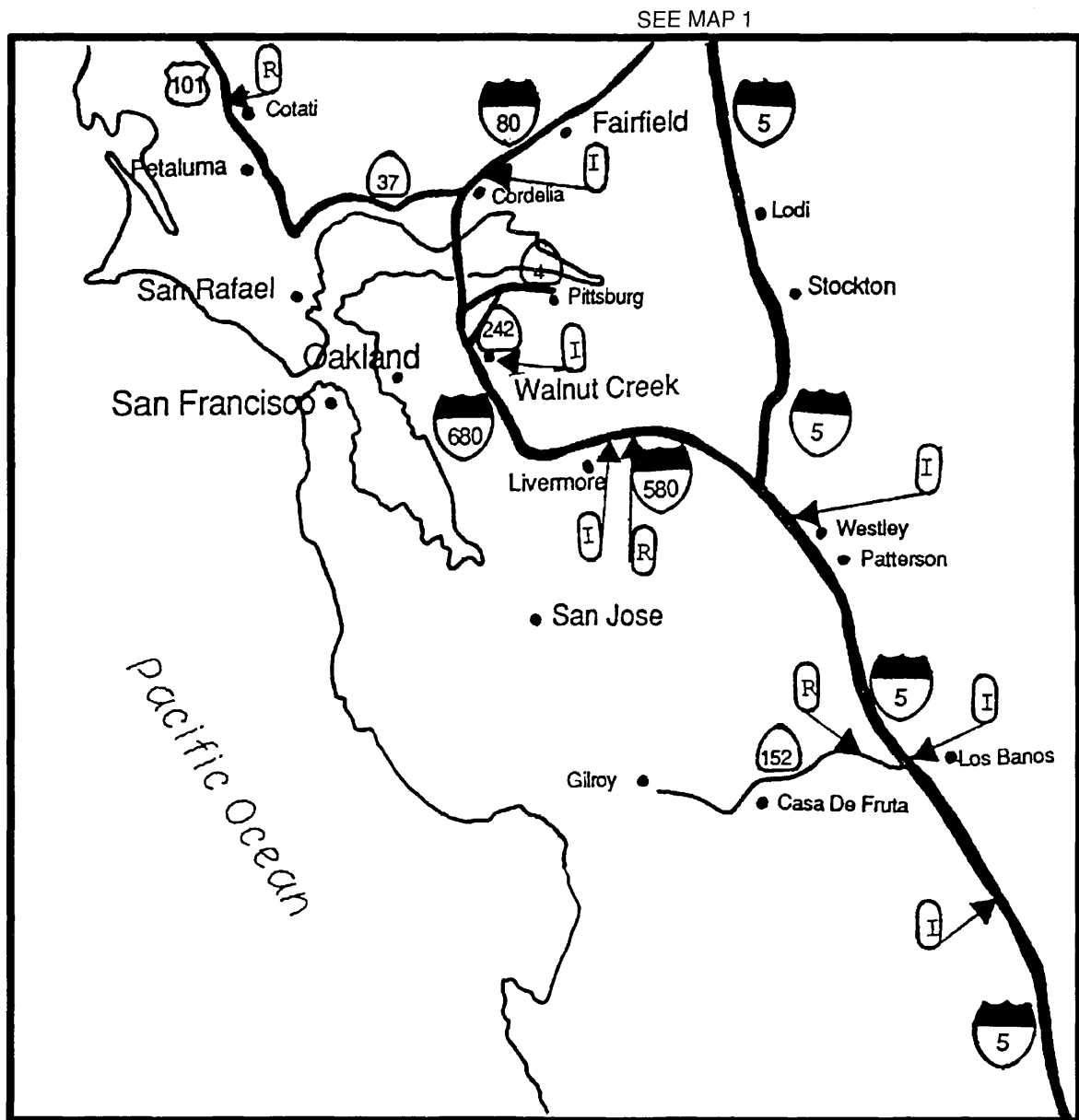
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.8. Routes and Stops—Map 2.

(a) Map 2.



(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops —Map 2.

(1) INTERSTATE HIGHWAY 5

(A) INSPECTION STOP (northbound and southbound): State of California, Westley Rest Area, 1.5 miles south of I-580 junction.

(B) INSPECTION STOP (northbound and southbound): State of California platform scales, north of Los Banos.

(C) INSPECTION STOP (northbound and southbound): State of California, Chuck Erreca Rest Area, 6 miles south of SR-165 junction.

(D) Westley: Westley Triangle Truck Stop and Restaurant, 7125 McCracken Road, east of I-5 at Westley exit. Food, fuel: 24 hours.

(E) Santa Nella: Mid-California 76 Auto/Truck Stop I-5 and SR-33 interchange. Food, fuel, minor repairs: 24 hours.

(F) Lodi: Three B's Truck and Auto Plaza, 14749 North Thornton Road, south of SR-12. Food, fuel, repairs: 24 hours.

(2) INTERSTATE HIGHWAY 80.

(A) INSPECTION STOP (westbound and eastbound): State of California, Cordelia Inspection Facility, 3 miles west of the city of Fairfield.

(B) Suisun: Terminal Stations, Inc., 4 miles west of the city of Fairfield at Suisun Valley Road overcrossing. Food, fuel, repairs, tire service: 24 hours.

(3) INTERSTATE HIGHWAY 580.

(A) REQUIRED INSPECTION STOP (westbound and eastbound): Brake check area, I-580 at Flynn Road.

(B) INSPECTION STOP (westbound and eastbound): State of California platform scales, east of Livermore, between Vasco and N. Greenville Roads.

(4) INTERSTATE HIGHWAY 680.

(A) INSPECTION STOP (northbound and southbound): State of California platform scales, Walnut Creek.

(5) US HIGHWAY 101.

(A) REQUIRED INSPECTION STOP (southbound): Cotati brake check area, 0.5 mile south of SR-116, West Avenue undercrossing.

(6) STATE ROUTE 4. None.

(7) STATE ROUTE 37. None.

(8) STATE ROUTE 152.

(A) REQUIRED INSPECTION STOP (westbound and eastbound): Pacheco Pass, brake check area 0.5 mile west of Merced County Line.

(B) Hollister: Casa de Fruta, 1.2 miles east of SR-156. Food, fuel: 24 hours.

(C) Gilroy: Golden West Restaurant, 840 Pacheco Pass Highway, (SR-152). Food, rest area: 24 hours

(9) STATE ROUTE 242. None.

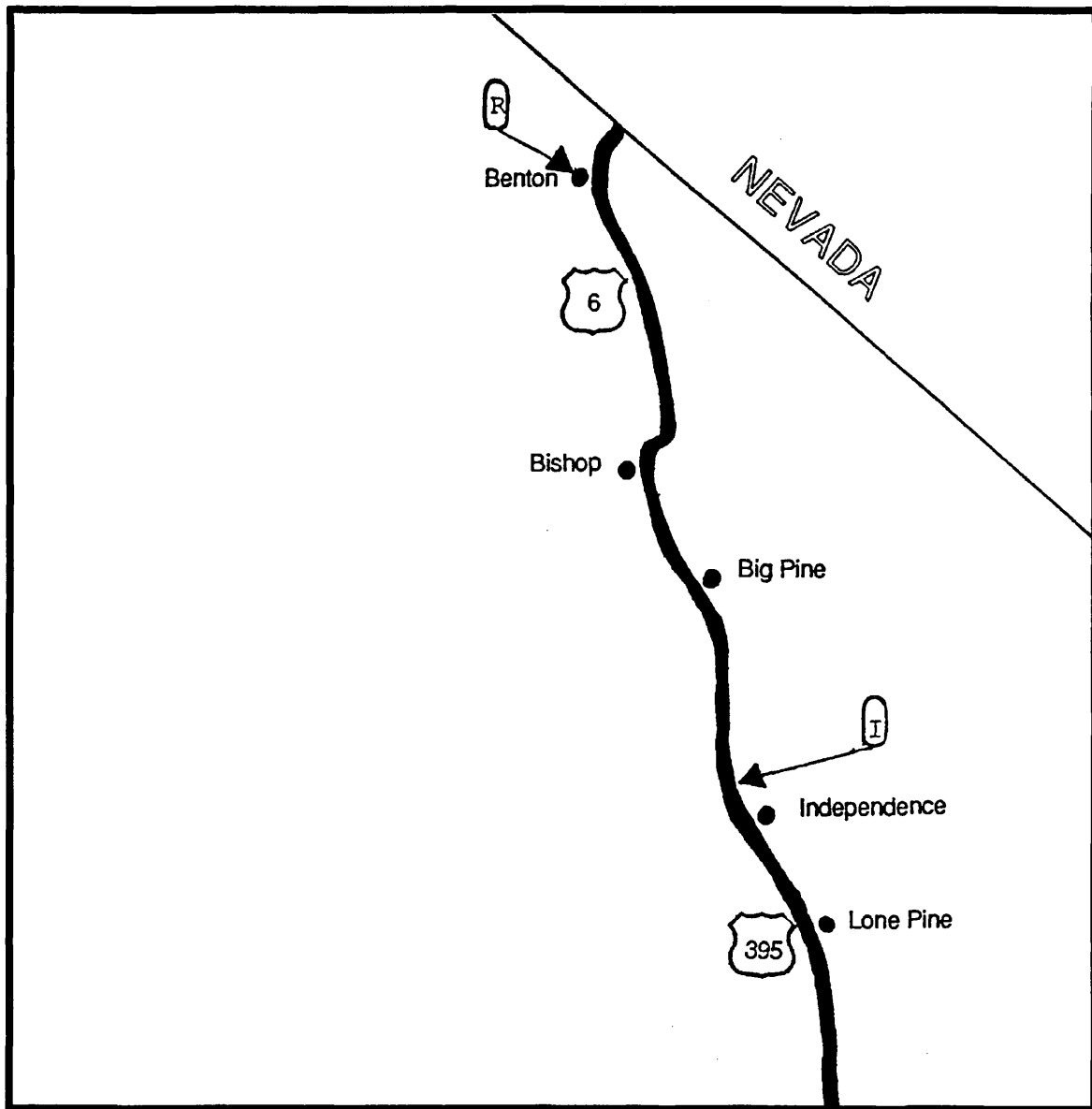
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.10. Routes and Stops—Map 3.

(a) Map 3.



SEE MAP 5

(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops —Map 3.

(1) US HIGHWAY 6.

(A) REQUIRED INSPECTION STOP (southbound): State of California agricultural inspection station, Benton, 5 miles south of the Nevada State Line.

(2) US HIGHWAY 395.

(A) INSPECTION STOP (northbound): State of California rest area, 10 miles north of Independence.

(B) Big Pine: Big Pine Chevron, 109 South Main Street, US-395 at

SR-168. Food, fuel, repairs: 24 hours.

(C) Big Pine: Country Kitchen, 106 South Main Street, US-395 at SR-168. Food: 0600-2000.

(D) Lone Pine: Miller's Towing, 1506 South Main Street, US-395, 2 miles north of SR-136. Repairs: 0800-1700, Monday-Friday.

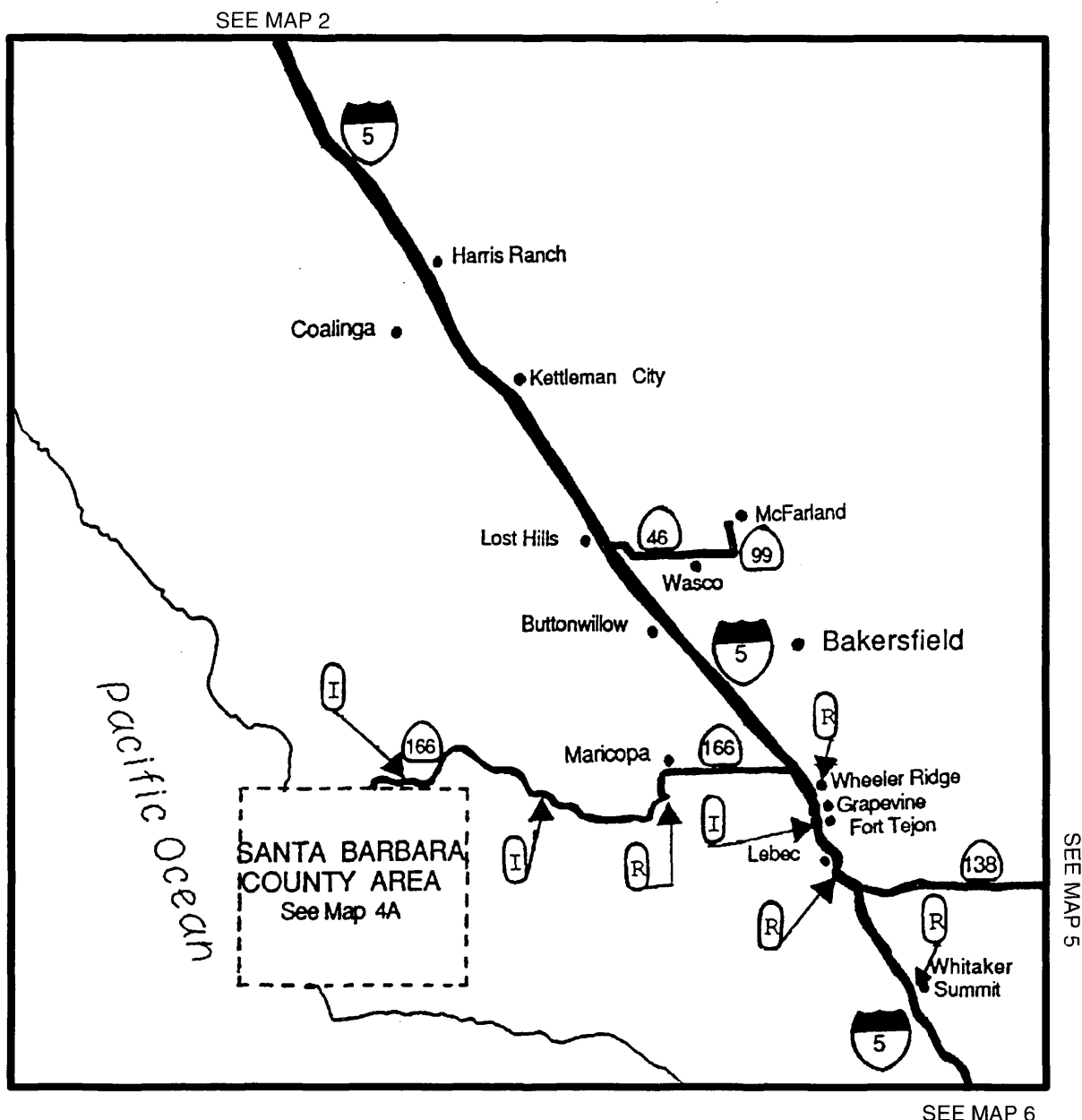
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.12. Routes and Stops—Map 4.

(a) Map 4.



(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—Map 4.

(1) INTERSTATE HIGHWAY 5.

(A) REQUIRED INSPECTION STOP (southbound): State of California platform scales, Wheeler Ridge, 31 miles south of Bakersfield.

(B) REQUIRED INSPECTION STOP (northbound): Lebec Rest Area 0.6 miles north of Kern–Los Angeles County line.

(C) REQUIRED INSPECTION STOP (southbound): Whittaker Summit, truck inspection area, 8 miles north of Castaic.

(D) INSPECTION STOP (southbound): Tejon Pass, 1 mile north of Gorman. Designated truck area. No services.

(E) Harris Ranch: Harris Ranch Shell Service Station, SR–198 east of I–5. Food: 24 hours.

(F) Kettleman City: Kettleman City Beacon Truck Service, 0.5 mile north of I–5 on SR–41. Food, fuel, repairs: 24 hours.

(G) Lost Hills: Burns Brothers Bingo USA, SR–45 at I–5. Food, fuel, tire services: 24 hours.

(H) Buttonwillow: Bruce's Buttonwillow Auto/Truck Plaza, I–5 at SR–58. Food, fuel, repairs: 24 hours.

(2) STATE ROUTE 33. None.

(3) STATE ROUTE 46. None.

(4) STATE ROUTE 99. None.

(5) STATE ROUTE 138. None.

(6) STATE ROUTE 166.

(A) REQUIRED INSPECTION STOP (eastbound): Grocer Grade Brake Station, 0.75 mile east of Soda Lake Road.

(B) INSPECTION STOP (westbound): 2.5 miles west of New Cuyama, extra wide shoulder.

(C) INSPECTION STOP (eastbound): 200 yards east of U.S. Forestry Station at Pine Canyon, extra large turnout.

(D) New Cuyama: The Buckhorn, SR-166 at Perkins Road. Food, fuel, minor repairs: 0700-2000.

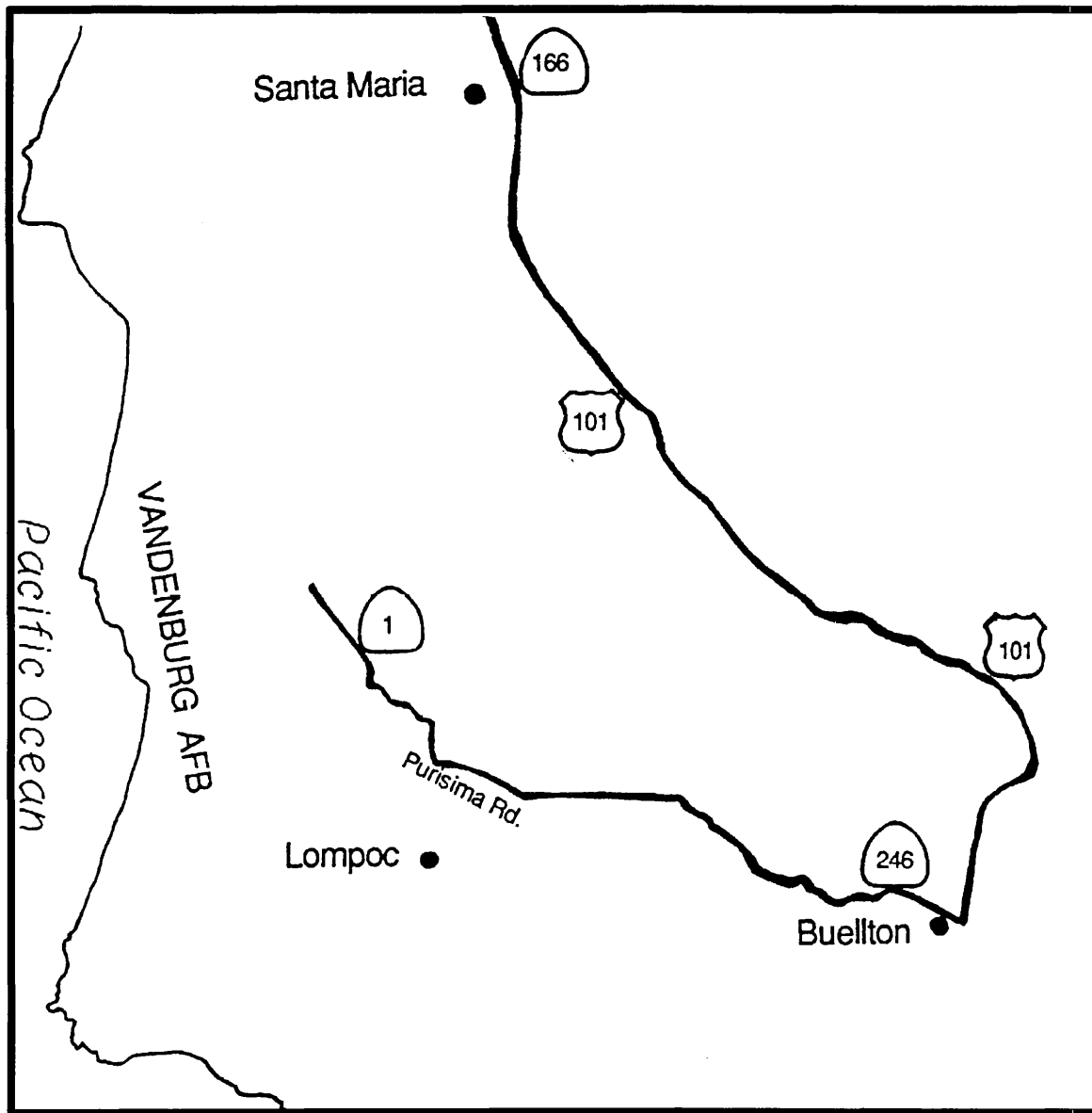
NOTE: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).
2. Editorial correction of subsection (b)(5) (Register 96, No. 50).
3. Amendment of subsection (b)(1)(B) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).

§ 1157.13. Routes and Stops—Map 4A.

(a) Map 4A.



(b) Safe Stopping Places and Inspection Stops—4A.

(1) US HIGHWAY 101.

(A) Santa Maria: The Fuel Connection, 1155 East Betteravia Road.
Food, fuel, repairs: 24 hours.

(2) STATE ROUTE 1. None.

(3) STATE ROUTE 246. None.

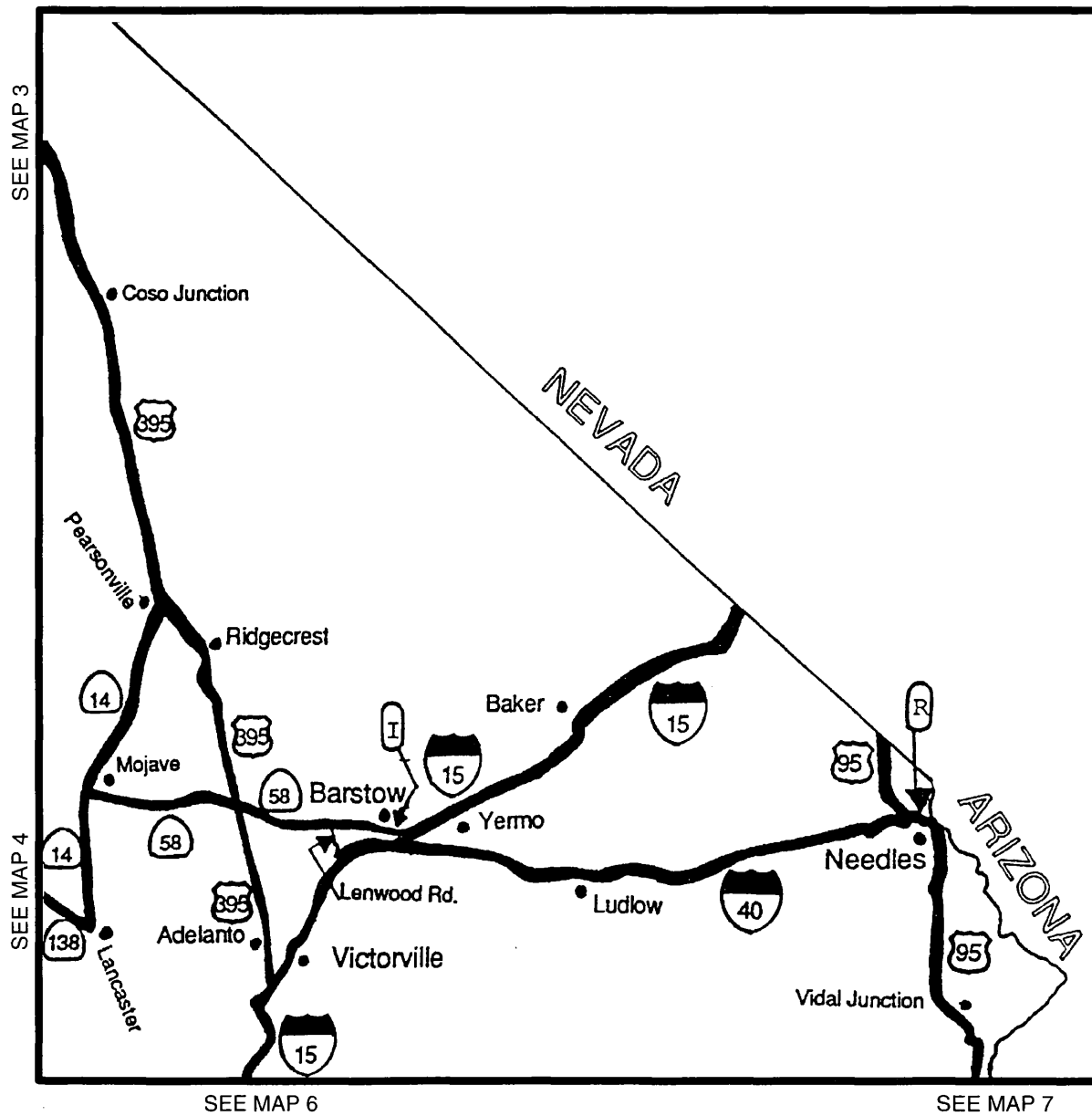
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.14. Routes and Stops—Map 5.

(a) Map 5.



(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(b) Safe Stopping Places and Inspection Stops—5.

(1) INTERSTATE HIGHWAY 15.

(A) Barstow: Rip Griffin Truck Travel Center, 2930 Lenwood Road at I-15. Food, fuel, repairs: 24 hours.

(B) Victorville: Outpost Service Station, I-15 at US-395. Food, fuel, wash rack, minor repairs: 24 hours.

(C) Victorville: Joe's Cafe, I-15 at Stoddard Wells Road. Food: 0630-1500.

(2) INTERSTATE HIGHWAY 40.

(A) REQUIRED INSPECTION STOP (westbound): State of California agricultural inspection station, Needles, 5 miles west of the Arizona State Line.

(B) Ludlow: Ludlow Cafe, I-40 at Crucero Road. Food, fuel, tire repairs: 24 hours.

(3) US HIGHWAY 95.

(A) Vidal Junction: Vidal Junction Cafe and Texaco Station, US-95 at SR-62. Food, fuel: 0800-1600.

(4) US HIGHWAY 395.

(A) Leliter: Brady's Mini-Mart, 0.5 mile north of SR-14 and US-395 junction. Food at mini-mart, gasoline, minor repairs: 1000-2200.

(B) Coso Junction: Coso Junction Ranch Store, US-395 at Coso Road, 30 miles south of Lone Pine. Food, gasoline: 24 hours.

(C) Pearsonville: Pearson's Cafe & Towing, 5 miles north of SR-14. Food, gasoline, repairs: 0600-1800.

(5) STATE ROUTE 14.

(A) Mojave: Giant Truck Stop of Mojave, 1600 Sierra Highway, 0.5 mile south of SR-14 and SR-58 junction. Fuel, minor repairs: 24 hours.

(6) STATE ROUTE 58.

(A) INSPECTION STOP: (westbound): State of California rest area, 7 miles west of the San Bernardino-Kern County Line.

(7) STATE ROUTE 138.

(A) Fairmont: Juniper Market, 18348 West Avenue D at West 170th just south of SR-138. Propane, food, telephone, restroom: 0800-1800.

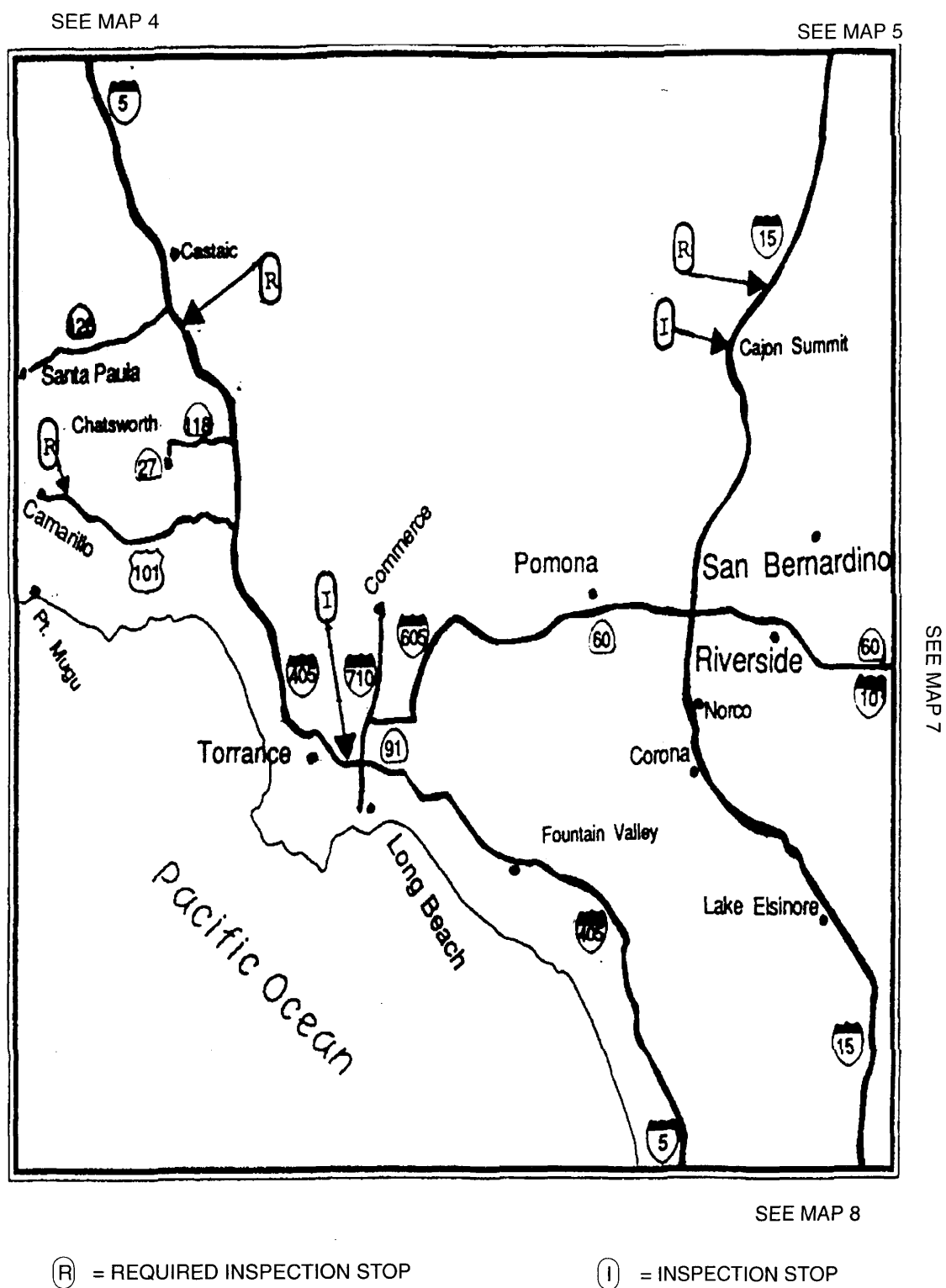
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

§ 1157.16. Routes and Stops—Map 6.

(a) Map 6.



(b) Safe Stopping Places and Inspection Stops—6.

(1) INTERSTATE HIGHWAY 5.

(A) REQUIRED INSPECTION STOP (northbound): State of California platform scales, Castaic, 0.25 mile south of SR-126.

(B) Castaic: Café Mike, 31537 Castaic Road, Lake Hughes Exit. Food, fuel, repairs: 24 hours.

(C) Castaic: Giant Truck Stop of Castaic, 31711 Castaic Road, Lake Hughes Exit. Food, fuel, repairs: 24 hours.

(2) INTERSTATE HIGHWAY 15.

(A) REQUIRED INSPECTION STOP (southbound): Cajon Summit brake inspection site, I-15 at Oak Hill Road.

(B) INSPECTION STOP (northbound and southbound): State of California platform scales, Cajon Scale Facility, I-15 at SR-138.

(3) INTERSTATE HIGHWAY 405.

(A) INSPECTION STOP (northbound and southbound): State of California platform scales, Carson, 0.5 mile south of Main Street.

(4) INTERSTATE HIGHWAY 605. None.

(5) INTERSTATE HIGHWAY 710. None.

(6) US HIGHWAY 101.

(A) REQUIRED INSPECTION STOP: State of California inspection facility (northbound), and platform scales (southbound); Conejo, USA-101 at Wendy Drive.

(7) STATE ROUTE 27. None.

(8) STATE ROUTE 60. None.

(9) STATE ROUTE 91. None.

(10) STATE ROUTE 118. None.

(11) STATE ROUTE 126.

(A) Santa Paula: Condor Truck Service, 1395 E. Harvard Blvd. Fuel, oil, scales: Monday–Friday (0700–1700), Saturday (0700–1200).

NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

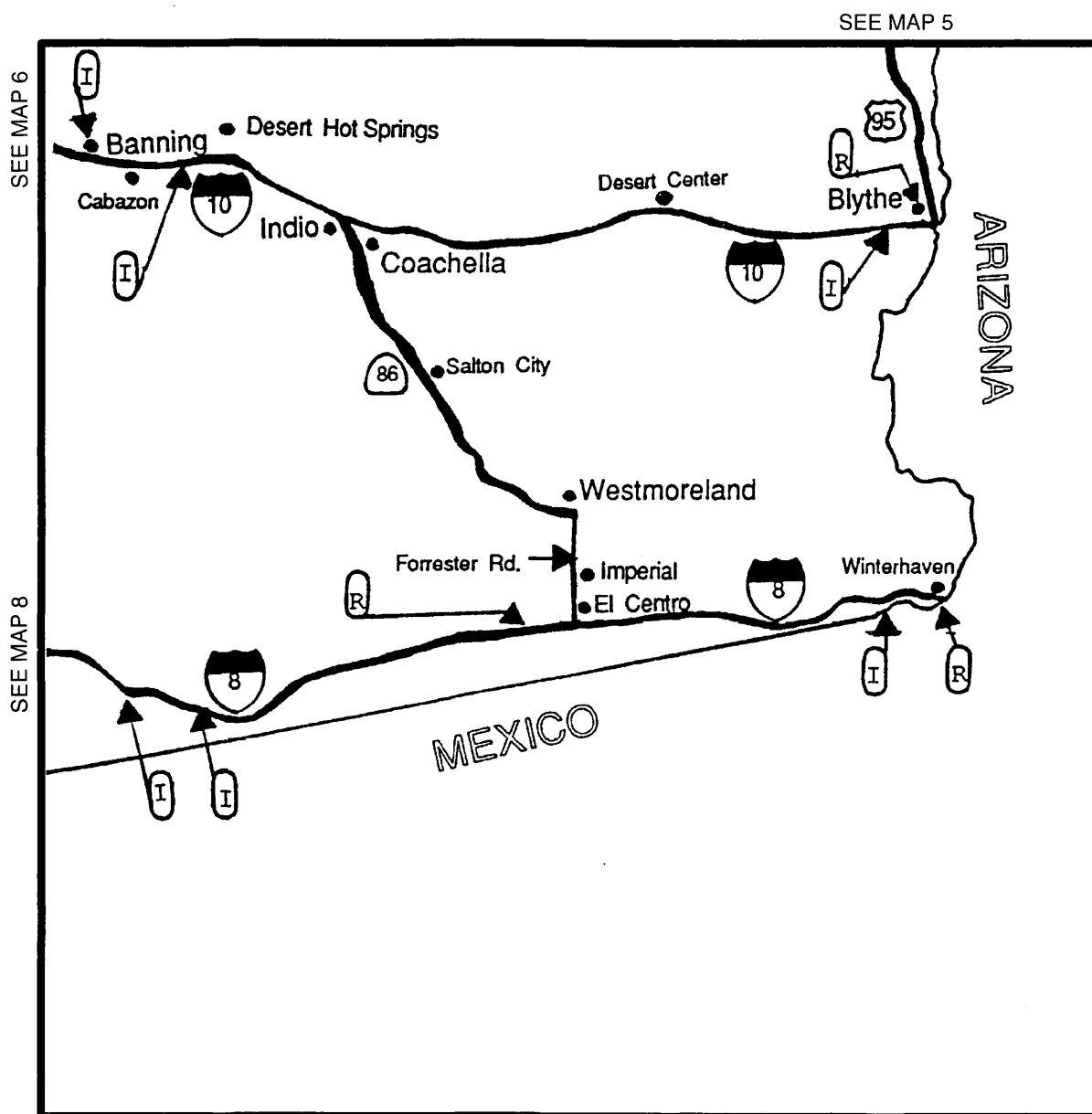
HISTORY

1. New section filed 3–17–92; operative 4–16–92 (Register 92, No. 17).

2. Repealer and new subsection (a) (Map 6), repealer of subsection (b)(1)(A), subsection relettering, and amendment of newly designated subsection (b)(1)(A) filed 12–10–96; operative 12–10–96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).

§ 1157.18. Routes and Stops—Map 7.

(a) Map 7.



(R) = REQUIRED INSPECTION STOP

(I) = INSPECTION STOP

(B) Safe Stopping Places and Inspection Stops—Map 7.

(1) INTERSTATE HIGHWAY 8.

(A) REQUIRED INSPECTION STOP (westbound): State of California inspection facility, Winterhaven, 8 miles west of the Arizona State Line.

(B) REQUIRED INSPECTION STOP (eastbound): In-Ko-Pah brake check and truck rest area, 29 miles west of El Centro.

(C) INSPECTION STOP (westbound and eastbound) State of California rest area, Sand Hills, 17 miles west of the Arizona State Line.

(D) INSPECTION STOP (eastbound): Viewpoint on I-8, 6 miles east of Alpine.

(E) INSPECTION STOP (eastbound): Inspection and rest area at milepost 76.50. Telephone only.

(F) Pine Valley: Major's Coffee Shop, 0.7 miles north of I-8 on old US-80. Park in rear. Food, gasoline: 0600-2100.

(G) Jacumba: Woodward's Shell/Jacumba Exxon Stations, I-80 at Carrizo Gorge. Park off roadway behind stations. Food at mini-mart, gasoline: 24 hours.

(2) INTERSTATE HIGHWAY 10.

(A) REQUIRED INSPECTION STOP (westbound): State of California inspection facility, Blythe, 0.25 mile west of the Arizona State Line.

(B) INSPECTION STOP (westbound): State of California platform scales, 8 miles west of Blythe.

(C) INSPECTION STOP (westbound and eastbound): State of California, Whitewater Rest Area, west of SR-62.

(D) INSPECTION STOP: State of California inspection facility (westbound) and platform scales (eastbound); Banning.

(E) Blythe: Blythe Unocal 76/Truck Terminal, I-10 at Mesa Drive. Food, fuel, repairs, wash rack: 24 hours.

(F) Desert Center: Texaco Station and Desert Center Cafe, Desert Center Exit to Frontage Road. Food, gasoline: 24 hours.

(G) Coachella: Burns Brothers Truck Stop, 46155 Dillon Road. Food, fuel, repairs: 24 hours.

(H) Cabazon: Wheel Inn Restaurant, 50900 Seminole Drive, Main Street off I-10. Food, fuel: 24 hours. On call repairs and towing.

(3) US HIGHWAY 95. None.

(4) STATE ROUTE 86. None.

(5) STATE ROUTE 111. None.

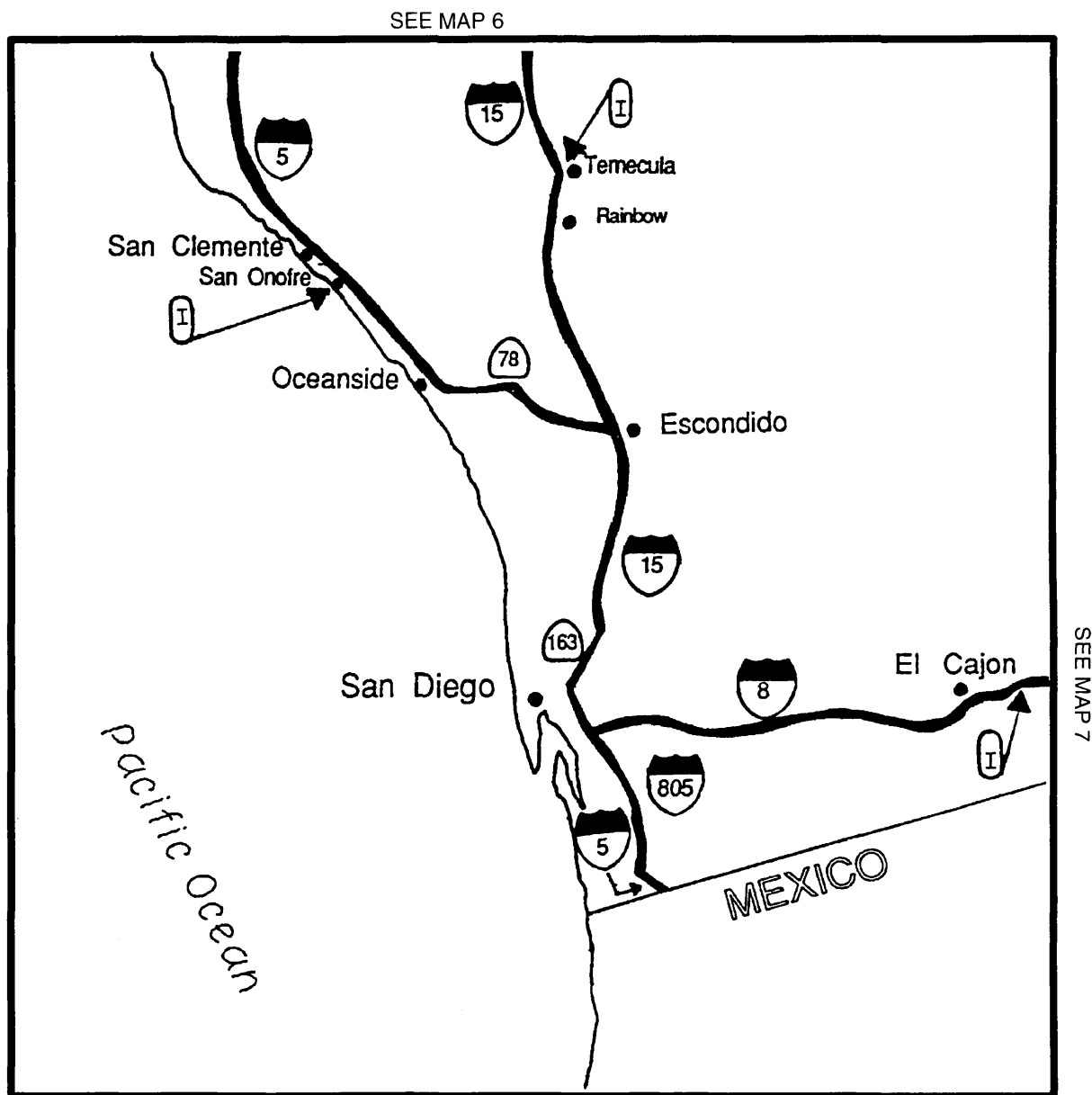
NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).
2. Amendment of subsection (b)(4) and repealer of subsection (b)(4)(A) filed 12-10-96; operative 12-10-96 pursuant to Vehicle Code section 31616 (Register 96, No. 50).

§ 1157.20. Routes and Stops—Map 8.

(a) Map 8.



(b) Safe Stopping Places and Inspection Stops—Map 8.

(1) INTERSTATE HIGHWAY 5.

(A) INSPECTION STOP (northbound and southbound): State of California inspection facility, San Onofre, 5 miles south of San Clemente.

(2) INTERSTATE HIGHWAY 8.

(A) INSPECTION STOP (westbound): 2 miles west of Dunbar Lane. Telephone only.

(3) INTERSTATE HIGHWAY 15.

(A) INSPECTION STOP (northbound and southbound): State of California inspection facility, Temecula, I-15 at Rainbow Valley Road.

(4) INTERSTATE HIGHWAY 805. None.

(5) STATE ROUTE 78. None.

(6) STATE ROUTE 163. None.

NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Sections 32101, 32102, 32103, 32104 and 32105, Vehicle Code.

HISTORY

1. New section filed 3-17-92; operative 4-16-92 (Register 92, No. 17).

Article 2.7. Routes for the Through Transportation of Highway Route Controlled Quantity Shipments of Radioactive Materials

§ 1158. Applicability.

(a) This article designates the through routes to be used for the transportation of highway route controlled quantity shipments of radioactive materials subject to Section 33000 of the Vehicle Code.

(b) This article shall apply to the transportation of *highway route controlled quantity shipments* of radioactive materials as defined in Title 49, Code of Federal Regulations, Section 173.403.

NOTE: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code.

HISTORY

1. New article 2.7 and section filed 9–19–94; operative 10–19–94 (Register 94, No. 38).
2. Amendment of subsection (b) filed 8–20–97; operative 9–19–97 (Register 97, No. 34).

§ 1158.1. Designation of Routes.

The highways to be used for transportation of commodities listed in Section 1158 are set forth in Section 1159.

NOTE: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code.

HISTORY

1. New section filed 9–19–94; operative 10–19–94 (Register 94, No. 38).

§ 1158.2. Routes Travelled and Stopping.

No person shall drive or permit the driving of any vehicle transporting commodities listed in Section 1158 upon any highway not designated by this article. Deviation from the routes may occur only for the following: necessary pickup and delivery, in route inspections as required by Federal law, necessary rest, fuel or motor vehicle repair stops, or as directed in an emergency by fire or police officials having jurisdiction of the roadway in use.

NOTE: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code.

HISTORY

1. New section filed 9–19–94; operative 10–19–94 (Register 94, No. 38).

§ 1158.3. Carrier, Driver, Training and Reporting Requirements.

Carriers and drivers shall comply with the requirements of Title 49 Code of Federal Regulations, Section 397.101.

NOTE: Authority cited: Section 33000, Vehicle Code. Reference: Section 33000, Vehicle Code; and Title 49 Code of Federal Regulations, Section 397.101.

HISTORY

1. New section filed 9–19–94; operative 10–19–94 (Register 94, No. 38).
2. Repealer and new section filed 8–20–97; operative 9–19–97 (Register 97, No. 34).

§ 1159. Routes.

- (a) Narrative listing of routes.

(1) Interstate Highway 5: From the State of Oregon border to Interstate Highway 210 and from Interstate Highway 605 to Interstate Highway 805 and from the border of Mexico to Interstate Highway 805.

(2) Interstate Highway 8: From the State of Arizona border to Interstate Highway 805.

(3) Interstate Highway 10: From the State of Arizona border to Interstate Highway 605.

(4) Interstate Highway 15: From the State of Nevada border to Interstate Highway 8.

(5) Interstate Highway 40: From the State of Arizona border to Interstate Highway 15.

(6) Interstate Highway 80: From the State of Nevada border to Interstate Highway 580 in the City of Oakland.

(7) Interstate Highway 205: From Interstate Highway 5 to Interstate Highway 580.

(8) Interstate Highway 210: From Interstate Highway 5 to Interstate Highway 10.

(9) Interstate Highway 238: From Interstate Highway 580 to Interstate Highway 880.

(10) Interstate Highway 280: From Interstate Highway 680 to Interstate Highway 380.

(11) Interstate Highway 580: From Interstate Highway 5 to Interstate Highway 680.

(12) Interstate Highway 605: From Interstate Highway 210 to Interstate Highway 5.

(13) Interstate Highway 680: From Interstate Highway 80 to Interstate Highway 280.

(14) Interstate Highway 805: From Interstate Highway 5 (north of the City of San Diego) to Interstate Highway 5 (south of the City of San Diego).

(15) Interstate Highway 880: From Interstate Highway 980 to Interstate Highway 238.

(16) Interstate Highway 980: From Interstate Highway 580 to Interstate Highway 880.

[The next page is 128.11.]

A black and white map of California showing major interstate highways and their route numbers. The map includes labels for major cities: REDDING, SACRAMENTO, STOCKTON, SAN FRANCISCO, BAKERSFIELD, LOS ANGELES, SAN BERNARDINO, and SAN DIEGO. It also shows LAKE TAHOE. The map is divided into sections by dashed lines, likely representing different planning regions. Major highways shown include I-5, I-80, I-880, I-580, I-680, I-205, I-580, I-5, I-10, I-15, I-40, I-8, I-210, and I-605.

Register 99, No. 41; 10-8-99

Article 3. General Hazardous Materials Regulations

§ 1160. Application.

This article shall apply to the transportation of hazardous materials in vehicles listed in Vehicle Code Section 34500 and in any other vehicle for which the display of placards is required pursuant to Vehicle Code Section 27903 as prescribed in Vehicle Code Section 31309.

NOTE: Authority cited: Sections 2402.7 and 34501, Vehicle Code. Reference: Sections 2402.7, 31309, 34501 and 34510, Vehicle Code.

HISTORY

1. Repealer of Article 1.5 (Sections 1160–1167, not consecutive) and new Article 1.5 (Sections 1160–1167, not consecutive) filed 2–18–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 8). For prior history, see Registers 73, No. 43 and 76, No. 9.
2. Renumbering of Article 1.5 (Sections 1160–1167, not consecutive) to Article 3 (Sections 1160–1167, not consecutive) filed 7–8–81; effective thirtieth day thereafter (Register 81, No. 28). For history of former Article 3, see Register 78, No. 33.
3. Amendment filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
4. Amendment of Article 3 heading, designation and amendment of subsection (a), new subsections (b)–(d) and amendment of NOTE filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
5. Repealer of subsection designations and former subsections (b), (c) and (d) filed 8–14–96; operative 9–13–96 (Register 96, No. 33).

§ 1160.1. Exceptions and Special Applications.

(a) Application to Shippers. Shippers are subject to all provisions of this article except Sections 1160.4(g), 1162.1, 1166 and 1167, and are subject to Section 1164 only when loading or directing the loading of any vehicle.

(b) Application to Non-commercial Transportation. Except for subsection (d), the exceptions contained in this section shall only apply to the transportation of hazardous materials by carriers when not directly subject to federal jurisdiction pursuant to 49 CFR Part 171 (i.e., transporting hazardous materials in intrastate, interstate or foreign commerce [transported for a fee or used for commercial purposes]).

(c) Alternative Exceptions for Non-commercial Carriers. Private carriers transporting hazardous materials for non-commercial purposes (i.e., transporting hazardous materials for personal use or by a federal, state or local government agency) may utilize the exceptions contained in subsections (e) through (m) of this section or the exceptions contained in either 49 CFR 173.6 or 49 CFR 173.8(c), but not both the exceptions in subdivisions (e) through (m) and the referenced 49 CFR exceptions at one time on the same vehicle or combination of vehicles.

(d) Liquefied Petroleum Gas. Except as provided in Sections 1160.4(g), 1160.5, 1161, 1161.3, 1161.6, 1161.7, 1162, 1163(d), 1166, and 1167, this article shall not apply to the transportation of liquefied petroleum gas in cargo tanks subject to regulations of the Division of Occupational Safety and Health, Department of Industrial Relations contained in Title 8, California Code of Regulations, Chapter 4, Subchapter 1 (Unfired Pressure Vessel Safety Orders), but it shall apply to liquefied petroleum gas transported in cylinders and portable tanks.

(e) Incidentally Transported Materials. This article shall not apply to the transportation of the following:

- (1) Batteries in vehicle or auxiliary equipment ignition or lighting systems.
- (2) Flammable compressed gases or flammable and/or combustible liquids used exclusively in vehicle or auxiliary equipment fuel, heating, refrigeration, or cooking systems.
- (3) Batteries, compressed air in cylinders or tanks not exceeding 200 psi, inflated tires or less than 10 gallons of flammable liquid fuels on tow trucks or similar roadside service or repair vehicles or otherwise transported in private (not for-hire) carriage. Containers used to transport flammable liquids under this subsection shall not exceed 5 gallons capac-

ity each, and shall be constructed and maintained in conformance with a nationally recognized fuel storage and dispensing standard for the fuel being transported (e.g., U.S. Department of Transportation (DOT), United Nations (UN), National Fire Protection Association (NFPA), American National Standards Institute (ANSI), American Society for Testing and Materials (ASTM), Underwriter Laboratories (UL), Factory Mutual (FM), or U.S. Department of Defense (military) specifications (U.S. Mil. Spec.).

(4) Highway fuses, and liquid-burning emergency flares and/or red electric lanterns that conform to 49 CFR 393.95(f)(1), being transported expressly for highway warning purposes or as authorized for use pursuant to Vehicle Code Section 25301, unless otherwise prohibited by this Division or the Vehicle Code. This exception does not apply to broken fuses or fuses with missing protective caps.

(5) Fire extinguishers being transported expressly for in-transit emergency fire suppression purposes.

(6) Flammable or combustible distillate fuels transported in a single compartmentalized or noncompartmentalized metal cargo tank of 450 liters (119 gallons) or less total volumetric capacity, or both flammable and combustible distillate fuels transported in a single compartmentalized metal cargo tank of 450 liters (119 gallons) or less total volumetric capacity, by a private carrier and used to service other vehicles or equipment. The tank shall be in compliance with 49 CFR 173.24(b), and the tank, its components, and attached equipment must be secured to the vehicle and protected from damage or leakage of the lading should the vehicle overturn.

(f) Consumer Commodity Exception. The outside packaging and marking exception contained in 49 CFR 173.156 for hazardous materials authorized to be renamed “Consumer commodity” and reclassified ORM-D is extended to transportation by a private carrier from either a distribution center or retail outlet, or subsequent transportation for incidental use.

(g) Shipping Paper Exception. Section 1161, pertaining to shipping papers, shall not apply to a private carrier transporting any one of the following:

(1) Not more than 227 kilograms (500 pounds) aggregate gross weight (including the packaging) of hazardous materials other than:

- (A) Any materials listed in 49 CFR 172.504(a), Table I, or
- (B) Any materials for which an INFECTIOUS SUBSTANCE, KEEP AWAY FROM FOOD, ORGANIC PEROXIDE, SPONTANEOUSLY COMBUSTIBLE, POISON or RADIOACTIVE label is required, or
- (C) Any materials which require a Uniform Hazardous Waste Manifest pursuant to Section 25160 of the Health and Safety Code.

(2) Anhydrous ammonia in a single cargo tank of not more than 4,524 liters (1,200 gallons) capacity transported not more than 30 miles from the filling point or in a trailer-mounted cargo tank in compliance with Section 1163(f)(1) of this article.

(3) Not more than 1 cylinder each of argon, oxygen, carbon dioxide, acetylene, helium, or nitrogen if the gross weight is less than 454 kilograms (1,001 pounds), provided containers and labeling comply with Sections 1161.2 and 1163 of this article.

(h) Storage Tanks. Storage tanks used only for off-highway storage and dispensing of flammable and/or combustible distillate fuels and which contain only residue are excepted from specified provisions of this article as indicated below, when transported in accordance with the following:

(1) Except for subsection (d), Section 1163 shall not apply to portable or stationary above ground storage tanks when in conformance with 49 CFR 173.24(b).

(2) Except for Section 1163(d), this article shall not apply to underground storage tanks when prepared for shipment in accordance with American Petroleum Institute Recommended Practice 1604, Second Edition, December 1987. (This publication may be obtained from the American Petroleum Institute, 1220 L Street, Northwest, Washington D.C. 20005.)

[The next page is 129.]

(3) For purposes of this subsection, "residue" means the material remaining after the tank has been unloaded to the maximum extent practicable via the normal discharge opening. In no event shall the tank contain more than 454 liters (120 gallons) of any liquid.

(4) Storage tanks shall not be transported on the same vehicle with any other hazardous materials.

(i) Traffic Paint Applicator. Traffic paint applicator systems containing flammable paint are excepted from the provisions of Section 1163, except subsection (d), when in conformance with 49 CFR 173.24(b).

(j) Mobile Meter Calibration Units. Mobile meter calibration units containing flammable distillate fuel residue or liquefied petroleum gas residue are excepted from the provisions of Section 1163, except subsection (d), when in conformance with 49 CFR 173.24(b) and emptied to the maximum extent practicable via the normal discharge opening.

(k) Self Contained Breathing Apparatus. Compressed air breathing apparatus transported solely for in-transit emergencies or for the safety of persons conducting loading or unloading operations are not subject to this article, except Sections 1161.2, 1161.3 and 1163, when the compressed gas cylinders are mounted or otherwise secured to the vehicle during transit to prevent sliding, falling, tipping, rolling, or damage to the valving should the vehicle overturn.

(l) Breathing Air Recharge Units. Air cylinders or tanks operating under a Division of Occupational Safety and Health, Department of Industrial Relations operating permit and used to fill/recharge breathing air cylinders are not subject to Section 1163, except subsection (d), when in conformance with 49 CFR 173.24(b).

(m) Emergency Response Information. Section 1161.6 shall only apply to hazardous materials shipments for which the display of placards is required and/or for which an INFECTIOUS SUBSTANCE, KEEP AWAY FROM FOOD, ORGANIC PEROXIDE, SPONTANEOUSLY COMBUSTIBLE, POISON or RADIOACTIVE label is required pursuant to this article; and to shipments that would have otherwise been required to be placarded and/or labeled, notwithstanding compliance with an applicable U.S. Department of Transportation placarding and/or labeling exemption issued pursuant to 49 CFR Part 107, Subpart B.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
2. New subsections (h) and (i) filed 1-20-78 as an emergency; effective upon filing (Register 78, No. 3).
3. Certificate of Compliance filed 3-21-78 (Register 78, No. 12).
4. Amendment of subsections (b), (c) and (d) filed 11-27-79; designated effective 1-1-80 (Register 79, No. 48).
5. Amendment filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
6. Amendment of subsection (e) filed 11-5-81; effective thirtieth day thereafter (Register 81, No. 45).
7. Amendment of subsections (b), (d)(2) and (3) and (f)(1) filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
8. Amendment of subsections (a)-(c) filed 7-27-82; effective thirtieth day thereafter (Register 82, No. 31).
9. Amendment filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
10. Amendment filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
11. Editorial correction of subsection (d) (Register 84, No. 46).
12. Amendment filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
13. Amendment of subsection (c)(2) and new subsections (g)-(i) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
14. New subsection (j) filed 9-27-90; operative 10-27-90 (Register 90, No. 45).
15. Editorial correction of printing errors in subsections (e)(3) and (i) (Register 92, No. 12).
16. Amendment filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
17. New subsection (k) filed 7-31-95; operative 8-30-95 (Register 95, No. 31).
18. Amendment of subsections (b) and (c)(3), repealer of subsection (e)(1)(C) and subsection relettering filed 8-14-96; operative 9-13-96 (Register 96, No. 33).
19. New subsections (b) and (c), subsection relettering, amendment of newly designated subsections (d)(3), and (i)-(m) and repealer of newly designated sub-

section (l) filed 10-26-98 as an emergency; operative 11-25-98 (Register 98, No. 44).

20. Amendment of subsections (b), (e)(4)-(5), (f), (g)(1) and (m) filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1160.2. U.S. Department of Transportation Regulations.

(a) Incorporation by Reference. This article incorporates by reference portions of 49 CFR Part 107, Parts 171 through 180, and Part 393 to the extent specified in this article. Unless otherwise specified, all references to 49 CFR in this article are those regulations published on October 1, 1999.

(b) Federal Preeminence. Provisions of the Hazardous Materials Transportation Act recodified into Title 49 U.S. Code (49 U.S.C.) Section 5125, preempt any requirements of any state or political subdivision thereof inconsistent with the act or federal Hazardous Material Regulations relating to hazardous materials transported in commerce. The U.S. Department of Transportation (DOT), Research and Special Programs Administration (RSPA) may except any material from being classed as hazardous, or change any classification or transportation requirement in accordance with authority granted that agency, and such action shall govern the application of this article. In lieu of compliance with the provisions of this article, hazardous materials shipment preparation and transportation in compliance with a later promulgated RSPA requirement, exemption or exception than that adopted by reference in this article is permitted. This includes compliance with a later promulgated requirement prior to its effective date during any period of time where earlier compliance is authorized in the applicable final rulemaking.

(c) Limited Applications. 49 CFR Parts 174 and 179 shall apply only as referenced in 49 CFR Parts 173, 177, and 178.

(d) Motor Carrier Safety Requirements. Provisions of 49 CFR Part 393 applies as incorporated in cargo tank specifications referenced in 49 CFR Part 178, but 49 CFR Parts 390 through 397 shall not otherwise apply to transportation subject to this article.

(e) Referenced Regulations. Copies of 49 CFR, can be obtained from:

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
PO BOX 371954
PITTSBURG, PA 15250-7954
(202) 512-1800

Internet purchases: http://www.access.gpo.gov/su_docs/sale.html

Copies of 49 CFR Part 107 and Parts 171 through 180 may also be obtained from:

BUREAU OF EXPLOSIVES PUBLICATIONS
PO BOX 866
ANNAPOLIS, MD 21404-0688
(412) 741-1096

Copies of 49 CFR Part 107, Parts 171 through 180, and Parts 390 through 397 may also be obtained from:

AMERICAN TRUCKING ASSOCIATIONS, INC.
SAFETY DEPARTMENT
2200 MILL ROAD
ALEXANDRIA, VA 22314-4677
(800) 282-5463 OR (703) 838-1847

Internet Access. Title 49 CFR may also be accessed through the internet at the National Archives and Records Administration's web site at "<http://www.access.gpo.gov/nara/cfr/>" or through the U.S. Department of Transportation, Office of Hazardous Materials Safety's web site at "<http://hazmat.dot.gov/>".

NOTE: Authority cited: Sections 2402.7 and 34501, Vehicle Code. Reference: Sections 2402.7 and 34501, Vehicle Code.

HISTORY

1. Amendment filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
2. Amendment filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
3. Amendment filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
4. Amendment filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
5. Amendment of subsection (a) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
6. Amendment of subsection (a) filed 9-27-90; operative 10-27-90 (Register 90, No. 45).

7. Amendment of subsections (a)–(b) and (d)–(e) filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
8. Amendment of subsections (a) and (b) filed 8–14–96; operative 9–13–96 (Register 96, No. 33).
9. Amendment of subsection (a) filed 8–20–97; operative 9–19–97 (Register 97, No. 34).
10. Amendment of subsections (a), (b) and (e) filed 10–26–98 as an emergency; operative 11–25–98 (Register 98, No. 44).
11. Editorial correction of last paragraph (Register 98, No. 49).
12. Amendment filed 10–5–99; operative 11–4–99 (Register 99, No. 41).
13. Amendment of subsection (a) 11–8–2000; operative 12–8–2000 (Register 2000, No. 45).

§ 1160.3. Definitions.

(a) The meanings of terms contained in this article and not defined in this article are the same as those contained in 49 CFR 171.8.

(b) “Carrier” means any person who transports hazardous materials subject to this article.

(c) “Department” means Department of the California Highway Patrol.

(d) “Hazardous material” means a substance or material, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials as defined in 49 CFR 171.8, materials designated as hazardous under the provisions of 49 CFR Sections 172.101 and 172.102, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR Part 173.

(e) “Private carrier” means any carrier who transports cargo for use in his/her occupation or for other purpose without reward or compensation.

(f) “Shipper” means any person who prepares or offers hazardous materials for transportation. A shipper who also transports its own material is both a shipper and a carrier.

NOTE: Authority cited: Sections 2402.7 and 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 12–21–77 as an emergency; designated effective 1–1–78. Certificate of Compliance included (Register 77, No. 52).
2. Amendment of subsection (j) filed 7–8–81; effective thirtieth day thereafter (Register 81, No. 28).
3. Amendment filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
4. Amendment of subsections (f) and (k) filed 7–20–87; operative 8–19–87 (Register 87, No. 30).
5. Amendment filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
6. Amendment of subsection (e) and NOTE filed 10–5–99; operative 11–4–99 (Register 99, No. 41).
7. Repealer of subsection (d), subsection relettering and new subsection (e) filed 11–8–2000; operative 12–8–2000 (Register 2000, No. 45).

§ 1160.4. General Provisions.

(a) Applicability. Shippers shall not offer and carriers shall not transport any shipment of a hazardous material not prepared for transportation in accordance with this Article.

(b) References to Statutes and Regulations. Any reference to provisions of these regulations or to statutes shall apply to all amendments and additions made to such regulatory or statutory provisions.

(c) Alternate Method of Compliance. Upon a finding that an alternate method of compliance provides protection to the public equal to or exceeding that afforded by compliance with provisions of this article, the department may authorize use of such alternate method subject to the following:

(1) Any alternate method of compliance shall be permitted only after application has been made to and written authorization obtained from the department.

(2) Written authorization shall be carried in each transporting vehicle or combination.

(3) No authorization for an alternate method of compliance shall be accorded any highway carrier subject to federal jurisdiction, nor shall such

authorization apply to the preparation of hazardous materials for interstate transportation.

(4) No authorization for an alternate method of compliance shall be granted when a special permit or exemption has been issued by the U.S. Department of Transportation, Associate Administrator for Hazardous Materials Safety authorizing the requested alternate method.

(d) Special Permits and Exemptions. Compliance with requirements of special permits and exemptions issued by the U.S. Department of Transportation, Associate Administrator for Hazardous Materials Safety in accordance with 49 CFR Part 107, shall be deemed in compliance with equivalent provisions of this article.

(e) Inspection by Department. Carriers and shippers shall afford duly authorized employees of the department reasonable opportunity to enter terminals and other locations to determine compliance with the provisions of this article.

(f) Unsafe Transportation Prohibited. Authorized employees of the department shall declare and mark any vehicle out-of-service when the condition, securement, preparation of lading, filling, closures, or protective devices on cylinders and tanks would be hazardous to life and property during transportation.

(1) No carrier shall require or permit any person to operate nor shall any person operate any vehicle marked out-of-service until all necessary corrections have been completed.

(2) No person shall remove any out-of-service notice from any vehicle prior to the completion of all corrections required by the notice.

(g) Hazardous Materials Transportation License.

(1) Fees. The fee for a new license is one hundred dollars (\$100) and the fee for a renewal license is seventy-five dollars (\$75).

(2) Original License. The original valid license shall be kept at the licensee’s place of business as indicated on the license and presented to any duly authorized employee of the Department upon request.

(3) Copy in each vehicle. A legible copy shall be carried in any vehicle or combination of vehicles transporting hazardous materials and shall be presented to any traffic officer upon request.

(4) Temporary License. Carriers who have paid the license fee, may use either of the following as a temporary license for not more than 60 days when carried in the vehicle:

(A) A copy of the carrier’s completed application for license to transport hazardous materials and a copy of the check or money order indicating payment of fee.

(B) A telegraphic money order receipt, or copy thereof, made payable to the California Highway Patrol, indicating payment of fee for license to transport hazardous materials.

(5) Exceptions. Federal, State, county, city, and city and county agencies, and other political subdivisions of the State including, but not limited to, school, irrigation, and fire protection districts are exempt from the licensing requirements of Vehicle Code Section 32000.5.

Internet Access. The California Highway Patrol form CHP 361M (Rev. 01–00), Application for Hazardous Materials Transportation License, instructions for completing the application and related documents are available on the Internet at <http://www.chp.ca.gov/html/forms.html>.

NOTE: Authority cited: Sections 32002 and 34501, Vehicle Code. Reference: Sections 2502, 32000.5, 32001 and 34501, Vehicle Code.

HISTORY

1. Amendment of subsection (e) filed 12–21–77 as an emergency; designated effective 1–1–78. Certificate of Compliance included (Register 77, No. 52).
2. Amendment of subsection (e) filed 1–20–78 as an emergency; effective upon filing (Register 78, No. 3).
3. Editorial correction to previous history note and designation of subsections (Register 78, No. 12).
4. Certificate of Compliance filed 3–21–78 (Register 78, No. 12).
5. New subsection (g) filed 2–22–82; effective thirtieth day thereafter (Register 82, No. 9).
6. Amendment filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
7. Repealer of subsection (g)(5) filed 9–7–84; effective thirtieth day thereafter (Register 84, No. 36).
8. Amendment of subsections (g)(3) and (g)(4) filed 7–20–87; operative 8–19–87 (Register 87, No. 30).

9. Amendment of subsection (a) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
10. Amendment of subsection (g)(3) filed 3-10-92; operative 4-9-92 (Register 92, No. 12).
11. Amendment of subsections (c)(4), (d)(1) and (f), and repealer of subsections (d)(2)-(3) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
12. Amendment of subsections (a) and (d) filed 10-5-99; operative 11-4-99 (Register 99, No. 41).
13. Amendment of subsections (g)(1)-(g)(4), new subsection (g)(5) and new last paragraph filed 11-8-2000; operative 12-8-2000 (Register 2000, No. 45).

§ 1160.5. Hazard Classification and Shipping Names.

Hazardous materials shall be classified and described (proper shipping name) in accordance with 49 CFR Parts 172 and 173.

NOTE: Authority and reference cited: Sections 2402.7 and 34501, Vehicle Code.

HISTORY

1. New section filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
2. Amendment filed 7-20-87; operative 8-19-87 (Register 87, No. 30).

§ 1161. Shipping Papers.

(a) Applicability. Shippers and carriers shall comply with the shipping paper requirements contained in 49 CFR Part 172, Subpart C and 49 CFR 177.817.

(b) Retention – Shippers and carriers subject to federal jurisdiction. Shippers and carriers of hazardous materials transported in commerce shall comply with the one year shipping paper retention requirements contained in 49 U.S.C. Section 5110 and shall make them available for inspection by any duly authorized employee of the department.

(c) Retention – Shippers and carriers not subject to federal jurisdiction. Shippers and carriers not subject to federal jurisdiction shall retain copies of shipping papers for at least six months and shall make them available for inspection by any duly authorized employee of the department.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
2. Amendment of subsection (e) filed 1-20-78 as an emergency; effective upon filing (Register 78, No. 3).
3. Certificate of Compliance filed 3-21-78 (Register 78, No. 12).
4. Amendment of subsections (a), (d)(1) and (d)(3) filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
5. Amendment filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
6. Amendment of subsection (a) filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
7. Amendment of subsection (b) filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
8. Repealer of subsections (a)-(e), new subsection (a) and relettering of subsection (f) to subsection (b) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
9. Amendment of section and NOTE filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1161.1. Shipping Certification.

(a) Shipper Certificate Required. Shippers shall not offer and initial carriers (other than private carriers) shall not accept for transportation hazardous materials in any form other than bulk shipments in cargo tanks furnished by the carrier, unless the shipper provides a signed certificate prepared in conformance with 49 CFR 172.204.

(b) Retention. Certificates need not be carried with the material en-route, however, copies of shipper certificates shall be retained for at least six months and shall be subject to inspection by any authorized employee of the department.

NOTE: Authority and reference cited: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
2. Amendment filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
3. Amendment filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).

4. Amendment of subsections (a) and (b) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
5. Repealer of subsections (b) and (d) and subsection relettering filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§ 1161.2. Hazard Labels.

(a) Applicability. Shippers and carriers shall comply with the labeling requirements contained in 49 CFR Part 172, Subpart E (commencing with Section 172.400).

(b) As specified in 49 CFR 172.401(b), no labels shall be used when they may be confused by reason of shape, size, or color with the hazard labels prescribed by this section unless authorized by 49 CFR 172.401(c).

(c) As specified in 49 CFR 172.401(a), hazard labels prescribed by this section shall not be affixed to packagings which do not contain hazardous materials or when the label does not represent the hazard of the hazardous material in the package, unless authorized by 49 CFR 172.401(c).

(d) All labels and decals on packages shall be replaced before they become illegible.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
2. Repealer of subsections (a)-(c), new subsection (a), relettering and amendment of subsection (d) to subsection (b) and relettering of subsections (e) and (f) to subsections (c) and (d) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
3. Amendment of subsections (a)-(d) and new subsection (e) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
4. Amendment of subsection (d) and repealer of subsection (e) filed 8-20-97; operative 9-19-97 (Register 97, No. 34).
5. Amendment of subsection (a) and NOTE filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1161.3. Marking.

(a) Applicability. Shippers and carriers shall comply with the marking requirements contained in 49 CFR Part 172, Subpart D (commencing with Section 172.300), and 49 CFR 177.823.

(b) Hazardous materials proper shipping names and identification numbers shall not be marked on packagings when prohibited by 49 CFR 172.303.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Designation and amendment of subsection (a) and new subsection (b) and NOTE filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
2. Amendment of subsection (a) filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1161.6. Emergency Response Information.

Shippers and carriers shall comply with the applicable emergency response information requirements contained in 49 CFR Part 172, Subpart G (commencing with Section 172.600).

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 7-31-95; operative 8-30-95 (Register 95, No. 31).
2. Amendment of section filed 8-14-96; operative 9-13-96 (Register 96, No. 33).
3. Amendment filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1161.7. Hazardous Materials Training.

(a) Applicability. Carriers and shippers who are directly subject to federal jurisdiction pursuant to 49 CFR 171.1 are subject to the following:

(1) Shippers and carriers shall comply with the hazmat employee training requirements contained in 49 CFR Part 172, Subpart H (commencing with Section 172.700).

(2) Shippers shall also comply with the training provisions contained in 49 CFR 173.1.

(3) Carriers shall also comply with the training provisions contained in 49 CFR Sections 177.800 and 177.816.

(b) Shippers and carriers not directly subject to federal jurisdiction shall thoroughly instruct each of their officers, agents, and employees

having any responsibility for preparing hazardous materials for transportation, or for transporting hazardous materials as to applicable requirements of Article 3 governing the performance of those individuals' responsibilities.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 11-30-88; operative 12-30-88 (Register 88, No. 51). Text was modified and moved to Section 1161.7. Repealer filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
2. Amendment of subsection (a) filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1162. Placards.

(a) Applicability. Shippers and carriers shall comply with the placarding requirements contained in 49 CFR Part 172, Subpart F (commencing with Section 172.500) and 49 CFR 177.823.

(b) Exclusions. This section does not apply to the transportation of small quantities of explosives as provided by Vehicle Code Section 27903.

(c) Placards shall not be affixed to a packaging, freight container, motor vehicle, etc. when prohibited by 49 CFR 172.502(a).

(d) Placards may be affixed even when not required by this section when displayed in accordance with 49 CFR 172.502(c).

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment of subsection (g) filed 8-5-77 as an emergency; effective upon filing (Register 77, No. 32).
2. Certificate of Compliance filed 10-21-77 (Register 77, No. 43).
3. Amendment of subsection (g) filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
4. New subsection (h) filed 1-20-78 as an emergency; effective upon filing (Register 78, No. 3).
5. Certificate of Compliance filed 3-21-78 (Register 78, No. 12).
6. Repealer of subsection (h) filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
7. Amendment filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
8. Amendment of subsections (a)-(c) and new subsection (d) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
9. Amendment of subsection (a) and NOTE filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1162.1. Vehicle Safety Equipment.

(a) Fire Extinguishers.

(1) Every three-axle motor truck or combination of vehicles shall be equipped with one fire extinguisher with at least a 4B:C rating, except as provided in (2) or (3).

(2) Every motor vehicle shall be equipped with one fire extinguisher rated at least 10B:C if the motor vehicle, or any vehicle in a combination of which it is a part, transports cargo requiring placards (Section 1162). Two fire extinguishers with a combined rating of 10B:C may be used, provided the rating of neither unit is less than 4B:C.

(3) Every tank vehicle or combination of tank vehicles used to transport flammable or combustible liquids shall be equipped with at least one fire extinguisher having a rating of not less than 20B:C. A fire extinguisher rated 12B:C and in service prior to July 1, 1970, may continue in use if it is in good working order. Fire extinguishers required by this subsection shall be serviced annually in accordance with Title 19, California Code of Regulations Chapter 1, Subchapter 3, commencing with Section 550.

(4) Each fire extinguisher shall have been rated and labeled by one of the following test labs approved by the State Fire Marshal to test and label portable fire extinguishers for sale in California.

(A) Underwriter's Laboratories, Northbrook, Illinois. All sizes and classifications.

(B) Factory Mutual Research Corporation, Norwood, Massachusetts. Sizes 10B:C, 1A 10B:C, 2A 40B:C, 3A 40B:C, and 4A 80B:C fire extinguishers filled with Halon 1211 or Halon 1301.

(5) Fire extinguishers using any carbon tetrachloride, chlorobromomethane, or methyl bromide as extinguishing agents shall not be carried for use in or about any vehicle.

(6) Each fire extinguisher shall be securely mounted on a motor vehicle or trailer in a conspicuous place or in a clearly marked compartment and readily accessible.

(7) Fire extinguishers shall be maintained in efficient operating condition and shall be equipped with means for determining if they are fully charged.

(b) Emergency Warning Devices.

(1) Every vehicle or combination of vehicles transporting Division 1.1, 1.2 or 1.3 explosives shall carry 3 red emergency reflectors.

(2) Liquid burning flares, fusees, oil lanterns, or any signal produced by a flame shall not be carried on any vehicle or vehicle combination transporting Division 1.1, 1.2 or 1.3 (explosives) hazardous materials; or any cargo tank vehicle or in any other vehicle operated in combination with a cargo tank vehicle and used for the transportation of Division 2.1 (flammable gas), Class 3 (flammable liquid) or combustible liquid materials whether loaded or empty.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment of subsection (a)(3) filed 11-5-81; effective thirtieth day thereafter (Register 81, No. 45).
2. Amendment filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
3. Amendment of subsection (a)(3) filed 5-4-84; effective thirtieth day thereafter (Register 84, No. 18).
4. Amendment of subsection (a) filed 10-28-86; effective thirtieth day thereafter (Register 86, No. 44).
5. Change without regulatory effect of subsection (a) (3) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
6. Editorial correction of subsection (a)(4) (Register 95, No. 28).
7. Repealer and new subsection (b)(2) and amendment of NOTE filed 6-17-96; operative 7-17-96 (Register 96, No. 25).
8. Amendment filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1163. Shipment Preparation.

Shipment preparation of hazardous materials shall be governed by the following:

(a) Shipment Preparation and Transportation. Shipments shall be prepared for transportation and transported in accordance with provisions of 49 CFR Part 173.

(b) Authorized Packages-General. Only packagings authorized for shipment of specific commodities by 49 CFR Parts 172 and 173, shall be used, except when otherwise authorized by Sections 1160.1, 1160.4(c) or (d), or 1163(c) or (f) of this article.

(c) Previously Authorized State Fire Marshal Cargo Tanks. Cargo tanks that were authorized by Title 19, California Code of Regulations, (19 CCR), Section 1609.1 on April 1, 1984, which were manufactured and placed into service prior to April 1, 1984, may continue to be used by intrastate carriers, who are not directly subject to federal jurisdiction prior to the October 1, 1998, effective date of RSPA Docket HM-200, to transport flammable liquids under the conditions listed below. Cargo tanks having a capacity of less than 13,250 liters (3,500 gallons) used for the transportation of flammable liquid petroleum products may continue to be used under the provisions of 49 CFR 173.8(b). Cargo tanks transporting flammable liquids other than petroleum products, or having a capacity of 13,250 liters or more, may continue to be used under the following requirements pursuant to 49 CFR 173.8(a) until July 1, 2000.

(1) The flammable liquid has no secondary hazard(s) for which transportation in a MC-306 cargo tank is not authorized.

(2) The cargo tanks are maintained, retested, inspected and marked in accordance with 49 CFR 173.24(b), (e), (f), (g) and (h); 173.24(a)(1) and (2), (c) and (d)(1); and 49 CFR Part 180 applicable to a MC-306 DOT specification cargo tank.

(d) Leaking packages. Package closures shall be adequate to prevent leakage of contents, and leaking packages shall not be transported.

(e) Qualification and Maintenance of Packagings. Except as provided in subsections (c) and (f), the maintenance, retesting, inspection and

qualification of packages shall be in accordance with 49 CFR Part 173, Subpart B and 49 CFR Part 180. Copies of certificates, reports, and records of retesting shall be subject to inspection by any authorized employee of the department.

(f) Anhydrous Ammonia—Additional Packagings. Truck-mounted cargo tanks manufactured before 1970, or manufactured before 1972 and

having a capacity of 7,571 liters (2,000 gallons) or less, may be continued in service by private carriers to transport anhydrous ammonia between a filling point and a ranch, or between two locations on one ranch, or between ranches, and need not meet specifications in 49 CFR Part 178, provided:

[The next page is 130.3.]

(1) The tank meets design, construction, repair and operational requirements for anhydrous ammonia transportation tanks in the Unfired Vessels Safety Orders, Chapter 4, Title 8, California Code of Regulations; and

(2) The tank is operated by a carrier not subject to federal jurisdiction.

NOTE: Authority and reference cited: Sections 34019 and 34501, Vehicle Code.

HISTORY

1. New subsection (g) filed 5-12-77 as an emergency; effective upon filing (Register 77, No. 20).
2. Certificate of Compliance filed 7-15-77 (Register 77, No. 29).
3. Amendment of subsection (a) filed 12-21-77 as an emergency; designated effective 1-1-78. Certificate of Compliance included (Register 77, No. 52).
4. Amendment filed 7-26-78; designated effective 9-1-78 (Register 78, No. 30).
5. Amendment of subsection (g) filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
6. Amendment of subsection (e) filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
7. Amendment of subsection (b) filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
8. Amendment of subsections (b) and (e) filed 5-4-84; effective thirtieth day thereafter (Register 84, No. 18).
9. Amendment filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
10. Change without regulatory effect of subsections (b), (e) and (f)(2)(A) filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
11. Amendment of subsection (f) and repealer of subsection (g) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
12. Amendment filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
13. Amendment of subsections (c)(2) and (e) filed 8-20-97; operative 9-19-97 (Register 97, No. 34).
14. Amendment of subsection (c) filed 10-26-98 as an emergency; operative 11-25-98 (Register 98, No. 44).

§ 1163.1. Prohibited Transportation.

Shippers shall not offer and carriers shall not transport any of the following:

(a) Materials designated as "Forbidden" by 49 CFR 172.101.

(b) Any package containing any materials or combinations of materials that is forbidden to be tendered for transportation by the provisions of 49 CFR 173.21.

(c) Hazardous materials prepared or offered for shipment in a manner specifically prohibited or restricted by 49 CFR Part 173 or 177.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Repealer and new section filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
2. Amendment of subsections (a) and (c) and amendment of NOTE filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1164. Vehicle Loading.

(a) Loading Requirements. Load securement, loading, unloading and vehicle utilization shall comply with 49 CFR Part 177, Subparts B and C.

(b) Packages. Packages shall be secured during transit by use of bracing, chocks, or tiedowns to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies, or racks on flatbed vehicles shall not be relied upon for the securement of portable tanks.

NOTE: Authority and reference cited: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
2. New subsection (a)(7) and amendment of subsection (d) filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
3. Amendment filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
4. Amendment filed 7-20-87; operative 8-19-87 (Register 87, No. 30).
5. Change without regulatory effect by moving text from Section 1165(d) to Section 1164(b) and from Section 1165(c) to Section 1164(c) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
6. Amendment of subsection (a) and repealer of subsections (c)-(f) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§ 1165. [Reserved].

NOTE: Authority cited: Section 32102, Vehicle Code. Reference: Section 32107, Vehicle Code.

HISTORY

1. New subsection (e) filed 5-12-77 as an emergency; effective upon filing (Register 77, No. 20).
2. Certificate of Compliance filed 7-15-77 (Register 77, No. 29).
3. Amendment of subsection (b) filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
4. New subsection (e) and relettering and amendment of former subsection (e) to subsection (f) filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
5. Amendment filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
6. Repealer of subsection (e) filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36).
7. Repealer filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
8. New section filed 11-25-91; operative 3-24-91 (Register 92, No. 8).
9. Change without regulatory effect repealing section filed 11-16-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
10. Repealer of section heading filed 8-20-97; operative 9-19-97 (Register 97, No. 34).

§ 1165.1. [Reserved].

NOTE: Authority and reference cited: Section 34501, Vehicle Code.

HISTORY

1. Repealer filed 2-22-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Repealer of section heading filed 8-20-97; operative 9-19-97 (Register 97, No. 34).

§ 1166. Reporting of Incidents Involving Hazardous Materials or Hazardous Wastes.

(a) Carriers directly subject to federal jurisdiction pursuant to 49 CFR Part 171 shall comply with the detailed written incident reporting requirements contained in 49 CFR 171.16.

(b) Carriers not directly subject to federal jurisdiction shall report incidents involving hazardous materials or hazardous wastes during transportation, loading or unloading, or temporary storage on carrier premises as follows:

(1) Reports Required. A written report is required of incidents that result in:

(A) Any spill or discharge of hazardous materials or hazardous wastes from any package container, or tanker

(B) Fatality, injury, or hospitalization of any person due to fire, explosion of, or exposure to any hazardous material or hazardous wastes.

(C) Continuing danger to life, health or natural resources at the scene of the incident.

(D) Estimated property damage exceeding \$50,000.

(2) Report Content and Routing. The written report shall, within 30 days of the date of incident discovery, be submitted to the Department of the California Highway Patrol, Commercial Vehicle Section, Post Office Box 942898, Sacramento, CA 94298-0001. The report shall include time and date of occurrence, injuries, property damage, continuing danger to life at the scene of the incident, identification of the commodity and its classification, and other pertinent details. The report may be prepared utilizing DOT Form F5800.1 (Rev. 6/89), Hazardous Materials Incident Report.

(3) Report Retention. A copy of each hazardous materials or hazardous waste spill report shall be retained by the carrier for at least six months, and shall be subject to inspection by duly authorized employees of the department.

(4) Exceptions. The requirements of subsection (b) do not apply to incidents involving the spill or discharge of materials:

(A) Transported under the following proper shipping names:

(i) Consumer commodity

(ii) Battery, *electric storage*, wet, filled with acid or alkali

(iii) Paint and paint related material when shipped in packagings of five gallons or less.

(B) Prepared and transported as a limited quantity shipment in accordance with this article.

(5) The exceptions to incident reporting provided in paragraph (4) of this subsection do not apply to:

(A) Materials in Packing Group I other than consumer commodities.
 (B) Incidents involving the transportation of hazardous waste, or:
 (C) Incidents where any of the following occur as a direct result of hazardous materials release or threatened release:

- (i) A person is killed; or
- (ii) A person receives injuries requiring his or her hospitalization; or
- (iii) Estimated carrier or other property damage exceeds \$50,000; or
- (iv) An evacuation of the general public occurs lasting one or more hours; or
- (v) One or more major transportation arteries or facilities are closed or shut down for one hour or more.

(c) The DOT Hazardous Materials Incident Report form F5800.1 (Rev. 6/89), a guide for completing the report and text of the reporting requirements are available at the following internet sites respectively: <http://hazmat.dot.gov/5800.pdf>, <http://hazmat.dot.gov/5800guid.pdf>, and <http://hazmat.dot.gov/spills.htm#171.16>. Alternatively, the form F5800.1 and the guide document for assisting in the completion of DOT Form F5800.1 may be obtained from the Office of Hazardous Materials Transportation, DHM-51, U.S. Department of Transportation, Washington, DC 20590-0001.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment filed 7-8-81; effective thirtieth day thereafter (Register 81, No. 28).
2. Change without regulatory effect of subsection (b) (Register 86, No. 48).
3. Amendment of subsections (b) and (d)(3) filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
4. Amendment of subsection (b) filed 9-27-90; operative 10-27-90 (Register 90, No. 45).
5. Editorial correction restoring subsections (c) and (d) (Register 92, No. 12).
6. Amendment of subsections (b) and (d) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
7. New subsection (a) and subsection relettering, and amendment of newly designated subsections (b), (b)(1), (b)(2), (b)(4) and (b)(4)(B) filed 8-14-96; operative 9-13-96 (Register 96, No. 33).
8. Amendment of section and NOTE filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1167. Delivery of Shipments; Action in Event of Accidents.

The delivery of hazardous materials shipments and required driver action in the event of accidents shall be governed by provisions of 49 CFR Part 177, Subpart D (commencing with Section 177.854). Notwithstanding the provisions of Section 1163(d), a leaking packaging which develops or is discovered subsequent to the commencement of transportation may be transported in accordance with 49 CFR Part 177, Subpart D.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment of section and new NOTE filed 3-6-95; operative 4-5-95 (Register 95, No. 10).
2. Amendment filed 8-20-97; operative 9-19-97 (Register 97, No. 34).
3. Amendment filed 10-5-99; operative 11-4-99 (Register 99, No. 41).

§ 1168. [Reserved].

NOTE: Authority and reference cited: Section 34501, Vehicle Code.

HISTORY

1. New section filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
2. Repealer of section heading and section filed 8-20-97; operative 9-19-97 (Register 97, No. 34).

Article 4. Inspection Fees

§ 1170. Scope.

NOTE: Authority and reference cited: Section 2560, Vehicle Code.

HISTORY

1. New Article 4 (Sections 1170-1173) filed 8-19-81; effective thirtieth day thereafter (Register 81, No. 34). For history of former Article 4, see Register 77, No. 34.

2. Change without regulatory effect filed 2-8-88; operative 3-9-88 (Register 88, No. 7).
3. Change without regulatory effect repealing section filed 1-29-90 pursuant to Section 100, Title 1, California Code of Regulations (Register 90, No. 5).

§ 1171. Definitions.

NOTE: Authority and reference cited: Section 2560, Vehicle Code.

HISTORY

1. Change without regulatory effect of subsection (b) (Register 86, No. 48).
2. Change without regulatory effect repealing section filed 1-29-90 pursuant to Section 100, Title 1, California Code of Regulations (Register 90, No. 5).

§ 1172. Fees.

NOTE: Authority and reference cited: Section 2560, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-29-90 pursuant to Section 100, Title 1, California Code of Regulations (Register 90, No. 5).

§ 1173. Reinspections.

NOTE: Authority and reference cited: Section 2560, Vehicle Code.

HISTORY

1. Change without regulatory effect repealing section filed 1-29-90 pursuant to Section 100, Title 1, California Code of Regulations (Register 90, No. 5).

Article 4.5. [Reserved]

§ 1176. Hazardous Waste Training.

NOTE: Authority and reference cited: Section 25168, Health and Safety Code.

HISTORY

1. New article 4.5 (section 1176) filed 6-15-87, operative 7-15-87 (Register 87, No. 25).
2. Repealer filed 3-4-93; operative 3-4-93 (Register 93, No. 10).
3. Repealer of Article 4.5 (sections 1176-1178) filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

§ 1178. Hazardous Materials Training.

NOTE: Authority and reference cited: Section 34501, Vehicle Code.

HISTORY

1. New section filed 11-30-88; operative 12-30-88 (Register 88, No. 51).
2. Repealer filed 3-6-95; operative 4-5-95 (Register 95, No. 10).

Article 5. Fleet Owner Inspection and Maintenance Stations

NOTE: Authority cited: Sections 2402 and 2525.2, Vehicle Code. Reference: Sections 2501, 2525, 2525.2, 2525.4, 2525.6, 2525.8, 2525.10 and 2525.12, Vehicle Code.

HISTORY

1. Repealer of Article 5 (Sections 1280-1286) and new Article 5 (Sections 1280-1286) filed 9-28-77; designated effective 11-1-77 (Register 77, No. 40). For prior history, see Registers 71, No. 4, 71, No. 13, 72, No. 46 and 74, No. 14.
2. Repealer of Article 5 (Sections 1280-1296) filed 8-14-78; designated effective 9-18-78 (Register 78, No. 33). For prior history, see Registers 71, No. 4; 71, No. 13; 72, No. 46; 74, No. 14; and 77, No. 40.

Article 6. Registration, Inspection, and Certification of Flammable and Combustible Liquid Cargo Tanks

§ 1190. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000, 34040-34045, 34048 and 34049, Vehicle Code.

HISTORY

1. Renumbering of former Section 1190 to Section 1190.1 and new Section 1190 filed 9-7-84; effective thirtieth day thereafter (Register 84, No. 36). For prior history, see Registers 84, No. 2; and 83, No. 26.
2. Change without regulatory effect repealing section heading and section filed 12-2-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1190.1. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000, 34040-34045, 34048 and 34049, Vehicle Code.

HISTORY

1. New article 6 (sections 1190–1194) filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
2. Relettering of subsection (b) to subsection (c) and new subsection (b) filed 1–9–84; effective thirtieth day thereafter (Register 84, No. 2).
3. Renumbering of former section 1190 to section 1190.1 and amendment of NOTE filed 9–7–84; effective thirtieth day thereafter (Register 84, No. 36).
4. Change without regulatory effect of subsection (c)(3) (Register 86, No. 48).
5. Editorial correction of subsection (c)(3) printing error (Register 87, No. 4).
6. Amendment filed 3–4–93; operative 3–4–93 (Register 93, No. 10).
7. Amendment of subsections (a) and (b) filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
8. Change without regulatory effect repealing section heading and section filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1191. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000, 34020, 34045 and 34048, Vehicle Code.

HISTORY

1. Amendment of subsections (c) and (d) filed 3–4–93; operative 3–4–93 (Register 93, No. 10).
2. Change without regulatory effect repealing section heading and section filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1192. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000, 34060 and 34060.5, Vehicle Code.

HISTORY

1. Amendment of subsections (a) and (c) filed 3–4–93; operative 3–4–93 (Register 93, No. 10).
2. Amendment filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
3. Change without regulatory effect repealing section heading and section filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1193. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000, 34043, 34044, 34060 and 34060.5, Vehicle Code.

HISTORY

1. Amendment of subsections (a)(5) and (b) filed 5–4–84; effective thirtieth day thereafter (Register 84, No. 18).
2. Amendment of subsection (a) filed 3–6–86; effective thirtieth day thereafter (Register 86, No. 10).
3. Change without regulatory effect of subsection (a)(1) (Register 87, No. 25).
4. Amendment of section and Figure 1 filed 3–4–93; operative 3–4–93 (Register 93, No. 10).
5. Amendment of subsections (a), (a)(4), and (b) and new subsection (c) filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
6. Change without regulatory effect repealing section heading and section filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1194. [Reserved].

NOTE: Authority cited: Section 34020, Vehicle Code. Reference: Sections 34000 and 34044, Vehicle Code.

HISTORY

1. New subsection (c) filed 5–4–84; effective thirtieth day thereafter (Register 84, No. 18).
2. Amendment of section heading, repealer of subsections (a)–(c) and new subsections (a)–(b) filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
3. Change without regulatory effect repealing section heading and section filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1195. [Reserved].

NOTE: Authority and reference cited: Section 34019, Vehicle Code.

HISTORY

1. New section filed 5–4–84; effective thirtieth day thereafter (Register 84, No. 18).
2. Change without regulatory effect of subsection (a) filed 2–8–88; operative 3–9–88 (Register 88, No. 7).
3. Repealer filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
4. Change without regulatory effect repealing section heading filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1196. [Reserved].

NOTE: Authority and reference cited: Section 34019, Vehicle Code.

HISTORY

1. New section filed 5–4–84; effective thirtieth day thereafter (Register 84, No. 18).
2. Repealer filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
3. Change without regulatory effect repealing section heading filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

§ 1197. [Reserved].

NOTE: Authority and reference cited: Section 34019, Vehicle Code.

HISTORY

1. New section filed 5–4–84; effective thirtieth day thereafter (Register 84, No. 18).
2. Repealer filed 3–6–95; operative 4–5–95 (Register 95, No. 10).
3. Change without regulatory effect repealing section heading filed 12–2–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 49).

Chapter 6.5. Motor Carrier Safety *

* Formerly Subchapter 6, Article 2 (Sections 1210–1230, not consecutive).

Article 1. Definitions and General Provisions**§ 1200. Scope.**

(a) Applicability. Unless otherwise indicated within a specific section, the provisions of this chapter shall apply to farm labor vehicles and the vehicles listed in Vehicle Code Sections 34500 and 34500.1 and their operation.

(b) Limited Application.

(1) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are required pursuant to Vehicle Code Section 27903 shall be subject to the following Sections of this chapter: 1212, 1212.5, 1213, 1213.1, 1214, 1215, 1229, 1230, 1232, 1234, and 1256.

(2) Two-axle motor trucks with a gross vehicle weight rating of 26,000 pounds or less transporting hazardous materials in quantities for which placards are not required shall be subject to the following Sections of this chapter: 1212, 1212.5, 1214, 1215 (except 1215(b)), 1229, 1230, and 1232. Two-axle motortrucks transporting hazardous materials for which a license is required by Vehicle Code Section 32000.5 shall also be subject to Section 1256.

(3) Section 1213.1 Subsections (c) through (f), shall apply to drivers of commercial motor vehicles as defined in Vehicle Code Section 15210.

(4) Two-axle motor trucks described in subdivision (j) of Vehicle Code Section 34500 shall be subject only to Sections 1212, 1212.5 and 1213 of this chapter.

(5) Persons operating vehicles which cause those persons to be subject to the Motor Carriers of Property Act as described in Division 14.85 of the Vehicle Code, but which vehicles are not included in Vehicle Code Section 34500, shall be subject to Article 6.5 of this chapter.

(c) Exceptions.

This chapter shall not apply to vehicles used primarily off the highway and not required to be registered pursuant to Vehicle Code Section 4000(a).

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5, 34508 and 34513, Vehicle Code; and Section 39831, Education Code. Reference: Sections 31401, 34500, 34500.1, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. New subchapter 6.5 (articles 1–9, consecutive; sections 1200–1293, consecutive) filed 8–14–78; designated effective 9–18–78 (Register 78, No. 33). For prior history, see Register 78, No. 33 (subchapter 6, article 2, sections 1210–1230, not consecutive).
2. Amendment of section title filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
3. Amendment of subsection (a) filed 6–9–82; effective thirtieth day thereafter (Register 82, No. 24).
4. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

6. Amendment of subsection (c) filed 6–22–83; effective thirtieth day thereafter (Register 83, No. 26).
7. Amendment filed 10–30–86; effective thirtieth day thereafter (Register 86, No. 44).
8. Amendment of subsection (a) filed 8–4–87; operative 9–3–87 (Register 87, No. 32).
9. Change without regulatory effect adding new subsection (b)(3) filed 8–13–91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
10. New subsection (b)(4) filed 4–28–92; operative 5–28–92 (Register 92, No. 18).
11. Amendment of subsections (a), (b)(1), (b)(2), (c) and NOTE filed 7–22–93; operative 8–21–93 (Register 93, No. 30).
12. Amendment of subsection (b)(4) and NOTE filed 9–6–95; operative 10–6–95 (Register 95, No. 36).
13. Amendment of subsection (a) filed 3–31–99; operative 4–30–99 (Register 99, No. 14).
14. Amendment of subsection (b)(3) filed 10–24–2001; operative 11–23–2001 (Register 2001, No. 43).
15. New subsection (b)(5) filed 3–20–2002; operative 4–19–2002 (Register 2002, No. 12).

§ 1201. Definitions.

The following terms are defined for purposes of this chapter:

- (a) Adverse driving conditions. Snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.
- (b) Bus. Every motor vehicle defined in Vehicle Code Section 233 and every school bus, school pupil activity bus, youth bus, and farm labor bus. Bus “type” is determined as follows:
 - (1) Type 1. Designed for carrying more than 16 passengers and the driver.
 - (2) Type 2. Designed for carrying not more than 16 passengers and the driver; or manufactured on or after April 1, 1977, having a manufacturer’s gross vehicle weight rating of 10,000 lb or less, and designed for carrying not more than 20 passengers and the driver.
- (c) Co-driver. A driver teamed with another driver for the purpose of alternating driving duties during a trip. While one drives, the other ordinarily rests in a sleeper berth. Both driver and co-driver maintain separate driver’s records of duty status pursuant to Section 1213 of this title.
- (d) Commercial Motor Vehicle. Any vehicle or combination of vehicles as defined in Vehicle Code Section 15210(b)(1).
- (e) Commissioner. Commissioner of the Department of the California Highway Patrol.
- (f) Department. Department of the California Highway Patrol.
- (g) Drive or Operate. These terms include all time spent at the driving controls of a motor vehicle in operation.
- (h) Driver. Any person, including the owner–driver, who drives any motor vehicle subject to this chapter, and any person, whether driving for compensation or not, who is under the direct control of and drives for a motor carrier.
- (i) Driver–salesperson. Any employee who is employed solely as such by a private carrier of property by motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by commercial motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which the driver reports for duty, who devotes not more than 50 percent of his/her hours on duty to driving time. The term “selling goods” for purposes of this section shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.
- (j) Driving Time. Means all time spent at the driving controls of a commercial motor vehicle in operation.
- (k) Eight Consecutive Days. The period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.
- (l) FMVSS. Federal Motor Vehicle Safety Standard(s) in effect at the

time the vehicle or component is manufactured.

- (m) GPPV—General Public Paratransit Vehicle. Any motor vehicle specified in Vehicle Code Section 336.
- (n) Interstate Driver. Interstate driver means the driver of a vehicle engaged in interstate commerce as defined in 49 CFR, Section 390.5, as those regulations now exist or are hereafter amended.
- (o) Intrastate Driver. Intrastate driver means a driver engaged in trade, traffic, or transportation not described in the term “interstate driver.”
- (p) Manufacturer of the Chassis. The original manufacturer of the chassis or the manufacturer of any integral type of school bus.
- (q) Motor Carrier or Carrier. The registered owner, lessee, licensee, school district superintendent, or bailee of any vehicle who operates or directs the operations of any such vehicle on either a for–hire or not–for–hire basis. The terms “motor carrier” and “carrier” may be used interchangeably in this chapter.
- (r) Multiple Stops. All stops made in any one village, town, or city may be computed as one.
- (s) On–duty Time. All time from the time a driver begins to work, or is required to be in readiness to work, until the time the driver is relieved from work and all responsibility for performing work. On–duty time shall include:
 - (1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
 - (2) All time inspecting, servicing, or conditioning any vehicle;
 - (3) All “driving time” as defined in this section;
 - (4) All time, other than driving time, in or upon any motor vehicle, except time spent resting in a sleeper berth as defined by the term “sleeper berth” in this section;
 - (5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
 - (6) All time spent complying with driver requirements relating to accidents;
 - (7) All time repairing, obtaining assistance, or remaining in attendance in or about a disabled vehicle;
 - (8) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post accident, or follow–up testing required by 49 CFR Part 382, when directed by a motor carrier;
 - (9) Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier; and
 - (10) Performing any compensated work for any nonmotor carrier entity.
- (t) Pupil Transportation. The transportation of any pupil enrolled in a public or private school at or below the twelfth–grade level to or from school in a school bus, to or from a school activity in a school bus or SPAB, from a school to a nonschool–related activity within 25 miles of the school in a youth bus, or the transportation of any student enrolled in a community college to or from the community college or a college activity, in a vehicle designated as a school bus by resolution of the governing board pursuant to Vehicle Code Section 545(g), and certified by the department.
- (u) SPAB—School Pupil Activity Bus. Any motor vehicle specified in Vehicle Code Section 546.
- (v) School District Superintendent. This term or a similar phrase includes county superintendent of schools and the equivalent official of a private or public school that does not have a school district superintendent.
- (w) Seven Consecutive Days. The period of 7 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.
- (x) Sleeper Berth. A berth conforming to the requirements of Section 1265.

[The next page is 131.]

(y) Supporting Documents. Supporting documents are the records of a motor carrier which are maintained in the ordinary course of business which may be used to verify the information recorded on drivers' records of duty status. Examples are: bills of lading, carrier pros, freight bills, dispatch records, driver call-in records, gate record receipts, weight/scale tickets, fuel receipts, fuel billing statements, toll receipts, international registration plan receipts, international fuel tax agreement receipts, trip permits, port of entry receipts, cash advance receipts, delivery receipts, lumber receipts, interchange and inspection reports, lessor settlement sheets, over/short and damage reports, agricultural inspection reports, Commercial Vehicle Safety Alliance reports, accident reports, telephone billing statements, credit card receipts, driver fax reports, on-board computer reports, border crossing reports, custom declarations, traffic citations, overweight/oversize reports and citations, and/or other documents directly related to the motor carrier's operation, which are retained by the motor carrier in connection with the operation of its transportation business. Supporting documents may include other documents which the motor carrier maintains and which can be used to verify information on drivers' records of duty status.

(z) Trailer—bus. A trailer or semi-trailer designed or used for the transportation of more than 10 persons.

(aa) Truck. All motortrucks and truck tractors specified in Vehicle Code Section 34500.

(bb) Twenty-four Hour Period. Any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(cc) Wheelchair. A specially constructed device on wheels used exclusively to transport a physically handicapped person except infant seat devices, strollers, and gurneys.

(dd) Wheelchair School Bus. Any school bus that has been designed or modified in accordance with Section 1293 of this title to transport pupils confined to wheelchairs.

(ee) Work Period. The duration between the time a driver first reports for duty and the time a driver is completely relieved of all duties and is permitted to go off duty for eight consecutive hours. The terms "work period" and "tour of duty" have the same meaning.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, 34508 and 34520, Vehicle Code; and Section 39831, Education Code. Reference: Sections 336, 546, 31401, 34501, 34501.2, 34501.5, 34508 and 34520, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 5-14-79; effective July 1, 1979 (Register 79, No. 19).
2. Amendment of subsection (k) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
3. Amendment of subsection (j) filed 12-28-81; effective thirtieth day thereafter (Register 82, No. 1).
4. Amendment of subsections (p), (r) and (w) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
5. Amendment of subsections (a), (p) and (s), and new subsection (z) filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
6. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
7. Amendment filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).
8. Amendment filed 8-16-88; operative 9-15-88 (Register 88, No. 34).
9. Amendment of subsection (l) filed 12-5-88; operative 1-4-89 (Register 88, No. 51).
10. Amendment of subsection (k)(4) filed 7-17-89; operative 8-16-89 (Register 89, No. 29).
11. Change without regulatory effect adding new subsections (a), (h), (i), (j), (m), (p), (q)(9), (v), (w), and (z), subsection relettering, and amendment of newly designated subsections (q)-(q)(8) filed 2-4-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 6).
12. Editorial correction of printing error (Register 93, No. 12).
13. Change without regulatory effect amending subsection (g) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
14. Change without regulatory effect repealing subsection (t) and subsection relettering filed 4-1-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 14).
15. New subsection (w), subsection relettering and amendment of NOTE filed 1-8-98; operative 2-7-98 (Register 98, No. 19).
16. Amendment of section and NOTE filed 10-24-2001; operative 11-23-2001 (Register 2001, No. 43).
17. Amendment of subsections (i), (n)-(o), (s) and (bb) filed 10-12-2007; operative 11-11-2007 (Register 2007, No. 41).

§ 1202. General Provisions.

The general provisions of this chapter are as follows:

(a) Inspections by Department. Motor carriers shall afford authorized representatives of the department a reasonable opportunity to enter terminals, maintenance facilities, farm labor camps, or other private property to inspect vehicles and records to determine compliance with this chapter. Every driver shall permit the inspection of any vehicle or pertinent records for which the driver is responsible or has under his or her control.

(b) Authority of District Boards. The governing board of any school district, county superintendent of schools, or equivalent private school entity or official, may adopt and enforce additional requirements governing the transportation of pupils. Such requirements shall not conflict with any law or state administrative regulation.

(c) Application to Private School Buses. The provisions of this chapter shall apply equally to private school buses and to private school officials and agencies unless the context clearly indicates that no such application may reasonably be made.

(d) Special Application. Regulations in this title relating to buses and to the transportation of passengers shall also apply to trailer buses.

(e) Exemptions. The Commissioner may grant exemptions from any of the requirements of this chapter when, in his judgment, requests appear reasonable, or the results intended by these regulations can be accomplished by alternate methods of compliance. However, no exemption will be granted if, in the opinion of the Commissioner, the exemption would compromise the safety requirements of these regulations. In addition, any exemption granted by the Commissioner is nontransferable and may be rescinded at any time for cause.

(1) Application for Exemption. An application for exemption shall be made in writing to the Commissioner, and it shall include the following data:

Reason for requesting an exemption

Alternate method(s) of compliance

When relevant, the make and model, vehicle identification number, and license number of the vehicle for which the exemption is being requested

The application shall be mailed to:

CALIFORNIA HIGHWAY PATROL
ENFORCEMENT SERVICES DIVISION
POST OFFICE BOX 942898
SACRAMENTO, CA 94298-0001

(2) Copy of Exemption. A copy of any exemption granted shall be carried in the vehicle(s) for which it was issued at all times, unless specified otherwise in the exemption, and shall be presented for inspection upon demand by any authorized representative of the department.

(3) Blanket Exemptions. The provisions of this subsection do not apply to any blanket exemptions the Commissioner may elect to issue. A blanket exemption is an exemption from a particular provision of this subchapter granted to all vehicles, or vehicles manufactured on or after a specified date, pending a change in these regulations.

(f) Motor Carrier of Property Certificate of Compliance. Any motor carrier of property, as defined in Section 34601 of the Vehicle Code, who contracts or subcontracts with, or otherwise provides transportation services for, another motor carrier of property shall provide to that motor carrier a certificate as set forth in Section 34620(b) of the Vehicle Code. The certificate may be on a form provided by the department, or may be a carrier-provided form containing the following information:

(1) The name of the contracted motor carrier.

(2) The contracted motor carrier's Motor Carrier Permit number and expiration date.

(3) The signature of the contracted motor carrier or his or her agent.

(4) The printed name, title, and driver's license number of the contracted motor carrier or his or her agent.

(5) The date the certificate is signed.

(6) The name of the contracting motor carrier.

(7) The following statement, inserting the above information as indicated: "I, the undersigned, certify that (*name of contracted carrier*) holds

a Motor Carrier Permit, Number (*permit number*), which is valid through (*expiration date*), a copy of which is attached. I further certify that I, or a company officer, will immediately notify users of this company's services if the permit is suspended, revoked, or is otherwise rendered invalid. (*signature of contracted motor carrier or agent*) (*date*) (*printed name, title, and driver's license number of contracted motor carrier or agent*)"

(g) As used in subsection (f), "contracted motor carrier" means the motor carrier providing the transportation service. The motor carrier for whom the transportation service is provided shall be referred to as the "contracting motor carrier."

NOTE: Authority cited: Sections 546, 31401, 34501, 34501.5, 34508 and 34620, Vehicle Code; and Section 39831, Education Code. Reference: Sections 2808, 31401, 34501, 34501.5, 34508 and 34620, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment of subsection (d) filed 8-27-82; effective thirtieth day thereafter (Register 82, No. 35).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).
4. Change without regulatory effect of subsection (f)(1) and NOTE (Register 86, No. 48).
5. New subsections (g)-(h) and amendment of NOTE filed 9-2-98; operative 10-2-98 (Register 98, No. 36).
6. Amendment of subsections (a), (c), (d) and (f)-(f)(2) filed 3-31-99; operative 4-30-99 (Register 99, No. 14).
7. Change without regulatory effect repealing subsection (d), relettering subsections, and amending newly redesignated subsection (g) filed 7-11-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 28).

§ 1202.1. Applicability of Federal Regulations.

Carriers, drivers, and vehicles engaged in interstate commerce or in the transportation of hazardous substances or hazardous wastes as defined in 49 CFR 171.8 (published October 1, 2006) shall be subject to the following Federal Motor Carrier Safety Regulations contained in Title 49, Code of Federal Regulations:

Section	Subject	Publication Date
385.415	What operational requirements apply to the transportation of a hazardous material for which a permit is required?	October 1, 2006
391.15(b)(2)	Disqualification for loss of Driving Privilege	October 1, 2006
392.60	Unauthorized Persons Not to Be Transported	October 1, 2006
393.86	Rear end protection	October 1, 2006
393.93	Seats, Seat Belt Assemblies, and Seat Belt Assembly Anchorages	October 1, 2006
396.11	Driver Vehicle Inspection Report(s)	October 1, 2006
396.13	Driver inspection	October 1, 2006
396.17	Periodic Inspection	October 1, 2006
397.17	Tires	October 1, 2006
397.19	Instructions and Documents	October 1, 2006
397.67	Motor carrier responsibility for routing	October 1, 2006

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 3-7-85; effective thirtieth day thereafter (Register 85, No. 10).
2. Amendment filed 7-17-89; operative 8-16-89 (Register 89, No. 29).
3. Amendment filed 1-24-91; operative 2-23-91 (Register 91, No. 12).
4. Editorial correction of printing error (Register 91, No. 12).
5. Change without regulatory effect amending section filed 3-21-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 14).
6. Editorial correction of printing error restoring text and HISTORY 2. (Register 91, No. 30).
7. Editorial correction restoring sections 392.60, 392.61, 396.11 and 396.17 (Register 91, No. 48).
8. Editorial correction restoring HISTORY 2, deleting former HISTORY 5, and renumbering (Register 95, No. 15).
9. Amendment filed 9-6-95; operative 10-6-95 (Register 95, No. 36).
10. Amendment filed 3-31-99; operative 4-30-99 (Register 99, No. 14).
11. Amendment filed 4-10-2008; operative 5-10-2008 (Register 2008, No. 15).

§ 1202.2. Applicability of Federal Regulations.

Carriers, drivers, and vehicles engaged in intrastate commerce shall be subject to the following Federal Motor Carrier Safety Regulations contained in Title 49, Code of Federal Regulations:

Section	Subject	Publication Date
385.415	What operational requirements apply to the transportation of a hazardous material for which a permit is required?	October 1, 2006
393.86	Rear End Protection (vehicles manufactured after July 1, 1997)	October 1, 2006
396.11	Driver Vehicle Inspection Reports	October 1, 2006
396.13	Driver Inspection	October 1, 2006
397.17	Tires	October 1, 2006
397.67	Motor Carrier Responsibility for Routing	October 1, 2006

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 6-17-96; operative 7-17-96 (Register 96, No. 25).
2. Amendment filed 3-31-99; operative 4-30-99 (Register 99, No. 14).
3. Amendment filed 4-10-2008; operative 5-10-2008 (Register 2008, No. 15).

Article 2. School Bus, SPAB, Youth Bus, and Farm Labor Vehicle Driver Certificates

§ 1203. Words and Phrases.

Words and phrases used in this article are as defined in the Vehicle Code and this subchapter unless otherwise indicated.

HISTORY

1. Amendment of Article 2 heading filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).

§ 1203.1. Special Driver Certificates.

NOTE: Authority cited: Sections 31401, 34501.5 and 34508, Vehicle Code; and 39831, Education Code. Reference: Sections 12517, 12519, 31401, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).
2. Amendment filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
3. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 1204. Driver Training.

NOTE: Authority cited: Sections 31401, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 546, 12517, 12519, 31401, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).
2. Amendment filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
3. Amendment of subsection (f) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 4).
4. Amendment of subsection (c) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
5. Amendment of subsection (f) filed 8-27-82; effective thirtieth day thereafter (Register 82, No. 35).
6. Amendment of subsections (a) and (b) filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
7. Amendment filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).
8. Amendment of subsection (b) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16.)
9. Repealer filed 2-6-91; operative 3-8-91 (Register 91, No. 11).

§ 1204.5. Driver Instructor Certificates.

NOTE: Authority and reference cited: Sections 31401 and 34501.5, Vehicle Code.

HISTORY

1. New section filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
2. Amendment of subsections (d) and (e) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
3. Amendment of subsections (c), (d) and (f) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).
4. Amendment of subsection (f)(3) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16).
5. Repealer filed 2-6-91; operative 3-8-91 (Register 91, No. 11).

§ 1205. Medical Requirements.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 12523, 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).

2. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
3. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

§ 1206. Fingerprints.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 12523, 12523.5, 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment filed 4–2–81; effective thirtieth day thereafter (Register 81, No. 14).
3. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
4. Amendment filed 12–5–88; operative 1–4–89 (Register 88, No. 51).
5. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

§ 1207. Issuance of Driver Certificates.

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 546, 12517, 12519, 12523.5, 31401, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment of subsection (c) filed 4–3–80; designated effective 7–1–80 (Register 80, No. 14).
3. Amendment of subsection (c) filed 8–27–82; effective thirtieth day thereafter (Register 82, No. 35).
4. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment of subsection (d) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
6. Amendment of first paragraph and subsection (a) filed 12–5–88; operative 1–4–89 (Register 88, No. 51).
7. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

§ 1208. Driver Certificate Actions.

NOTE: Authority cited: Sections 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 12517, 12523, 12523.5, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment filed 4–3–80; designated effective 7–1–80 (Register 80, No. 14).
3. Amendment of subsection (a) and new subsection (b)(11) filed 6–9–82; effective thirtieth day thereafter (Register 82, No. 24).
4. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment filed 5–17–84; effective thirtieth day thereafter (Register 84, No. 20).
6. Change without regulatory effect of subsection (b)(10) (Register 87, No. 50).
7. Amendment of section heading and subsections (a)–(c) filed 12–5–88; operative 1–4–89 (Register 88, No. 51).
8. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

§ 1209. Revocation or Suspension of Certificates.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 12523, 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
3. Repealer filed 5–17–84; effective thirtieth day thereafter (Register 84, No. 20).

§ 1210. Convictions.

NOTE: Authority and reference cited: Sections 34501.5, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment of subsection (a) filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment filed 5–17–84; effective thirtieth day thereafter (Register 84, No. 20).
3. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

§ 1211. Denial, Suspension, or Revocation Hearings.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 12523, 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Amendment of subsection (a)(2) filed 4–3–80; designated effective 7–1–80 (Register 80, No. 14).
3. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
4. Amendment filed 5–17–84; effective thirtieth day thereafter (Register 84, No. 20).
5. Repealer filed 1–24–91; operative 2–23–91 (Register 91, No. 7).

Article 3. General Driving Requirements

§ 1212. Driver Hours of Service.

(a) General. The rules in this section, unless otherwise specified, apply to all intrastate motor carriers and drivers.

(b) Adverse driving conditions.

(1) A driver who encounters adverse driving conditions, as defined in Section 1201, and cannot, because of those conditions, safely complete the run within the maximum driving time permitted by Section 1212.5 may drive and be permitted or required to drive for not more than 2 additional hours in order to complete that run or to reach a place offering safety for vehicle occupants and security for the vehicle and its cargo. However, that driver may not drive or be permitted to drive:

(A) More than 12 hours in the aggregate for bus drivers and 14 hours for truck drivers following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers; or

(B) After the driver has been on duty 15 hours following eight consecutive hours off duty for bus drivers and after the end of the 16th hour after coming on duty, following ten consecutive hours off duty, for truck drivers.

(2) Emergency conditions. In the event of a traffic accident, medical emergency, or disaster, a driver may complete his/her run without being in violation of the provisions of these regulations, if such run reasonably could have been completed absent the emergency.

(3) Relief Point. Bus drivers (other than school bus and school pupil activity bus drivers) in urban and suburban service may exceed their regulated hours in order to reach a regularly scheduled relief point, providing the additional time does not exceed one hour.

(c) Driver-salesperson. The provisions of Section 1212.5(b) shall not apply to any driver-salesperson whose total driving time does not exceed 40 hours in any period of seven consecutive days.

(d) Oilfield operations. (1) In the instance of drivers of commercial motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of eight consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(2) In the case of specially trained drivers of motor vehicles which are specially constructed to service oil wells, on-duty time shall not include waiting time at a natural gas or oil well site; provided, that all such time shall be fully and accurately accounted for in records to be maintained by the motor carrier. Such records shall be made available upon request of any authorized employee of the department.

(e) 100 air-mile radius driver. A driver is exempt from the requirements of Section 1213 if:

(1) The driver operates within a 100 air-mile radius of the normal work reporting location;

(2) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 12 consecutive hours;

(3) The driver of a school bus, school pupil activity bus, youth bus, or farm labor vehicle returns to the work reporting location and is released from work before the end of the 16th hour after coming on duty;

(4) At least eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, separate each 12 hours on duty; and

(5) The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day; and

(D) The total time for the preceding seven days in accordance with Section 1213(k)(2) for drivers used for the first time or intermittently.

(6) The permanent record produced by a time-recording device such as a "tachograph" (Figure 1) may be used as a driver's record for any tour of duty for an intrastate driver that does not exceed 15 consecutive hours or the 100 air-mile radius, provided the intrastate bus driver does not ex-

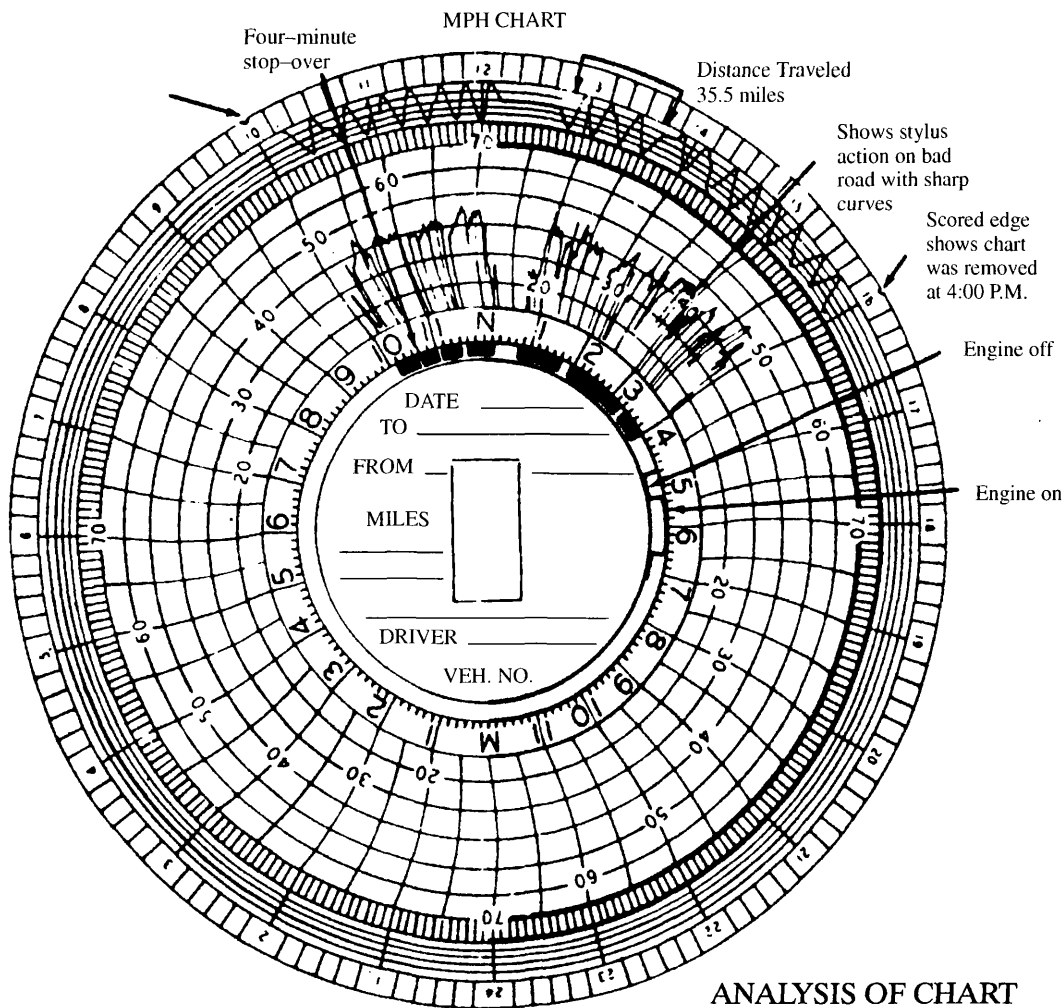
ceed ten hours and the intrastate truck driver does not exceed 12 hours maximum driving time following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, and the driver enters:

(A) The time the driver reports for duty each day;

(B) The previous day's time of going off duty; and

(C) The data required by Section 1213(e).

(f) Retail store deliveries. The provisions of Section 1212.5(a) shall not apply with respect to drivers of commercial motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100 air-mile radius of the driver's work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.



ANALYSIS OF CHART

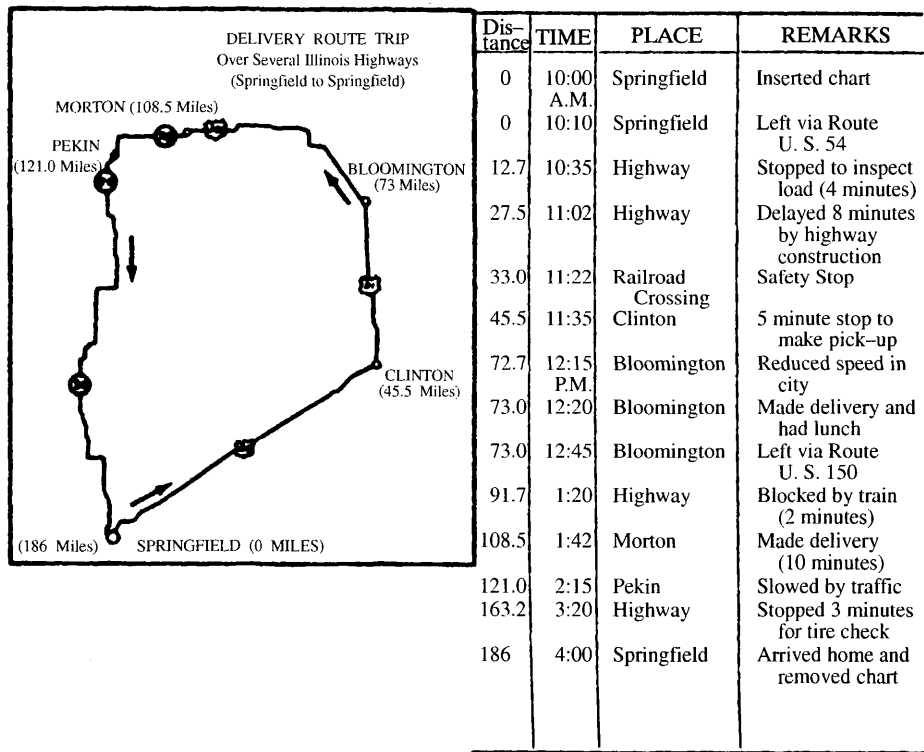


Figure 1. Tachograph Chart and Analysis

(g) Sleeper berths.

(1) Property-carrying motor vehicles. A driver who is driving a truck or truck tractor that is equipped with a sleeper berth, as defined in Section 1265,

(A) Must, before driving, accumulate;

(i) At least ten consecutive hours off duty;

(ii) At least ten consecutive hours of sleeper-berth time;

(iii) A combination of consecutive sleeper-berth and off-duty time amounting to at least ten hours; or

(iv) The equivalent of at least ten consecutive hours off duty if the driver does not comply with paragraph (g)(1)(A)(i), (ii), or (iii) of this section;

(B) May not drive more than 12 hours following one of the ten-hour off-duty periods specified in paragraph (g)(1)(A)(i) through (iv) of this section; and

(C) May not drive after the 16th hour after coming on duty following one of the ten-hour off-duty periods specified in paragraph (g)(1)(A)(i) through (iv) of this section; and

(D) Must exclude from the calculation of the 16-hour limit any sleeper-berth period of at least eight but less than ten consecutive hours.

(2) Specific requirements. The following rules apply in determining compliance with paragraph (g)(1) of this section:

(A) The term "equivalent of at least ten consecutive hours off duty" means a period of:

(i) At least eight but less than ten consecutive hours in a sleeper berth, and

(ii) A separate period of at least two but less than ten consecutive hours either in the sleeper berth or off duty, or any combination thereof.

(B) Calculation of the 12-hour driving limit includes all driving time; compliance must be recalculated from the end of the first of the two periods used to comply with paragraph (g)(2)(A) of this section.

(C) Calculation of the 16-hour limit includes all time except any sleeper-berth period of at least eight but less than ten consecutive hours; compliance must be re-calculated from the end of the first of the two periods used to comply with the requirements of paragraph (g)(2)(A) of this section.

(3) Specially trained driver of a specially constructed oil well servicing commercial motor vehicle at a natural gas or oil well location. A specially trained driver who operates a commercial motor vehicle specially constructed to service natural gas or oil wells that is equipped with a sleeper berth, as defined in Section 1265, or who is off duty at a natural gas or oil well location, may accumulate the equivalent of ten consecutive hours off-duty time by taking a combination of at least ten consecutive hours of off-duty time, sleeper-berth time, or time in other sleeping accommodations at a natural gas or oil well location; or by taking two periods of rest in a sleeper berth, or other sleeping accommodation at a natural gas or oil well location, providing:

(A) Neither rest period is shorter than two hours;

(B) The driving time in the period immediately before and after each rest period, when added together, does not exceed 12 hours;

(C) The driver does not drive after the 16th hour after coming on duty following ten hours off duty, where the 16th hour is calculated:

(i) By excluding any sleeper berth or other sleeping accommodation period of at least two hours which, when added to a subsequent sleeper berth or other sleeping accommodation period, totals at least ten hours, and

(ii) By including all on-duty time, all off-duty time not spent in the sleeper berth or other sleeping accommodations, all such periods of less than two hours, and any period not described in paragraph (g)(2)(A) of this section; and

(D) The driver may not return to driving subject to the normal limits under Section 1212.5 without taking at least ten consecutive hours off duty, at least ten consecutive hours in the sleeper berth or other sleeping accommodations, or a combination of at least ten consecutive hours off duty, sleeper-berth time, or time in other sleeping accommodations.

(4) Passenger-carrying commercial motor vehicles. A bus driver who is driving a bus that is equipped with a sleeper berth, as defined in Section 1265, may accumulate the equivalent of eight consecutive hours of off-duty time by taking a combination of at least eight consecutive hours off-duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(A) Neither rest period is shorter than two hours;

(B) The driving time in the period immediately before and after each rest period, when added together, does not exceed ten hours;

(C) The on-duty time in the period immediately before and after each rest period, when added together, does not include any driving time after the 15th hour; and

(D) The driver may not return to driving subject to the normal limits under Section 1212.5 without taking at least eight consecutive hours off duty, at least eight consecutive hours in the sleeper berth, or a combination of at least eight consecutive hours off duty and sleeper berth time.

(h) Travel time. When a driver at the direction of the motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time shall be counted as on-duty time unless the driver is afforded at least eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers, when arriving at destination, in which case the driver shall be considered off duty for the entire period.

(i) Utility service vehicles. An intrastate driver employed by an electrical corporation, as defined in Section 218 of the Public Utilities Code, a gas corporation, as defined in Section 222 of that code, a telephone corporation, as defined in Section 234 of that code, a water corporation, as defined in Section 241 of that code, or a public water district, as defined in Section 20200 of the Water Code:

(1) May be permitted or required to drive more than the number of hours specified in Section 1212.5 while operating a public utility or public water district vehicle during the emergency restoration of service and related operations.

(2) Upon termination of the emergency and release of a driver from duty, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver's completion of an off-duty period of 24 or more consecutive hours.

(j) Fire fighters. For drivers of vehicles owned and operated by any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code:

(1) Section 1212.5 does not apply while involved in emergency and related operations.

(2) Upon termination of the emergency and release of a driver from duty, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver's completion of an off-duty period of 24 or more consecutive hours.

(k) Farm products. (1) A driver when transporting farm products from the field to the first point of processing or packing, shall not drive for any period after having been on duty 16 hours or more following eight consecutive hours off duty and shall not drive for any period after having been on duty for 112 hours in any consecutive eight-day period, except that a driver transporting special situation farm products from the field to the first point of processing or packing, or transporting livestock from pasture to pasture, may be permitted, during one period of not more than 28 consecutive days or a combination of two periods totaling not more than 28 days in a calendar year, to drive for not more than 12 hours during any workday of not more than 16 hours. A driver who thereby exceeds the driving time limits specified in Section 1212.5(b)(2) shall maintain a driver's record of duty status, and shall keep a duplicate copy in his or her possession when driving a vehicle subject to this chapter. These records shall be presented immediately upon request by an authorized employee of the department, or any police officer or deputy sheriff.

(2) Upon the request of the Director of Food and Agriculture, the commissioner may, for good cause, temporarily waive the maximum on-duty

time limits applicable to any eight-day period when an emergency exists due to inclement weather, natural disaster, or an adverse economic condition that threatens to disrupt the orderly movement of farm products during harvest for the duration of the emergency. For purposes of this paragraph, an emergency does not include a strike or labor dispute.

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Farm Products" means every agricultural, horticultural, viticultural, or vegetable product of the soil, honey and beeswax, oilseeds, poultry, livestock, milk, or timber.

(B) "First point of processing or packing" means a location where farm products are dried, canned, extracted, fermented, distilled, frozen, ginned, eviscerated, pasteurized, packed, packaged, bottled, conditioned, or otherwise manufactured, processed, or preserved for distribution in wholesale or resale markets.

(C) "Special situation farm products" means fruit, tomatoes, sugar beets, grains, wine grapes, grape concentrate, cotton, or nuts.

(I) Law Enforcement. Sections 1212.5 and 1213 do not apply to intrastate drivers employed by a law enforcement agency during an emergency or when restoring the public peace.

(m) Construction Materials and Equipment. In the instance of a driver of a vehicle who is used primarily in the transportation of construction materials and equipment, the total on-duty hours accumulated by the driver during the most recent eight consecutive days shall be considered reset to zero upon the driver's completion of an off-duty period of 24 or more consecutive hours.

(1) Transportation of "construction materials and equipment" means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between mobilization of equipment and materials to the site to the final completion of the construction project), within a 50-mile radius of the normal work reporting location of the driver.

(2) This paragraph does not apply to the transportation of materials found by the Secretary of the United States Department of Transportation to be hazardous under Title 49, United States Code, Section 5103, in an amount requiring placarding under regulations issued in order to carry out that section.

(n) Limited Applicability. The exceptions provided in subsections (i), (j), and (k), are not available to the driver of a vehicle transporting hazardous substances or hazardous waste, as those terms are defined in Section 171.8 of Title 49, Code of Federal Regulations, as those regulations exist or are hereafter amended.

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adopting new section filed 2-4-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 6). For prior history, see Register 92, No. 49.
2. Editorial correction of printing error in section heading (Register 93, No. 12).
3. Editorial correction restoring inadvertently omitted article heading (Register 93, No. 16).
4. Change without regulatory effect amending subsection (i) filed 5-28-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 22).
5. Change without regulatory effect amending subsection (a) and adopting new subsection (I) filed 9-28-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 40).
6. Change without regulatory effect amending subsection (i) and adding new NOTE filed 11-29-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 48).
7. Amendment filed 10-4-99; operative 10-4-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 41).
8. Amendment filed 10-12-2007; operative 11-11-2007 (Register 2007, No. 41).

§ 1212.5. Maximum Driving and On-Duty Time.

(a) Maximum driving time. Except as provided in Sections 1212(b)(1), 1212(f), 1212(i), 1212(j), 1212(k), and 1212(l), no motor

carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

(1) Intrastate bus drivers and drivers of tank vehicles with a capacity of more than 500 gallons transporting flammable liquid:

(A) More than ten hours following eight consecutive hours off duty for bus drivers and ten consecutive hours off duty for truck drivers; or

(B) For any period after having been on duty 15 hours following eight consecutive hours off duty for bus drivers and after the end of the 16th hour after coming on duty following ten consecutive hours off duty for truck drivers.

(2) Intrastate Truck Drivers:

(A) More than 12 cumulative hours following ten consecutive hours off duty; or

(B) For any period after the end of the 16th hour after coming on duty following ten consecutive hours off duty.

(3) School Bus, School Pupil Activity Bus, Youth Bus and Farm Labor Vehicle Drivers:

(A) More than ten hours within a work period; or

(B) After the end of the 16th hour after coming on duty following eight consecutive hours off duty.

(4) No motor carrier shall permit or require a driver, regardless of the number of motor carriers using the driver's services, to drive nor shall any driver drive, except as provided in Section 1212(k), for any period after having been on duty for 80 hours in any consecutive eight days.

(5) For truck drivers listed in subsections (1) and (2), any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(b) Interstate driver. Motor carriers and drivers engaged in interstate commerce and the driver of a vehicle transporting hazardous substances or hazardous waste, as those terms are defined in Section 171.8 of Title 49, Code of Federal Regulations, shall comply with the federal driver hours-of-service regulations contained in Title 49, Code of Federal Regulations, Part 395, as those regulations now exist or are hereafter amended.

(c) Referenced regulations. Copies of Title 49, Code of Federal Regulations, can be obtained from:

SUPERINTENDENT OF DOCUMENTS
UNITED STATES GOVERNMENT PRINTING OFFICE
PO BOX 371954
PITTSBURGH, PA 15250-7954
(202) 512-1800

Internet purchases: http://www.access.gpo.gov/su_docs/sale.html

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34003, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Change without regulatory effect adding new section filed 2-4-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 6).
2. Editorial correction of printing errors in subsection (a)(1) filed 3-10-93 (Register 93, No. 9).
3. Editorial correction of printing error in (a)(3)(B) (Register 93, No. 12).
4. New subsection (c) and amendment of NOTE filed 10-27-93; operative 11-26-93 (Register 93, No. 44).
5. Amendment of subsection (b) filed 9-6-95; operative 10-6-95 (Register 95, No. 36).
6. Amendment filed 10-4-99; operative 10-4-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 41).
7. Amendment of subsections (a), (b) and (b)(2) and repealer of subsection (c) filed 1-18-2000; operative 2-17-2000 (Register 2000, No. 3).
8. Amendment filed 10-12-2007; operative 11-11-2007 (Register 2007, No. 41).

§ 1213. Driver's Record of Duty Status.

(a) Carrier responsibility. Except as provided in subsection (b), every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24-hour period using the methods prescribed in either paragraphs (a)(1) or (2) of this section.

(1) Every driver shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in paragraph (h) of this section. The grid and the requirements of paragraph (e) of this section may be combined with any compa-

ny forms. The previously approved format of the Daily Log, Form MCS-59 or the Multiday Log, MCS-139 and 139A, which meets the requirements of this section, may continue to be used.

(2) Every driver shall record his/her duty status by using an automatic on-board recording device that meets the requirements of Section 1213.2. The requirements of Section 1213 shall not apply, except paragraphs (f) and (l).

(3) The record shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

(4) Interstate drivers, subject to and in compliance with the record requirements of Sections 395.8 or 395.15, 49 CFR, shall be deemed in compliance with this section.

(b) Exceptions. A driver's record of duty status is not required for drivers of the following vehicles, provided documentation of their total days worked and time of reporting on and off duty each day, is maintained by the motor carrier for six months:

(1) Vehicles owned and operated by any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(2) Vehicles, owned and operated by local law enforcement agencies, which are engaged in the transportation of inmates or prisoners within the county where the agency is located.

(c) Duty status. The duty status shall be recorded as follows:

(1) "Off duty" or "OFF."

(2) "Sleeper berth" or "SB" (only if a sleeper berth used).

(3) "Driving" or "D."

(4) "On-duty not driving" or "ON."

(d) Location of change of duty status. For each change of duty status (e.g., the place of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(e) Required information. The following information must be included on the form in addition to the grid:

(1) Date;

(2) Total miles driving today;

(3) Bus, truck or tractor, and trailer number;

(4) Name of carrier;

(5) Driver's signature/certification;

(6) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);

(7) Main office address;

(8) Remarks;

(9) Name of co-driver;

(10) Total hours (far right edge of grid);

(11) Shipping document number(s), or name of shipper and commodity;

(f) Incomplete or false records. No motor carrier shall allow or require, and no driver shall prepare or submit, a record of duty status which is not true and accurate. Failure to complete the record of duty activities of this

section or Section 1213.2, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

(g) Driver responsibility. The driver's activities shall be recorded in accordance with the following provisions:

(1) Entries to be current. Drivers shall keep their record of duty status current to the time shown for the last change of duty status.

(2) Entries made by driver only. All entries relating to driver's duty status must be legible and in the driver's own handwriting.

(3) Date. The month, day and year for the beginning of each 24-hour period shall be shown on the form containing the driver's duty status record.

(4) Total mileage driven. Total mileage driven during the 24-hour period shall be recorded on the form containing the driver's duty status record.

(5) Vehicle identification. The carrier's vehicle number or State and license number of each bus, truck, truck tractor and trailer operated during that 24-hour period shall be shown on the form containing the driver's duty status record.

(6) Name of carrier. The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver's duty status record. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, shown a.m. or p.m., worked for each carrier shall be shown after each carrier's name. Drivers of leased vehicles shall show the name of the motor carrier performing the transportation.

(7) Signature/certification. The driver shall certify to the correctness of all entries by signing the form containing the driver's duty status record with his/her legal name or name of record. The driver's signature certifies that all entries required by this section made by the driver are true and correct.

(8) Time base to be used. (A) The driver's duty status record shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24-hour period beginning with the time specified by the motor carrier for that driver's home terminal.

(B) The term "seven or eight consecutive days" means the seven or eight consecutive 24-hour periods as designated by the carrier for the driver's home terminal.

(C) The 24-hour period starting time must be identified on the driver's duty status record. One-hour increments must appear on the graph, be identified, and preprinted. The words "Midnight" and "Noon" must appear above or beside the appropriate one-hour increment.

(9) Main office address. The motor carrier's main office address shall be shown on the form containing the driver's duty status record.

(10) Recording days off duty. Two or more consecutive 24-hour periods off duty may be recorded on one duty status record.

(11) Total hours. The total hours in each duty status: off duty other than in a sleeper berth; off duty in a sleeper berth; driving, and on duty not driving, shall be entered to the right of the grid. The total of such entries shall equal 24 hours.

(12) Shipping document number(s), or name of shipper and commodity shall be shown on the driver's record of duty status.

(h) Graph grid. The following graph grid (Figure 2) must be incorporated into a motor carrier recordkeeping system which must also contain the information required in paragraph (e) of this section.

Graph Grid - Horizontally

OFF DUTY
SLEEPER
BEATH
DRIVING
ON DUTY
(Not Driving)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 104

REMARKS

Graph Grid - Vertically

OFF DUTY
SLEEPER
BERTH
DRIVING
ON DUTY
(Not Driving)

REMARKS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	5
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Figure 2. Graph Grid (Horizontally and Vertically)

(i) Graph grid preparation. The graph grid may be used horizontally or vertically and shall be completed as follows:

(1) Off duty. Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period(s) of time when the driver is not on duty, is not required to be in readiness to work, or is not under any responsibility for performing work.

(2) Sleeper berth. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time off duty resting in a sleeper berth, as defined in Section 1201. (If a non-sleeper berth operation, sleeper berth need not be shown on the grid.)

(3) Driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty driving a motor vehicle, as "drive or operate" is defined in Section 1201.

(4) On duty not driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty not driving as specified in Section 1201(q).

(5) Location—remarks. The name of the city, town, or village, with State abbreviations where each change of duty status occurs shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(j) Filing driver's record of duty status. Each day, the driver shall submit or forward the original driver's record of duty status to the regular employing motor carrier following the completion of the form. Drivers who do not return to the home terminal each day may submit their original records of duty status upon their first return to the home terminal, provided the interval does not exceed 13 days.

(k) Drivers used by more than one motor carrier. (1) When the services of a driver are used by more than one motor carrier during any 24-hour period in effect at the driver's home terminal, the driver shall submit a copy of the record of duty status to each motor carrier. The record shall include:

(A) All duty time for the entire 24-hour period;

(B) The name of each motor carrier served by the driver during that period; and

(C) The beginning and finishing time, including a.m. or p.m., worked for each carrier.

(2) Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding seven days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

(l) Retention of driver's record of duty status. The driver shall retain the duplicate copy of each record of duty status for the current day and the previous seven consecutive days which shall be in his/her possession and available for inspection while on duty. The records shall be presented for inspection immediately upon request by any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff.

NOTE: Driver's Record of Duty Status. The graph grid, when incorporated as part of any form used by a motor carrier, must be of sufficient size to be legible.

The following executed specimen grid (Figure 3) illustrates how a driver's duty status should be recorded for a trip from Richmond, Virginia, to Newark, New Jersey. The grid reflects the midnight to midnight 24 hour period. The driver in this instance reported for duty at the motor carrier's terminal. The driver reported for work at 6 a.m., helped load, checked with dispatch, made a pretrip inspection, and performed other duties until 7:30 a.m. when the driver began driving. At 9 a.m. the driver had a minor accident in Fredericksburg, Virginia, and spent one half hour handling details with the local police. The driver arrived at the company's Baltimore, Maryland, terminal at noon and went to lunch while minor repairs were made to the tractor. At 1 p.m. the driver resumed the trip and made a delivery in Philadelphia, Pennsylvania, between 3 p.m. and 3:30 p.m. at which time the driver started driving again. Upon arrival at Cherry Hill, New Jersey, at 4 p.m., the driver entered the sleeper berth for a rest break until 5:45 p.m. at which time the driver resumed driving again. At 7 p.m. the driver arrived at the company's terminal in Newark, New Jersey. Between 7 p.m. and 8 p.m. the driver prepared the required paperwork including completing the driver's record of duty status, vehicle condition report, insurance report for the Fredericksburg, Virginia accident, checked for the next day's dispatch, etc. At 8 p.m., the driver went off duty.

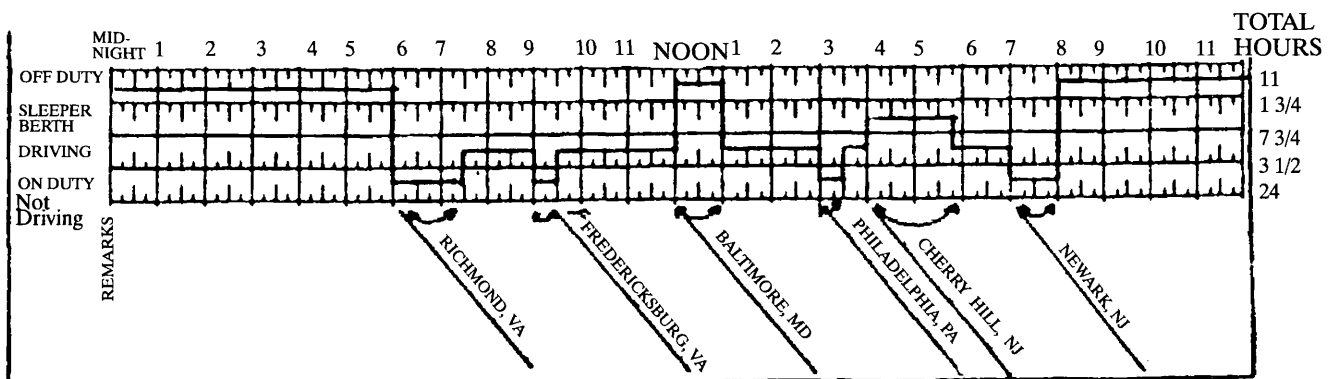


Figure 3. Driver's Record

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5, and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Change without regulatory effect repealing section and adopting new section filed 2-4-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 6).

2. Editorial correction of printing error (Register 93, No. 12).
3. Change without regulatory effect amending subsection (a)(3) and figure 2 filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).
4. Repealer of subsection (g)(11), subsection renumbering and amendment of NOTE filed 9-6-95; operative 10-6-95 (Register 95, No. 36).
5. Amendment filed 10-4-99; operative 10-4-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 41).
6. New subsection (a)(4) and amendment of subsections (f), (j) and (l) filed 10-12-2007; operative 11-11-2007 (Register 2007, No. 41).

§ 1213.1. Placing Drivers Out-of-Service.

(a) Driver out-of-service. Members of the department may place a driver out of service, and shall note in the driver's record of duty status that an out-of-service order was given, at the time and place of examination upon finding that the driver:

(1) Has driven or been on duty longer than the periods specified in Section 1212.5, or

(2) Has failed to maintain a driver's record as required by Section 1213 and is unable to establish eligibility to drive pursuant to Section 1212.5.

(b) Eligibility to resume driving. A driver placed out of service pursuant to subdivision (a) shall not operate a motor vehicle until he or she can establish eligibility to drive pursuant to Section 1212.5.

(c) Alcohol zero tolerance. No person may operate a commercial motor vehicle, as defined in Vehicle Code Section 15210, when that person's blood alcohol content is found to be 0.01%, by weight, or greater.

(d) Possession of alcoholic beverages. No person shall be on-duty or operate a commercial motor vehicle while the driver possesses wine of not less than one-half of one per centum of alcohol by volume, beer as defined in 26 United States Code 5052(a), of the Internal Revenue Code of 1954, or distilled spirits as defined in 5002(a)(8) of such code. However, this does not apply to possession of wine, beer, or distilled spirits which are manifested and transported as part of a shipment; or possessed or used by bus passengers.

(1) This does not prohibit an owner-operator using his/her own vehicle in an off-duty status, or a driver using a company truck or tractor in an off-duty status from carrying any bottle, can, or other receptacle containing any alcoholic beverage unless that container has been opened, or a seal broken, or the contents of which have been partially removed, in a commercial motor vehicle, as defined in Section 15210 of the Vehicle Code, when transported to locations such as a motel, restaurant, or residence.

(e) Alcohol-related out-of-service. Members of this Department shall place a driver out of service, and note in the driver's record of duty status that such an order was given, at the time and place that the driver was found to be in violation of Section 1213.1(c) or (d).

(f) Minimum out-of-service period. A driver placed out of service pursuant to subdivision (c) or (d) shall not operate a commercial motor vehicle for a period of 24 hours.

NOTE: Authority cited: Sections 15210, 31401, 34501 and 34501.15, Vehicle Code. Reference: Sections 15210, 31401, 34501, 34501.15 and 34520, Vehicle Code.

HISTORY

1. New section filed 9-30-80; designated effective 11-1-80 (Register 80, No. 40).
2. Amendment of subsection (a)(2) filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).
3. Change without regulatory effect amending subsections (a) and (b) and NOTE and adopting subsections (c)-(f) filed 8-13-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
4. Change without regulatory effect amending subsections (a)(2) and (b) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
5. Change without regulatory effect amending subsection (e) filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).
6. Amendment filed 10-4-99; operative 10-4-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 41).
7. New subsections (d) and (d)(1), subsection relettering, amendment of newly designated subsections (e) and (f) and amendment of NOTE filed 7-10-2002; operative 8-9-2002 (Register 2002, No. 28).

§ 1213.2. Automatic On-Board Recording Device.

(a) Automatic On-Board Recording Device. For the purposes of this section, an automatic on-board recording device is an electric, electron-

ic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically.

(b) Minimum Information Requirements. The device must be installed to record specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

(c) Display Requirements. Automatic on-board recording devices shall produce, upon demand, an electronic display or printout of a driver's hours of service showing the time, sequence, and location of duty status changes including the driver's starting time at the beginning of each day.

(d) Handwritten Records. Upon the request of any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff, drivers using an automatic on-board recording device shall produce a handwritten driver's record of duty status based upon the information stored in the device, relating to the current day and the preceding seven days.

(e) Support Systems. Support systems used in conjunction with on-board recorders at the driver's terminal or the motor carrier's principal place of business must be capable of providing authorized employees of the department, or any regularly employed and salaried police officer or deputy sheriff, with an individual driver's hours of service records. The support systems must also provide information concerning on-board system failures and identification of edited data.

(f) Previous Seven Days. Each driver shall have in his/her possession records of duty status for the previous seven consecutive days. These records shall consist of information stored in and retrievable from the automatic on-board recording device, handwritten records, computer generated records, or any combination thereof.

(g) Driver's Certification. All hard (paper) copies of the driver's record of duty status shall be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

(h) Duty Status. The duty status and additional information required in section 1213(c) shall be recorded using the wording required by section 1213(c), an abbreviated form of the word, or an identifiable code or character.

(i) Required Documents. Each driver shall have in his/her possession and make available upon request of any authorized employee of the department, or any regularly employed and salaried police officer or deputy sheriff, instructions describing the data that may be retrieved, a list of function codes, geographic location codes, and blank driver's record of duty status graph-grids.

(j) Inoperative Device. When the automatic on-board recording device is inoperative or the driver is unable to retrieve the required information from the device, each driver shall reconstruct the records of duty status for the current and the prior seven days and continue to prepare a handwritten record of duty status until the automatic on-board recording device is fully operational.

(k) Multiple Drivers. When more than one driver is using the automatic on-board recording device, the device must be capable of recording separately each driver's duty status and shall record the sequential changes in duty status and times when the changes occurred for each driver.

(l) Display Capabilities. Automatic on-board recording devices with electronic displays shall have the capability of displaying the following:

- (1) Driver's total hours of driving.
- (2) Total hours on duty today.
- (3) Total miles driven today.

(4) The sequential changes in duty status, and the times and locations where changes occurred for each driver.

(m) Malfunction Warning. The automatic on-board recording device shall be capable of warning the driver visually or audibly that the device has ceased to function. Automatic on-board recording devices installed and operational as of October 31, 1988, and authorized by a Departmental exemption or Federal Highway Administration (FHWA) waiver to be used in lieu of a handwritten record of duty status are exempt from this requirement.

(n) Data Reproduction. When data is reproduced in printed form, the automatic on-board recording device/system shall identify sensor failure and edited data. Automatic on-board recording devices installed and operational as of October 31, 1988, and authorized by a Departmental exemption or FHWA waiver to be used in lieu of the handwritten record of duty status are exempt from this requirement.

(o) Update. The automatic on-board recording device shall permit duty status to be updated only when the vehicle is at rest.

(p) Performance Certification. Carriers shall obtain a certificate from the manufacturer certifying the design of the automatic on-board recorder has been sufficiently tested under the condition in which it will be used to meet the requirements of this section.

(q) Tamper-proof. The automatic on-board recording device and associated support systems must be tamper-proof and not permit altering of the information collected concerning the driver's hours of service.

(r) Device Maintenance. Carriers shall ensure that the automatic on-board recording device and associated support system are properly maintained and recalibrated in accordance with the manufacturer's specifications.

(s) Training. Carriers shall ensure that drivers are trained regarding the proper operation of the device.

NOTE: Authority cited: Sections 31401 and 34501, Vehicle Code. Reference: Sections 31401 and 34501 Vehicle Code.

HISTORY

1. New section filed 5-14-90; operative 6-13-90 (Register 90, No. 23).
2. Change without regulatory effect amending subsection (m) filed 10-7-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 41).
3. Change without regulatory effect amending subsections (h), (q) and (r) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
4. Change without regulatory effect amending subsection (l) filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).
5. Amendment filed 10-24-2001; operative 11-23-2001 (Register 2001, No. 43).

§ 1214. Driver Fatigue.

No driver shall operate a motor vehicle, and a motor carrier shall not require or permit a driver to operate a motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the motor vehicle. However, in a case of grave emergency where the hazard to occupants of the motor vehicle or other users of the highway would be increased by compliance with this section, the driver may continue to operate the motor vehicle to the nearest place at which that hazard is removed.

NOTE: Authority cited: Sections 31401, 34500.1, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment of section heading, repealer and new section and new NOTE filed 10-30-2003; operative 11-29-2003 (Register 2003, No. 44).

§ 1215. Vehicle Condition.

(a) General. It shall be unlawful for the driver to drive a vehicle that is not in safe operating condition or is not equipped as required by all provisions of law and this chapter.

(b) Daily Inspection. Pursuant to Sections 1202.1 and 1202.2, all drivers shall perform vehicle inspections and submit written reports in accordance with the requirements of Title 49, Code of Federal Regulations, Sections 396.11 and 396.13, as follows:

(1) Before driving a motor vehicle, the driver shall:

(A) Inspect each vehicle daily to ascertain that it is in safe operating condition and equipped as required by all provisions of law, and all equipment is in good working order;

(B) Review the last vehicle inspection report;

(C) Sign the report, only if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is a certification pursuant to subsection (f) that the required repairs have been performed. The signature requirement does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

(2) Subsections (B) and (C) do not apply to school bus drivers or publicly owned and operated transit system drivers.

(c) Daily Report. Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated. School bus drivers' reports shall cover at least the items listed in subdivision (d), and all other drivers' reports shall cover at least the following parts and accessories:

(1) Service brakes including trailer brake connections

(2) Parking (hand) brake

(3) Steering mechanism

(4) Lighting devices and reflectors

(5) Tires

(6) Horn

(7) Windshield wipers

(8) Rear vision mirrors

(9) Coupling devices

(10) Wheels and rims

(11) Emergency equipment

(d) School bus drivers. For school bus drivers, the inspection shall include, but is not limited to:

(1) All gauges, indicators, and warning devices

(2) Horns

(3) Driver's seat and seat belts

(4) All doors, door emergency releases, and windows

(5) All seats, handrails, and modesty panels

(6) Interior and exterior lighting systems

(7) All heating, cooling, and ventilating systems

(8) All glass and mirrors, including adjustment of mirrors

(9) Windshield wipers and washers

(10) All required emergency equipment

(11) All tires, wheels, and lugnuts

(12) Brake system

(A) Air compressor governor cut in and cut out pressures

(B) Static pressure for air loss

(C) Applied brake pressure loss

(D) Low air pressure warning devices

(E) Emergency stopping systems (draining reservoirs in dual air systems is not required)

(F) Parking brake

(G) Antiskid device (if equipped)

(H) Vacuum gauge, ensuring it reads not less than 15 inches

(I) Low vacuum warning devices

(J) Brake pedal for brake adjustment

(e) Report Content. The report shall identify the motor vehicle and all towed vehicles and list any defect or deficiency discovered by or reported to the driver which would affect safety of operation of the motor vehicle or combination or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report(s) shall so indicate. In all instances, the driver shall sign the vehicle inspection report. On two-driver operations, only one driver needs to sign the report, provided both drivers agree as to the defects or deficiencies. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(f) Corrective Action. Prior to operating a motor vehicle, motor carriers or their authorized agent(s) shall effect repair of any item listed on the motor vehicle inspection report(s) that would be likely to affect the safety of operation of the motor vehicle or any towed vehicles.

(1) Motor carriers or their authorized agents shall certify on the report(s) which lists any defects or deficiencies, that the defects or deficiencies have been corrected or that correction is unnecessary before the vehicle is again dispatched.

(2) Subsection (1) does not apply to school bus or publicly owned and operated transit system motor carriers.

(g) Repairs. Unless the driver of a school bus or SPAB is the mechanic charged with the care and maintenance of the bus, the driver shall not make any repairs of the bus or its equipment except necessary emergency repairs on the road.

(h) Exception. Subsection (c) shall not apply to a motor carrier operating only one motor vehicle, provided the motor vehicle is a motor truck or truck tractor, and the motor carrier is the owner and sole driver of the motor vehicle. A motor carrier, otherwise excepted from the reporting requirement by this subdivision, who tows trailer(s) not owned by or leased to that motor carrier, shall submit documented daily report(s) for the trailers as required by subsection (b). Such reports shall be submitted to the person(s) from whom the trailers were obtained.

(i) Private motor carriers of passengers. The exemption provided to private motor carriers of passengers in 49 CFR Section 396.11(d), shall not apply to intrastate private motor carriers of passengers operating any bus, as defined in Vehicle Code Section 233.

NOTE: Authority cited: Sections 31401, 34501 and 34501.5, Vehicle Code. Reference: Sections 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
2. Amendment of subsections (a)(12)(E) and (b) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).
3. Amendment of subsection (a) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).
4. New subsection (d) filed 1-9-95; operative 2-8-95 (Register 95, No. 2).
5. Change without regulatory effect amending first paragraph filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).
6. Amendment filed 12-11-97; operative 1-10-98 (Register 97, No. 50).
7. Editorial correction of subsection (c) (Register 98, No. 4).
8. Amendment of subsections (b)(1)(B) and (d), repealer of subsection (f)(2), subsection renumbering, and amendment of newly designated subsection (f)(2) and subsections (h) and (i) filed 7-26-99; operative 8-25-99 (Register 99, No. 31).

§ 1216. Transportation of Property.

The following requirements govern the transportation of hazardous materials and other property on buses and farm labor vehicles:

(a) Hazardous Materials. Motor carriers and drivers shall not transport, or knowingly permit passengers to carry, any hazardous material as defined in Vehicle Code Section 353. These restrictions shall not apply to:

(1) Oxygen medically prescribed for, and in the possession of, a passenger and in a container designed for personal use.

(2) Personal-use articles in the immediate possession of a driver or passenger.

(3) Hazardous materials transported in a bus (except a school bus, SPAB, or youth bus) subject to federal jurisdiction and in compliance with the applicable provisions of 49 CFR Part 177.

(b) Fuel. Fuel shall not be transported except in the vehicle's regular fuel tanks.

(c) General Property. Drivers and motor carriers shall not permit any greater quantity of freight, express, or baggage in vehicles than can be safely and conveniently carried without causing discomfort or unreasonable annoyance to passengers. In no event shall aisles, doors, steps, or emergency exits be blocked.

(d) Animals. A driver or motor carrier may refuse to transport dogs or other animals except as provided in Civil Code Section 54.2. When transported upon a bus engaged in public passenger transportation, all other animals shall be muzzled or securely crated to eliminate the possibility of injury to passengers. No animals except those specified in Civil Code Section 54.2 shall be transported in a school bus, SPAB, or youth bus. In such cases, the driver may determine whether the animal should be muzzled.

(e) Tools in Farm Labor Vehicles. All cutting tools or tools with sharp edges carried in the passenger compartment of a farm labor vehicle shall be placed in covered containers. All other tools, equipment, or materials carried in the passenger compartment shall be secured to the body of the vehicle.

(f) Wheelchairs. Wheelchairs transported on buses, except school buses, shall meet the following requirements:

(1) Brakes. The wheelchair shall have brakes or other effective mechanical means of holding it stationary during raising and lowering of a wheelchair platform.

(2) Batteries. Batteries used to propel wheelchairs shall be spill resistant or in a spill resistant container and shall be securely attached to the wheelchair.

(3) Flammable Fuel. The wheelchair shall not use flammable fuel.

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code. Reference: Sections 336, 353, 31401, 34501 and 34501.5, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. New subsection (f) filed 7-13-79; effective thirtieth day thereafter (Register 79, No. 28).
2. Amendment of subsection (d) filed 12-28-81; effective thirtieth day thereafter (Register 82, No. 1).
3. Amendment filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
4. Amendment of subsection (d) filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment of subsections (a)(1)-(3) and amendment of NOTE filed 1-24-2000; operative 2-23-2000 (Register 2000, No. 4).

§ 1217. Transportation of Passengers.

No driver shall drive a vehicle transporting passengers in violation of the following provisions:

(a) Seating Capacity. Except as provided in subsection (e), the number of passengers (excluding infants in arms) shall not exceed the number of safe and adequate seating spaces, or for school buses, school pupil activity buses, youth buses, and farm labor vehicles, the number of passengers specified by the seating capacity rating set forth in the departmental Vehicle Inspection Approval Certificate.

(b) Weight. No more passengers shall be transported than the number whose weight, in addition to the weight of any property transported, can be carried without exceeding the manufacturer's maximum gross vehicle weight rating or the combined maximum rating of the tires supporting each axle.

(c) Step Wells. Passengers shall not be permitted in the front step well of any bus while the vehicle is in motion.

(d) Seat Beside Driver. No more than two pupils shall be allowed to occupy the seating space beside the driver of a Type 2 school bus.

(e) Standing Passengers. A vehicle shall not be put in motion until all passengers are seated, and all passengers must remain seated while the vehicle is in motion. Standing passengers are permitted only on a bus (except a school bus, SPAB, or youth bus) operated in regularly scheduled passenger stage service or urban and suburban service by a common carrier or publicly-owned transit system, and equipped with grab handles or other means of support for standing passengers, and constructed so that standing room in the aisle is at least 74 in. high.

(f) Open Doors. While passengers are aboard, a vehicle shall not be put in motion until the doors are closed. The doors shall not be opened until the vehicle is stopped. The doors of a school bus shall be closed while the bus is in motion, whether or not there are passengers in the school bus.

(g) Emergency Exits. While a passenger is aboard, no bus shall be put in motion with any emergency exit locked or otherwise secured against being opened from the inside. While a passenger is aboard, no bus, equipped with emergency exits that are designed to be opened from the outside, shall be put in motion with such emergency exits locked or otherwise secured against being opened from either the outside or the inside. This paragraph shall not apply to buses operated by or under contract to law enforcement agencies while transporting persons in police custody.

(h) Interior Lighting. During darkness, the driver shall ensure that the interior lighting is sufficient for passengers to enter and exit safely and whenever otherwise deemed necessary.

(i) Ejection of Pupils. The driver of a school bus, youth bus, or SPAB shall not eject any school pupil unless the pupil is given into the custody of a parent or any person designated by the parent or school.

(j) Exemptions. The provisions of subsections (c) and (e) shall not apply to persons testing or training a driver, maintenance personnel, a sales

or manufacturers' representative, or an adult acting upon a request by a school bus or SPAB driver to supervise or assist a pupil.

NOTE: Authority and reference cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 38047, Education Code.

HISTORY

1. New subsection (i) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
2. Amendment of subsection (i) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
3. Amendment of subsections (a), (e) and (h) filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
4. New subsection (g) and subsection relettering filed 4-22-93; operative 5-24-93 (Register 93, No. 17).
5. Editorial correction of printing error in subsection (g) (Register 93, No. 22).
6. Amendment of subsection (f) and NOTE filed 4-15-98; operative 5-15-98 (Register 98, No. 16).

§ 1218. Fueling Restrictions.

When a vehicle is being refueled, the nozzle of the fuel hose shall be in contact with the intake of the fuel tank throughout the entire time of refueling. No driver or motor carrier shall permit a vehicle to be fueled while the engine is running, a radio on the vehicle is transmitting, the vehicle is close to any open flame or ignition source (including persons who are smoking), or passengers are aboard any bus except one fueled with diesel fuel in an open area or in a structure open on both the entrance and exit ends.

Article 4. Additional Requirements for School Bus, SPAB, and Youth Bus Drivers

§ 1219. School Bus Accidents.

(a) Reporting. Whenever any school bus accident occurs, the driver shall stop at the scene, immediately notify or cause to be notified the department, his or her employer, and the school district for which the bus may be operated under contract.

(b) Sending for Help. In the event of an accident or emergency, a driver shall not leave the immediate vicinity of the bus to seek aid unless no pupil aboard can be sent to summon help.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 546, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).
2. Amendment filed 8-27-82; effective thirtieth day thereafter (Register 82, No. 35).
3. Amendment of Article 4 heading filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
4. Amendment filed 5-29-87; operative 6-28-87 (Register 87, No. 23).

§ 1220. Discontinuance from Use.

When a bus is rendered unsafe for continued operation due to accident damage or a mechanical failure, the driver shall discontinue use of the bus and notify the motor carrier of these circumstances. The driver or motor carrier shall then make the necessary arrangements to have the pupils safely transported to their destinations.

§ 1221. Alcoholic Beverages.

Alcoholic beverages shall not be transported in a school bus, SPAB, or youth bus at any time.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
2. Amendment filed 10-15-91; operative 11-14-91 (Register 92, No. 6).

§ 1222. Smoking.

When a pupil is aboard, smoking is prohibited in a school bus or SPAB.

§ 1223. Driver's Vision.

The driver shall not allow any person to occupy a position that will interfere with the driver's vision to the front or sides, or in the rear view mirrors.

§ 1224. Seat Belt Use.

The driver shall be properly secured to the driver's seat with the seat belt at all times while the bus is in motion.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 38047, Education Code. Reference: Sections 545, 546, 680, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of section and new NOTE filed 3-22-2001; operative 4-21-2001 (Register 2001, No. 12).

Article 5. Additional Requirements for School Bus Drivers

§ 1225. Headlamps.

The driver shall ensure the headlamps are lighted while the bus is in motion.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 38047, Education Code. Reference: Sections 545, 546, 680, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of section and new NOTE filed 3-22-2001; operative 4-21-2001 (Register 2001, No. 12).

§ 1226. Leaving Driver's Compartment.

When a pupil is aboard, the driver shall not leave the driver's compartment without first stopping the engine, effectively setting the parking brake, placing the transmission in first or reverse gear or park position, and removing the ignition keys, which shall remain in the driver's possession. On vehicles with automatic transmissions which do not have a park position, the transmission shall be placed in neutral.

NOTE: Authority and reference cited: Section 34501.5, Vehicle Code.

HISTORY

1. Change without regulatory effect (Register 86, No. 48).
2. Change without regulatory effect amending section filed 9-24-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 52).

§ 1227. School Bus Stops.

NOTE: Authority cited: Sections 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 22504, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of subsection (b) filed 1-20-89; operative 2-19-89 (Register 89, No. 5).
3. Change without regulatory effect repealing section filed 9-2-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 36).

§ 1228. Railroad Crossing.

In addition to the provisions of Vehicle Code Section 22452, the driver shall stop the school bus parallel to and as close as practicable to the appropriate edge of the highway, fully open the entrance door on a Type 1 bus or open the window on a Type 2 bus, and then listen and look to ensure that the tracks are clear of an approaching train, and proceed only when the tracks are safe to cross and the door is closed.

NOTE: Authority and reference cited: Section 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).

Article 6. Carrier Requirements

§ 1229. Driving Proficiency.

Motor carriers shall require each driver to demonstrate that the driver is capable of safely operating each different type of vehicle or vehicle combination (i.e., vehicles with different controls, gauges, of different size, or requiring different driving skills) before driving such vehicle(s) on a highway unsupervised. The driver's capability to operate the vehicle

shall include special equipment such as wheelchair lifts, ramps, or wheelchair tie downs. This Section shall not apply to a motor carrier who is the owner and sole driver of a vehicle or combination of vehicles.

NOTE: Authority cited: Sections 31401, 34501 and 34501.5, Vehicle Code. Reference: Sections 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).
2. Amendment of section and NOTE filed 1-9-95; operative 2-8-95 (Register 95, No. 2).

§ 1230. Unlawful Operation.

No motor carrier shall knowingly require or permit the operation of any vehicle that is not in safe operating condition or not equipped and maintained as required by any law or this chapter; or knowingly require or permit any driver to drive in violation of any law or this chapter.

(a) **Out-of-Service Vehicles.** Authorized employees of the department may declare and mark any vehicle "out of service" in accordance with Section 1239, when its hazardous condition or loading appears likely to cause an accident, injury, or breakdown. A vehicle so marked shall not be operated, nor shall the out of service notice be removed, until the vehicle is safe to drive.

(b) **Damaged Vehicles.** A vehicle damaged by an accident or other cause shall not be driven from the location where the damage occurred until it has been inspected by a qualified person who has determined that the vehicle is safe to drive.

NOTE: Authority cited: Sections 2402, 2410, 31401 and 34501, Vehicle Code. Reference: Sections 260, 322, 2402, 2410, 2804, 12500, 12502, 12515(b), 14603, 15210, 15250, 15275, 15278, 20002, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506 and 34510, Vehicle Code.

HISTORY

1. Change without regulatory effect amending first paragraph filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
2. Amendment of subsection (a) and amendment of NOTE filed 7-10-2002; operative 8-9-2002 (Register 2002, No. 28).

§ 1230.5. Intermodal Chassis Inspection Tags.

(1) **Intermodal Chassis Inspection Tags.** Any motor carrier operating from an ocean marine terminal and conducting the intermodal roadability inspection, as defined in Section 34505.9 of the Vehicle Code, shall affix a green tag to each intermodal chassis that has passed the inspection and a red tag to each chassis that has failed the inspection. The tags may be in a format provided by the department, PASS (10-04) or FAIL (10-04), or may be in carrier-provided format containing, at a minimum, the following information:

- (1) The name of the inspector.
- (2) The date and time the inspection took place.
- (3) The result of the daily roadability inspection indicated by the term "pass" or "fail," as appropriate.
- (4) The following statement inserted directly below the term "pass" or "fail:" "On the date noted, this intermodal chassis was inspected pursuant to the requirements of California Vehicle Code Section 34505.9, and found to be *(defective)* or *(in compliance)*. *(The following defects) or (No defects)* were observed:"
- (5) Additional information is permitted, provided it does not render the required information illegible.

(b) **Minimum Dimensions.** Intermodal chassis inspection tags shall be of a size not less than 5.5 inches in height by 8.5 inches in width.

(c) **Placement and Durability of Tags.** Intermodal chassis inspection tags shall be securely attached in a conspicuous location so as to be visible from the rear of the intermodal chassis and maintained by the motor carrier in a condition so that the format, legibility, color, and visibility will not be substantially reduced due to weather, deterioration, dirt, or other matter encountered incidental to transportation. The tag may be removed upon release of the chassis from the ocean marine terminal.

NOTE: Authority cited: Sections 34501 and 34505.9, Vehicle Code. Reference: Sections 34501.12, 34505.5 and 34505.9, Vehicle Code.

HISTORY

1. New section filed 10-28-2004; operative 11-27-2004 (Register 2004, No. 44).

§ 1231. Vehicle Inspection Approval Certificate.

A vehicle inspection approval certificate designed and furnished by the department shall be displayed in each school bus, SPAB, youth bus, farm labor vehicle, and GPPV pursuant to Vehicle Code Sections 2807, 2807.1, 2807.3, 31401, and 34501.8. The following provisions shall apply to vehicle inspection approval certificates:

(a) **Display of Certificate.** The certificate shall be placed in a certificate holder provided by the motor carrier and posted in an easy-to-reach and visible area of the driver's compartment of the vehicle for which it was issued. The certificate holder shall be designed so the certificate can be easily inserted and removed and is clearly legible under a transparent covering.

(b) **Issuance of Certificate.** The certificate shall be issued to the specific vehicle and motor carrier named on the certificate. The certificate will be signed and dated by an authorized employee of the department certifying that on the inspection date the vehicle complied with applicable laws and regulations governing its construction, design, and equipment (and color, if a school bus).

(c) **Youth Bus Inspection Fee.** The fee for inspection of a youth bus is eighty-five dollars (\$85). When necessary to verify that corrections have been made, not more than one reinspection may be scheduled at each terminal or facility without payment of another inspection fee.

(d) **GPPV Inspection.** The fee for inspection of a GPPV is fifty dollars (\$50). When necessary to verify that corrections have been made, not more than one reinspection may be scheduled at each terminal or facility without payment of another inspection fee. Application for inspection of GPPVs shall be made to the department on forms provided by the department and shall be accompanied by the prescribed fees.

NOTE: Authority cited: Sections 2807.3, 31401, 31401.5, 34501.5, 34508 and 34508, Vehicle Code. Reference: Sections 2807.3, 31401, 31401.5, 34501, 34501.5, 34501.8 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
2. Amendment of first paragraph and new subsection (d) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).

§ 1231.5. Farm Labor Vehicle Certification Stickers.

Two farm labor vehicle certification stickers issued by the department shall be displayed on each certified farm labor vehicle. The following provisions shall apply to farm labor vehicle certification stickers:

(a) **Issuance and Display of Stickers.** Farm labor vehicle certification stickers shall be issued in pairs to a specific vehicle and shall be affixed as follows to the front and rear of each certified farm labor vehicle at the time the inspection approval certificate is issued pursuant to Section 1231.

(1) **Front.** One farm labor vehicle certification sticker shall be displayed on the lower right-hand corner of the windshield farthest removed from the driver.

(2) **Rear.** One farm labor vehicle certification sticker shall be displayed on the right side of the rear window of the vehicle. If the vehicle does not have a rear window, the sticker shall be displayed on the right side of the rear bumper.

(b) **Removal of Farm Labor Vehicle Certification Stickers.** Farm labor vehicle certification stickers shall be removed from any vehicle:

(1) before the vehicle is transferred into the possession of a new owner, is registered to a new owner, or is discarded or otherwise released from the ownership of the person or organization named on the vehicle inspection approval certificate issued pursuant to Section 1231.

(2) when the stickers are replaced by new stickers at the time of the next certification inspection by the department.

(c) **Design of Stickers.**

(1) **Size and Content:** The farm labor vehicle certification sticker shall be approximately 2.5 inches in height by 4 inches wide, and shall have the words "Certified Farm Labor Vehicle" superimposed over the California Highway Patrol shield. The month and year of issue shall be indicated by punch-outs (see figure 1). The last two digits of the year of expiration of the sticker shall be shown at the top of the sticker. Each sticker shall show the toll-free telephone number for reporting farm la-

bor vehicle violations, and each pair of stickers shall have a unique serial number.

(2) Color. Each farm labor vehicle certification sticker shall be color-coded to denote the quarter of the calendar year in which it was issued and will expire as follows:

- (A) Stickers issued in the first quarter shall be green.
- (B) Stickers issued in the second quarter shall be yellow.
- (C) Stickers issued in the third quarter shall be orange.
- (D) Stickers issued in the fourth quarter shall be white.

(3) Month of Issue. The upper left and upper right-hand corners of the sticker shall be removed as follows to indicate the month of the quarter in which it was issued:

(A) During the first month of the quarter, the upper left-hand and upper right-hand corners shall be removed before the sticker is affixed.

(B) During the second month of the quarter, only the upper left-hand corner shall be removed before the sticker is affixed.

(C) During the third month of the quarter, no corners shall be removed.

(4) Specifications. Stickers shall be fabricated of durable material, and construction shall assure self destruction when any attempt is made to remove a sticker from its original application surface. Evidence of self-destruction must permanently alter the appearance of the sticker.



Figure 1

(d) Modification of Stickers. No person other than an authorized employee of the department shall punch dates into or otherwise modify any farm labor vehicle certification sticker. A farm labor vehicle certification sticker which has been modified to indicate more than one issue date, or which has been otherwise tampered with is invalid and both stickers shall be removed from the vehicle.

(e) Transfer of Inspection Stickers or Certificates. No farm labor vehicle certification sticker, label, or vehicle inspection approval certificate issued by the department to a farm labor vehicle shall be transferred to another vehicle.

NOTE: Authority cited: Section 31401.5, Vehicle Code. Reference Sections 31401 and 31401.5, Vehicle Code.

HISTORY

1. New section filed 7-3-2001; operative 8-2-2001 (Register 2001, No. 27).

§ 1232. Vehicle Inspection and Maintenance.

The following provisions apply to the inspection and maintenance of vehicles subject to this chapter.

(a) Preventive Maintenance. Motor carriers shall ensure that all vehicles subject to their control, and all required accessories on the vehicles, are regularly and systematically inspected, maintained, and lubricated to ensure they are in safe and proper operating condition. The carriers shall have a means of indicating the types of inspection, maintenance, and lubrication operations to be performed on each vehicle and the date or mileage when these operations are due. The inspection required by this subsection is more in depth than the daily inspection performed by the driver. Motor carriers shall ensure compliance with this subsection when a vehicle is assigned away from the carrier's regular maintenance facility for periods exceeding normal inspection, maintenance, and lubrication intervals.

(b) Periodic Preventive Maintenance Inspection. School bus, SPAB, and GPPV carriers shall ensure every bus is inspected every 3,000 miles or 45 calendar days, whichever occurs first; or more often if necessary to ensure safe operation. Buses out of service exceeding 45 calendar days

need not be inspected at 45-day intervals, provided they are inspected prior to being placed back into service.

This periodic inspection shall at a minimum cover:

- (1) Brake adjustment
- (2) Brake system leaks
- (3) Two-way check valve in dual air systems, alternately draining and recharging primary and secondary air reservoirs
- (4) All tank mounting brackets
- (5) All belts and hoses for wear
- (6) Tires and wheels
- (7) Steering and suspension
- (c) Oil or Grease Accumulations. Excessive amounts of grease or oil on the vehicle shall be removed and their cause corrected.
- (d) Cleanliness of Buses. Every bus shall be kept clean and free of litter.

(e) Inspector Qualifications. Motor carriers shall ensure that individuals performing inspections, maintenance, repairs or service to the brakes or brake systems of vehicles subject to this chapter are qualified in accordance with 49 CFR 396.25 (published October 1, 2006).

NOTE: Authority cited: Sections 2807.2, 31401, 34501 and 34501.5, Vehicle Code. Reference: Sections 2807.2, 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. New subsection (e) filed 9-27-78; designated effective 10-27-78 (Register 78, No. 39).
2. Amendment filed 8-24-79; designated effective 10-1-79 (Register 79, No. 34).
3. Amendment filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
4. Amendment of subsection (b) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
5. Amendment of subsection (b) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).
6. Amendment of subsection (b) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).
7. New subsection (e) filed 9-21-94; operative 9-21-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 38).
8. Change without regulatory effect amending first paragraph and subsection (e) filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).
9. Amendment of subsection (e) filed 3-31-99; operative 4-30-99 (Register 99, No. 14).
10. Amendment of subsections (b) and (e) filed 4-10-2008; operative 5-10-2008 (Register 2008, No. 15).

§ 1233. Safety Compliance Ratings.

(a) *Definitions of Safety Compliance Ratings.* Compliance ratings shall have the following meanings:

(1) Satisfactory. A satisfactory rating means compliance with applicable laws and regulations or only minor discrepancies in statutory or regulatory requirements were noted, and overall compliance was within reasonable bounds.

(2) Unsatisfactory. An unsatisfactory rating means a continued disregard of statutory or regulatory requirements, a finding of numerous violations, a finding of serious violations that adversely affect the safe operation of vehicles, or a lack of compliance with hazardous materials shipping or carriage requirements.

(3) Conditional. A conditional rating means there was a previous rating of "unsatisfactory," and the carrier, terminal, facility or shipper has been reinspected and compliance is no longer necessarily "unsatisfactory," but that actual compliance cannot be determined. A follow-up inspection will be conducted to determine compliance.

(b) *Inspections by the Department.*

(1) Motor carriers. Motor carriers are inspected by the Department at their principal places of business and assigned safety compliance ratings which reflect each motor carrier's overall compliance with the requirements of Vehicle Code Section 34520.

(2) Motor carrier terminals and maintenance facilities. Motor carrier terminals and maintenance facilities are inspected by the Department pursuant to Vehicle Code Sections 34501(a)(3), 34501(c), and 34501.12(d) and assigned safety compliance ratings which reflect each terminal's overall compliance with the laws and regulations governing drivers' hours of service, vehicle condition, preventive maintenance practices, hazardous materials carriage, and records required by statute or regulation.

(3) Hazardous materials shippers. Hazardous materials shippers are inspected by the Department and are assigned safety compliance ratings which reflect each shipper's overall compliance with laws and regulations governing the packaging, description, marking, labeling, offering and other requirements of the United States Department of Transportation governing the transportation of hazardous materials, including any exceptions contained in state law or regulation.

(c) *Assignment of Safety Compliance Ratings.* The Department's evaluation of the motor carrier's, terminal's, or hazardous materials shipper's potential for overall safety shall be the final determining factor in the rating assigned.

(d) *Rating Review.* Any motor carrier, or shipper who receives an unsatisfactory rating and believes the rating is not justified, may, within five calendar days following the assignment of the rating, request a review of the rating by contacting the Department at the telephone number indicated on the inspection report. The sole purpose of the rating review is to determine whether the inspection and its findings are consistent with laws, regulations, and Department policy in effect at the time of the inspection. A rating review is not for the purpose of evaluating any corrective actions taken by the carrier or shipper since the time of the inspection.

(e) *Carrier Responsibility for Disclosure of Safety Compliance Ratings.*

(1) A motor carrier contracting to transport passengers in a bus shall give notice to the user of the carrier's most recent safety compliance rating.

(2) A motor carrier transporting school pupils to or from school activities in a school bus or school pupil activity bus (SPAB) shall give notice to the school district superintendent of the carrier's most recent safety compliance rating.

(3) Notice may be given by posting the safety compliance rating in the public area of the carrier's terminal or principal place of business, or by publishing the rating in the local news media.

(4) The carrier shall provide its latest rating upon any request from the public whether received in writing, in person, or by telephone. Safety compliance ratings are also available from the Department.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, 34508 and 34520, Vehicle Code. Reference: Sections 31401, 34501, 34501.5, 34508 and 34520, Vehicle Code.

HISTORY

1. New section filed 4-29-82; effective thirtieth day thereafter (Register 82, No. 18).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 9-6-95; operative 10-6-95 (Register 95, No. 36).
4. Repealer and new section and amendment of NOTE filed 4-6-99; operative 5-6-99 (Register 99, No. 15).
5. Editorial correction of subsection (b)(3) (Register 99, No. 20).

§ 1233.5. Change of Address.

Each motor carrier subject to the provisions of this chapter shall notify the department in writing of any change of address or cessation of regulated activity at any of the carrier's terminals. Such notification shall be made within 15 days of the change and shall be forwarded to:

CALIFORNIA HIGHWAY PATROL
COMMERCIAL RECORDS UNIT
P.O. BOX 942898
SACRAMENTO, CA 94298-0001

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. New section filed 9-6-95; operative 10-6-95 (Register 95, No. 36).

§ 1234. Required Records for Motor Carriers.

The following records are required:

(a) *Driver's Record.* Motor carriers shall require each driver and each codriver to keep a driver's record pursuant to Section 1213. Motor carriers shall keep the original copies of all drivers' records with any supporting documents, as defined in Section 1201(y), for 6 months. Drivers' re-

cords of duty status and all supporting documents shall be made available for inspection immediately upon request by an authorized employee of the department. Drivers' records and/or supporting documents not readily available or accessible shall be made available within 3 business days.

(b) *Driver's Authorized Vehicles.* Motor carriers shall maintain a record of the different types of vehicles and vehicle combinations each driver is capable of driving as specified in Section 1229.

(c) *Driver's Records.* School bus, SPAB, youth bus, farm labor vehicle, and GPPV carriers shall maintain a record of required documents for each driver they employ. The carrier shall notify each driver of the expiration date of the documents listed in (1) through (4), and the carrier shall ensure each document is renewed prior to expiration. The record shall contain the following data:

(1) Driver's license class, number, restrictions and expiration date.

(2) Driver's certificate restrictions, expiration date, certificate issuance date and driver's date of birth.

(3) Date medical certificate expires.

(4) Expiration date of driver's first aid certificate, license as a physician and surgeon, osteopath, or registered nurse, or certificate as a physician's assistant or emergency medical technician when such certificate or license is used to obtain a waiver of the first aid examination pursuant to Vehicle Code Section 12522.

(5) Date and number of hours of training specified in Education Code Sections 40080-40090 or Vehicle Code Section 12523 since issuance of the driver's current certificate.

(d) *Mileage Records.* School bus, SPAB, and youth bus carriers shall keep records of the mileage each bus travels during the fiscal year (July 1 through June 30). These records shall be retained for the current fiscal year plus the previous year.

(e) *Daily Vehicle Inspection Reports.* Motor carriers shall require drivers to submit a documented daily vehicle inspection report pursuant to Section 1215(c). Reports shall be carefully examined, defects likely to affect the safe operation of the motor vehicle or combination or result in a mechanical breakdown shall be corrected before the vehicle or combination is driven on the highway, and carriers shall retain such reports for at least three months.

(f) *Inspection, Maintenance, Lubrication, and Repair Records.* Motor carriers shall document each systematic inspection, maintenance, and lubrication, and repair performed for each vehicle under their control. These vehicle records shall be kept at the carrier's maintenance facility or terminal where the vehicle is regularly garaged. Such records shall be retained by the carrier for one year and include at least:

(1) Identification of the vehicle, including make, model, license number, or other means of positive identification

(2) Date or mileage and nature of each inspection, maintenance, lubrication, and repair performed

(3) Date or mileage and nature of each inspection, maintenance, and lubrication to be performed; i.e., the inspection, maintenance, and lubrication intervals

(4) The name of the lessor or contractor furnishing any vehicle

(5) On school bus, SPAB, and GPPV records, the signature of the person performing the inspection

(g) *Temporarily Assigned Vehicle.* When a vehicle is garaged at other than the carrier's regular maintenance facility for periods exceeding normal intervals for inspection, maintenance, and lubrication, carriers shall ensure the record(s) indicating the date or mileage and nature of these operations to be performed, are kept in the vehicle.

(h) *School Bus Accident Reports.* School bus carriers shall maintain a report of each accident that occurred on public or private property involving a school bus with pupils aboard. The report shall contain pertinent details of the accident and it shall be retained for 12 months from the date of the accident. If the accident was not investigated by the CHP, the carrier shall forward a copy of the report to the local CHP within five work days of the date of the accident.

NOTE: Authority cited: Sections 31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 545, 546,

31401, 34501, 34501.2, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. New subsection (c)(4) filed 4–3–80; designated effective 7–1–80 (Register 80, No. 14).
2. Amendment filed 4–2–81; effective thirtieth day thereafter (Register 81, No. 14).
3. New subsection (h) filed 8–27–82 effective thirtieth day thereafter (Register 82, No. 35).
4. Amendment of subsections (c) and (d) filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment of subsection (c)(2) filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
6. Amendment of subsection (a) filed 8–31–83; effective thirtieth day thereafter (Register 83, No. 36).
7. Amendment of subsection (e) filed 4–16–86; effective thirtieth day thereafter (Register 86, No. 16).
8. Amendment of subsection (c) filed 10–31–86; effective thirtieth day thereafter (Register 86, No. 44).
9. Amendment of subsections (c) and (f) filed 8–16–88; operative 9–15–88 (Register 88, No. 34).
10. Amendment of subsection (c)(2) filed 12–5–88; operative 1–4–89 (Register 88, No. 51).
11. Change without regulatory effect amending subsection (c)(5) filed 8–29–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 51).
12. Amendment of subsection (e) filed 12–11–97; operative 1–10–98 (Register 97, No. 50).
13. Amendment of subsection (a) and NOTE filed 1–8–98; operative 2–7–98 (Register 98, No. 19).
14. Amendment of subsection (a) and amendment of NOTE filed 10–12–2007; operative 11–11–2007 (Register 2007, No. 41).

§ 1234.5. Farm Labor Vehicle Inspection Scheduling.

It is the responsibility of the owner or operator of a farm labor vehicle to schedule the annual inspection required by Section 31401 of the Vehicle Code. Farm labor vehicle owners or operators shall request scheduling of inspections as follows:

(a) **Renewal Inspections.** The owner or operator of a farm labor vehicle that has a currently valid inspection certificate shall make the request for inspection not later than four weeks prior to the expiration date of the certificate.

(b) **Initial Inspections.** The owner or operator of a farm labor vehicle required to have its initial inspection shall make the request for inspection not later than three business days prior to the requested date.

NOTE: Authority cited: Section 31401.5, Vehicle Code. Reference: Sections 31401 and 31401.5, Vehicle Code.

HISTORY

1. New section filed 7–3–2001; operative 8–2–2001 (Register 2001, No. 27).

§ 1235. Towing Other Vehicles.

A school bus or SPAB shall not tow any vehicle. Other buses and farm labor vehicles shall not tow any vehicle except as follows:

(a) **Urban or Suburban Service—Farm Labor Vehicle.** A bus operated in urban or suburban service by a common carrier, publicly owned transit system, or passenger charter-party carrier, and a farm labor vehicle, may tow a trailer or semitrailer, used to carry property for use by passengers, provided the trailer/semitrailer and property does not exceed a gross weight of 6,000 lbs.

(b) **Bus.** A bus may tow a trailer—bus pursuant to the provisions of the Vehicle Code.

(c) **Bus Under 10,000 Lb GVW.** A bus with a gross vehicle weight of less than 10,000 lb may tow any vehicle, pursuant to the provisions of the Vehicle Code.

NOTE: Authority and reference cited: Sections 546, 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

Article 6.5. Carrier Identification Numbers

§ 1235.1. Application for Carrier Identification Number.

(a) **Required Application.** Persons subject to Section 34507.5 of the Vehicle Code shall apply to the department for a carrier identification number as required by that section, using the application specified in paragraph (e).

(b) **Person Defined.** Whenever in this article reference is made to a person, it shall be understood to mean an individual, partnership, corporation, limited liability company, state or local government agency, firm, association, or other legal entity who is subject to Section 34507.5 of the Vehicle Code. For purposes of this article, the terms “carrier,” “firm,” “legal entity,” “motor carrier,” “motor carrier of property,” “organization,” “owner,” “person,” or other collective term shall be interchangeable unless specified otherwise in a specific instance.

(c) **CA Number.** The carrier identification number referenced in Section 34507.5 of the Vehicle Code shall be referred to in this section as a “CA number.” CA numbers are generated by an automated record system operated by the department. CA numbers shall be assigned to each new applicant in sequence, and requests for specific numbers shall not be honored by the department.

(d) **Application Fee.** Applications for CA numbers are received and processed without charge to the applicant.

(e) **Motor Carrier Profile.** Persons subject to Section 34507.5 of the Vehicle Code shall submit a completed application for a CA number on a *Motor Carrier Profile*, CHP 362, as revised in June 1999, which is hereby incorporated by reference.

(1) Single copies of this application are available free of charge from the department at its field division offices in Redding, Rancho Cordova, Vallejo, Fresno, Los Angeles, San Diego, San Luis Obispo, and San Bernardino, or from its Commercial Vehicle Section in Sacramento.

(2) The current version of the application is also available for printing from the Internet at the department’s Internet site at www.chp.ca.gov under *Forms*. The specific location of this application on the department’s Internet site may vary over time as the site is updated, but should be locatable using the search term “CHP 362.”

(f) **Completion and Submission.** Applications shall be completed legibly, and mailed or otherwise delivered to the department according to the instructions contained in the application.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New article 6.5 (sections 1235.1–1235.6) and section filed 3–20–2002; operative 4–19–2002 (Register 2002, No. 12).

§ 1235.2. Motor Carrier Safety Records of the Department.

(a) **Records Associated With CA Numbers.** The record system referenced in section 1235.1 contains carrier records and terminal records. All of the information in the record system is public information.

(b) **Carrier Records.** Carrier records may contain some or all of the following information:

(1) Identification by the legal name of each person who is a motor carrier as defined in Section 408 of the Vehicle Code or a motor carrier of property as defined in Section 34601 of the Vehicle Code.

(2) Any properly adopted business names used by the carrier.

(3) The physical address, mailing address, and telephone number of the carrier’s principal place of business.

(4) At the carrier’s option, the names of two individuals designated by the motor carrier as emergency contacts, with day and night telephone numbers for each, which the department may use if necessary to contact the carrier’s management regarding an emergency involving a vehicle or driver of the carrier.

(5) Codes assigned by the department representing the geographical location of the carrier’s principal place of business.

(6) Identification of the type of legal entity the person is, such as individual, partnership, corporation, or limited liability company.

(7) If the applicant is a partnership, corporation, or limited liability company, the applicant's federal employer identification number, or if an individual, the individual's driver license number or state-issued identification card number and state of issue, and if the individual has employees, the individual's federal employer identification number.

(8) The carrier's California or foreign corporation number assigned by the California Secretary of State.

(9) Identification of the state agency that created the record in the automated system, either the department in connection with its duty to regulate the safe operation of vehicles described in Division 14.8 of the Vehicle Code, or the Department of Motor Vehicles in connection with its duty to administer the Motor Carriers of Property Permit Act in Division 14.85 of that code.

(10) Brief descriptions of the types of regulated vehicles the carrier operates or transportation activities in which the carrier is engaged, referred to collectively as "types of operation."

(11) The number and locations of terminals the carrier operates in California, each identified as active or inactive.

(12) Status of the carrier record as a whole as active or inactive, and the effective date of that status.

(13) The date on which the carrier record was most recently updated.

(14) A listing of licenses, operating authorities and registrations held by the carrier to conduct various transportation-related activities, and cross-references to identification numbers issued by other agencies to that carrier.

(15) A count of regulated vehicles and hazardous materials tanks and containers in the carrier's fleet, and the number of drivers, derived as the sum of all vehicle counts indicated in (c)(10) and (11).

(16) Fleet mileage by year, as reported by the carrier.

(17) Business (doing business as) names the carrier uses.

(18) A listing of the carrier's terminals subject to the inspection program mandated by Vehicle Code Section 34501.12, if applicable.

(19) A listing of citations written to the carrier by the department for violations relating to operation of commercial vehicles, not including adjudication.

(20) A listing of accident reports taken or received by the department in which the carrier was identified as an involved party in the accident.

(21) A listing of locations at which the carrier operates terminals.

(c) Terminal Records. Terminal records may contain some or all of the following information:

(1) The name the carrier uses at the terminal location, and the address.

(2) The terminal office telephone number.

(3) At the carrier's option, the names of two individuals designated by the motor carrier as emergency contacts for that specific terminal, with day and night telephone numbers for each, which the department may use if necessary to contact the terminal's management regarding an emergency involving a vehicle or driver believed to be from that terminal.

(4) Codes assigned by the department representing the geographical location of the terminal.

(5) Types of operation in which the carrier is engaged at the terminal.

(6) The rating assigned by the department pursuant to Section 1233 to the terminal, and the date of the rating assignment.

(7) The date on which the most recent information about the terminal was entered into the record.

(8) A listing of any transportation-related licenses or registrations associated with the specific terminal.

(9) A history of fees paid and inspections completed pursuant to Section 34501.12 of the Vehicle Code.

(10) A count of vehicles operated from the terminal, with codes indicating types of vehicles and a legend explaining the codes.

(11) A count of drivers based at the terminal.

(12) Fleet mileage by year of vehicles operated from the terminal.

(13) A history of terminal ratings showing the ratings given for each of four categories of compliance matters, and the overall compliance rat-

ing assigned to the terminal, with an indication of whether each inspection was conducted pursuant to Section 34501.12 of the Vehicle Code or other authority, whether a due process notice was issued when an unsatisfactory rating was assigned, the predominant type of operation upon which compliance was rated, the date of the inspection, and a tentative suspense date for departmental review of the record and possible scheduling of the next inspection.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New section filed 3-20-2002; operative 4-19-2002 (Register 2002, No. 12).

§ 1235.3. Required Information and Assignment of Identification Numbers.

(a) "Doing Business As" Names. "Doing Business As" (DBA) names under which a person operates may be associated in the department's records with the CA number and legal name of the person.

(b) DBA Name Not A Separate Entity. The fact that a person does business under another name does not create an entity distinct from that person. Except as specifically permitted in this section, DBA names that are fictitious business names shall not be included on the application referenced in Section 1235.1 unless they are adopted in compliance with the Business and Professions Code, commencing with Section 17900.

(1) The name of another carrier to whom a person is contracted or under whose federal operating authority the person operates is not acceptable as a DBA name of that person.

(2) The department may require the applicant to provide verification of compliance with the requirements of the Business and Professions Code regarding the adoption of fictitious business names.

(c) Legal Name Required. A CA number shall be assigned in the legal name of the person who is a motor carrier or motor carrier of property.

(1) An individual who operates vehicles which cause the individual to be subject to Section 34507.5 of the Vehicle Code shall, upon submission of a properly completed application, be assigned one CA number in the legal name of that individual.

(A) A business or other enterprise which is operated as a sole proprietorship, but managed jointly by a family, such as by a husband and wife, siblings, parent and child, or is managed by unrelated individuals in an informal partnership, shall be identified on the application referenced in Section 1235.1 as operated by one individual, and a CA number shall be assigned in the legal name of the individual so identified.

(2) A partnership, corporation, or limited liability company that operates vehicles which cause it to be subject to Section 34507.5 of the Vehicle Code shall, upon submission of a properly completed application, be assigned one CA number in the legal name of the partnership, corporation, or limited liability company.

(3) A department or an independent commission of the state that operates vehicles which cause it to be subject to Section 34507.5 of the Vehicle Code shall, upon submission of a properly completed application, be assigned one CA number in the legal name of the department or commission. Except as provided in subsections (c) and (d), levels of state government below the department level shall not be identified as DBAs of the state. As used in this paragraph, the term "department level" means the first major organizational subdivision of a state Department or Commission below its executive level.

(4) A county shall be assigned one CA number. County departments may be identified as DBA names of the county. Except as provided in subsections (c) and (d), levels of county government below the county department level shall not be identified as DBAs of the county.

(5) A city shall be assigned one CA number. City departments may be identified as DBA names of the city. Except as provided in subsections (c) and (d), levels of city government below the city department level shall not be identified as DBAs of the city.

(d) Commissions and Special Districts. A county or city commission, or a special district or joint powers agency governed by a board of trustees, that operates vehicles which cause the commission, district or agency to be subject to Section 34507.5 of the Vehicle Code, shall, upon

submission of a properly completed application, be assigned a CA number separately from the level of government with which it is associated.

(e) Public School Districts. A public school district operated by the state, a county, or a city shall, upon submission of a properly completed application, be assigned a CA number separately from the level of government with which it is associated.

(f) Associations and Other Organizations. Associations and other organizations comprising a federation of relatively independent local offices, chapters, congregations, or other units but which are affiliated statewide or nationally with a central organization in such a manner that they share the same federal employer identification number, shall be considered one organization and shall share the same CA number, unless a local chapter is incorporated separately from the state or national organization. The name of each local chapter of the organization may be identified as a DBA of the organization if the local chapter operates one or more vehicles that cause the organization to be subject to Section 34507.5 of the Vehicle Code and the DBA name is properly adopted pursuant to subsection (b), except that any one DBA name shall not be repeated in the records of the department regardless of how many locations use that DBA name.

(g) Reorganizations. Reorganization of a business, enterprise, or other organization under the ownership of a different legal person, such as from a sole proprietorship to a partnership or from a partnership to a corporation shall be considered the emergence of a new or different person, which, if that new person operates vehicles that cause the person to be subject to Section 34507.5 of the Vehicle Code, shall require application for a new CA number pursuant to Section 1235.1.

(1) "Reorganization" includes the dissolution of an entity and the creation of a new entity of the same type, such as from a corporation to a new corporation, or from a limited liability company to a new limited liability company, even if all the individuals who comprise the management of the new entity are the same individuals who managed the previous entity.

(2) Upon issuance of a new CA number to the new legal entity, the department may place the CA number of the former organization in inactive status.

(h) Individuals Participating in Multiple Businesses. An individual operating one or more businesses as a sole proprietor shall be assigned one CA number, regardless of the number of businesses operated. An individual who enters into a partnership or participates as an owner in the formation of a corporation or limited liability company, but continues to operate one or more businesses as a sole proprietor, shall retain his or her original CA number, which shall continue to represent that individual as a sole proprietor. The partnership, corporation or limited liability company in which that individual participates as a partner or co-owner is a separate legal entity and shall be assigned its own CA number.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New section filed 3–20–2002; operative 4–19–2002 (Register 2002, No. 12).

§ 1235.4. Identification Numbers Nontransferable.

(a) One CA Number Per Person. An individual shall be assigned one CA number regardless of how many business enterprises the individual may operate as a sole proprietor or DBA names he or she may use. A partnership, corporation, or limited liability company shall be assigned one CA number, regardless of how many internal divisions it may have or DBA names it may use in representing its business enterprises to the public. The CA number shall represent the legal name of that person, not a DBA name the person may use.

(b) Nontransferable. A CA number is not transferable from one person to another, except to correct any errors on the part of the department in the assignment of a number. The department will deny issuance of a CA number to any person the department determines to have been assigned a CA number previously, unless the previously-assigned CA number no longer exists in the department's files due to processes described in Section 1235.5. Once a CA number ceases to exist in the records of the department due to processes described in Section 1235.5, that number shall

not be reassigned to any person, except when it was deleted by the department's error.

(1) Pending a hearing pursuant to the Administrative Procedure Act of the Government Code commencing with Section 11500, the department may refuse to issue a new CA number to a legal entity that is owned or managed, in whole or in part, by an individual against whom the department, the Department of Motor Vehicles, or the Public Utilities Commission has an unresolved action, and, in the department's opinion, the individual's purpose in applying for the new CA number is to circumvent or thwart the action.

(c) Name Changes. The department will update its records to reflect a change in the legal name of any person who has been assigned a CA number upon submission of satisfactory evidence that the new name represents the same legal entity currently associated with that CA number, and the change is not the result of the formation of a new legal entity.

(d) Inactive Entities. A person who ceases to be subject to Section 34507.5 of the Vehicle Code shall retain or forfeit an existing CA number according to the following:

(1) If a person ceases operations in California or fails to notify the department of a change of address pursuant to Section 1233.5 of this title for three or more years, the department may consider the person inactive and may place the person's CA number in inactive status. If the person subsequently resumes operations in California, the person's inactive CA number and its associated carrier record shall be restored to active status. The person shall not be assigned a new CA number.

(2) If a person ceases operations in California, or fails to notify the department of a change of address pursuant to Section 1233.5 of this title for six or more years, the department may consider the person no longer to exist, or no longer subject to Section 34507.5 of the Vehicle Code, and may purge the CA number and its associated records from the department's record system. If the person resumes operations in California subsequent to the purge of the records, the person's original CA number shall not be restored, and the person shall be treated as a new applicant pursuant to section 1235.1.

(3) The department may delay purging an inactive CA number and its associated record from its automated system beyond the time frames in subsections (1) or (2) for any reason, and is not obligated to place a record in inactive status at any particular time.

(e) Mergers and Acquisitions. When two or more persons combine into one organization through a merger, acquisition or other legal transaction, retention of existing CA numbers and issuance of new numbers shall be governed as follows:

(1) When a new partnership, corporation, or limited liability company is formed from former entities, some or all of whom held CA numbers, the resulting new organization is a new person and shall apply for a new CA number pursuant to Section 1235.1. The CA number of any former entity that no longer exists or no longer operates vehicles that would make it subject to Section 34507.5 of the Vehicle Code, may be placed in inactive status by the department.

(2) When a person acquires another person's business assets and will continue to operate as the same person he or she was prior to making the acquisition, as opposed to reorganizing as a new legal entity, that person shall retain his or her existing CA number and shall advise the department which terminals purchased from the former owner, if any, will be operated by the new owner. If vehicles described in Vehicle Code Section 34500 are to be operated from any of those terminals, the department will create new terminal records under the new owner's existing CA number for those terminals, and will place the terminals at those addresses that are under the former owner's CA number in inactive status.

(3) All vehicles acquired in the transaction that are the subject of Section 34507.5 of the Vehicle Code shall be remarked with the name or DBA name and CA number of that person pursuant to that section, Sections 27900 and 27901 of that code, and Sections 1256 or 1256.5 of this title.

(4) When ownership of a business operated as a sole proprietorship passes from one individual to another, including the passage of owner-

ship between individual members of a family, the new owner is a different person and shall apply for a new CA number unless he or she already has one, in which case the transaction shall be treated as indicated in subsection (2).

(5) The new owner shall identify to the department the former entities that were acquired and that no longer exist as separate legal entities. In the case of acquisitions from an individual who will cease operations that would cause him or her to be subject to Section 34507.5 of the Vehicle Code, the new owner shall identify the former owner of the business or other organization to the department.

(6) If the new owner is a motor carrier as defined in Section 408 of the Vehicle Code, he or she shall identify which motor carrier terminals belonging to the former owner will continue to be operated as terminals of the new owner. If the new owner is subject to Section 34507.5 of the Vehicle Code solely because it is a motor carrier of property as defined in Section 34601 of the Vehicle Code, but is not a motor carrier as defined in Section 408 of the Vehicle Code, no business locations need be identified to the department except the new owner's principal place of business.

(f) Divisions and Dissolutions. When a motor carrier or motor carrier of property divides its operations into two or more new legal entities, the retention of an existing CA number and issuance of a new CA number shall be governed as follows:

(1) When the original motor carrier or motor carrier of property continues to exist as the same legal entity, it shall retain the CA number it had before the division, pursuant to subsection (d)(2).

(2) When the original motor carrier or motor carrier of property reorganizes as a different entity type, or as the same type but a new legal entity, that entity shall apply for a new CA number pursuant to Section 1235.1.

(3) The portion of the original legal entity which has been separated and formed into a new legal entity shall apply for a new CA number pursuant to Section 1235.1.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New section filed 3-20-2002; operative 4-19-2002 (Register 2002, No. 12).

§ 1235.5. Retention of Records by the Department.

(a) Deletion of CA Numbers. A CA number and its associated records will be deleted from the department's automated record system for any of the following reasons:

(1) A number was assigned in error to a person who was not subject to Section 34507.5 of the Vehicle Code at the time the number was assigned.

(2) A second or subsequent number was assigned to the same person in error. In this circumstance, any carrier or terminal information associated with a superfluous CA number will be transferred to the person's correct CA number.

(A) The department may, at its discretion, permit a person to choose which CA number to keep and which to delete. This permission will not be extended if either of the following conditions exist:

(i) The department is aware the person is currently the subject of any legal proceeding in which any CA number associated with that person appears, or may appear, on any exhibit in the proceeding.

(ii) The person is subject to follow-up inspections after that person's failure to attain a satisfactory compliance rating during any regulatory inspection performed by the department.

(3) The department has determined that the person no longer exists as a legal entity or has ceased to be subject to Section 34507.5 of the Vehicle Code, and sufficient time has passed that the department is unlikely to need to refer to the record associated with that CA number, and legal action against that person, as a motor carrier or a motor carrier of property, is not pending or contemplated by the department, and is not known to the department to be pending or contemplated by the Department of Motor Vehicles, the Public Utilities Commission, or the Federal Motor Carrier Safety Administration.

(4) The department will coordinate with the Department of Motor Vehicles to ensure that deletion of a CA number does not cause the inadvertent invalidation of a motor carrier of property permit, and if the carrier possesses such a permit, to arrange with the Department of Motor Vehicles for corresponding correction of relevant information associated with the permit in that agency's records, such as correction of the CA number associated with it.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New section filed 3-20-2002; operative 4-19-2002 (Register 2002, No. 12).

§ 1235.6. Reconciliation of Records.

(a) Conformance With This Article. The department maintains an ongoing effort to conform its electronic records to the requirements of this article by each of the following actions:

(1) Identifying persons who may have been assigned more than one CA number and consolidating all of that person's information under one CA number, requiring the person to use only that single CA number, and deleting superfluous CA numbers and their associated records from the record system;

(2) Identifying CA numbers that represent multiple legal entities and requiring each legal entity who is a motor carrier or a motor carrier of property to obtain a separate CA number; and

(3) Identifying legal entities that have been assigned a CA number but which are not, and never were, either a motor carrier or a motor carrier of property, and removing those entities from the record system of the department after transferring any information to the record of the true owner, as appropriate.

(b) Time to Comply. In carrying out the objectives of subsection (a), the department will use the most expeditious methods to communicate with persons who are subject to this article, such as using telephone or facsimile communications to the extent they are practical. When it is determined that a "person" is actually multiple persons and additional CA numbers are needed, or that a person has multiple CA numbers and one or more of them must be discontinued, the department will grant a reasonable period of time for the submission of new applications pursuant to Section 1235.1, the updating of carrier identification information, and if necessary, the remarking of vehicles pursuant to Section 34507.5 of the Vehicle Code. The department will negotiate a date by which any necessary remarking of vehicles with correct CA numbers will be accomplished, and provide to the person or persons a letter which can be copied and carried in vehicles and shown to any peace officer to show that the process of achieving compliance is in progress pursuant to a negotiated agreement.

(c) Enforcement. It is not the intent of the department to take enforcement action against any person who reasonably may not have known that he or she has been using an incorrect CA number due to any of the circumstances indicated in subsection (a). Enforcement action shall be taken only when the department has determined that a person is uncooperative in complying with the requirements of this article.

NOTE: Authority cited: Sections 34500 and 34501, Vehicle Code. Reference: Sections 34507.5, 34507.6, 34620(a) and 34621(b)(4), Vehicle Code.

HISTORY

1. New section filed 3-20-2002; operative 4-19-2002 (Register 2002, No. 12).

Article 7. Additional Requirements for School Bus, SPAB, and Youth Bus Carriers

§ 1236. Reporting Driver Status.

(a) Dismissal. Dismissal of any driver for a cause relating to pupil transportation safety shall be reported by the carrier to the Department of Motor Vehicles within five days of the dismissal date.

(b) Employment or Training Status. Carriers shall notify the local CHP office within 10 calendar days of the hiring of a certified school bus, SPAB, or youth bus driver, or of any driver who fails to receive the train-

ing specified in California Education Code Sections 40082, 40083, 40084, 40085 and 40086 or Vehicle Code Section 12523.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Sections 39831, 40082, 40083, 40084, 40085 and 40086, Education Code. Reference: Sections 12523, 34501, 34501.5 and 34508, Vehicle Code; and Sections 39831, 40082, 40083, 40084, 40085 and 40086, Education Code.

HISTORY

1. Amendment of subsection (b) and Article 7 heading filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
2. Change without regulatory effect amending subsection (b) and NOTE filed 10–7–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 41).

§ 1237. Reporting of Accidents.

Whenever a school bus, SPAB, or youth bus driver is involved in an accident specified in Section 1219, that requires the Department to be notified immediately by the driver, the carrier shall ensure the accident has been reported within 24 hours to the department and the superintendent of the school district for which the bus was operated. If the driver is physically incapable of reporting the accident, the carrier shall make the required notifications immediately upon becoming aware of such accident.

NOTE: Authority cited: Sections 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 546, 12523, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 8–27–82; effective thirtieth day thereafter (Register 82, No. 35).
2. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).

§ 1238. School Bus Stops.

(a) Designated Stops. School bus and SPAB stops made for receiving and discharging pupils shall be designated by the school district superintendent.

(b) Prohibited Stops. A school bus stop shall not be designated at the following locations:

- (1) Within 200 ft of the nearest rail of any railroad crossing or grade, except at railroad stations or on highways that parallel the railroad tracks
- (2) The left-hand side of any highway

(3) On a divided or multiple-lane highway where pupils must cross the highway to board or after exiting the bus, unless traffic is controlled by a traffic officer or official traffic control signal. For the purposes of this subsection, a multiple-lane highway is defined as any highway having two or more lanes of travel in each direction.

(c) CHP Approval. Unless approved by the department, a school bus stop shall not be designated at the following locations:

(1) Upon the main traveled portion of a highway where there is not a clear view of the stop from 500 ft in each direction along the highway and the speed limit is more than 25 mph.

(2) On a highway, pursuant to Vehicle Code Section 22504(c)

NOTE: Authority cited: Sections 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 22504, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 4–9–79; designated effective 6–1–79 (Register 79, No. 15).
2. Editorial correction of subsection designation in subsection (b) (Register 79, No. 17).
3. Amendment filed 4–27–83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of subsection (b)(3) filed 10–30–91; operative 11–29–91 (Register 92, No. 6).

Article 7.5. Commercial Vehicle Out-of-Service Criteria

§ 1239. Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria.

(a) *Applicability*. This article shall apply to those vehicles described in Sections 260, 322, 15210 and 34500 of the California Vehicle Code.

(b) *Incorporation by Reference*. This article incorporates by reference portions of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria including Part I (with the exception of those items related to waiver of physical disqualification), Part II, and Part III. All references to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria in this article are those criteria published on January 1, 2004.

(c) *Availability of Referenced Criteria*. Copies of the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria can be obtained from:

COMMERCIAL VEHICLE SAFETY ALLIANCE
1101 17TH STREET, N.W., SUITE 803
WASHINGTON, DC 20036

NOTE: Authority cited: Sections 2402, 2410, 31401 and 34501, Vehicle Code. Reference: Sections 260, 322, 2402, 2410, 2804, 12500, 12502, 12515(b), 14603, 15210, 15250, 15275, 15278, 23152, 24002, 24400, 24252, 24600, 24603, 24604, 24952, 27154, 27155, 27465, 27501, 27903, 29001, 29002, 29003, 29004, 31401, 34500, 34501, 34506, 34510 and 34520, Vehicle Code.

HISTORY

1. New article 7.5 (section 1239) and section filed 8–2–99; operative 9–1–99 (Register 99, No. 32).
2. Amendment of section heading, section and NOTE filed 7–10–2002; operative 8–9–2002 (Register 2002, No. 28).
3. Amendment of subsection (b) and amendment of the document, *Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria* (incorporated by reference) filed 5–6–2003; operative 6–5–2003 (Register 2003, No. 19).
4. Amendment of subsections (b) and (c) filed 6–15–2006; operative 7–15–2006 (Register 2006, No. 24).

Article 8. General Equipment Requirements

§ 1240. Federal Motor Vehicle Safety Standards.

A Federal Motor Vehicle Safety Standard that conflicts with an equipment provision of this title as to the same aspect of performance shall supersede that specific provision of this title with respect to vehicles manufactured and maintained in compliance with applicable federal standards.

§ 1241. Major Changes.

Unless otherwise specified, these regulations shall not require major reconstruction or major additions to vehicles in service on March 1, 1965. However, this section shall not limit the power of the department to promulgate regulations for changes or additions based upon a demonstrated need in the interest of safety.

§ 1242. Fire Extinguishers.

Every motor vehicle or combination of vehicles (except those otherwise specified below) shall be equipped with one fully charged fire extinguisher having at least a 4B:C rating.

(a) Approvals. Each fire extinguisher shall have been rated and labeled by one of the following test labs approved by the State Fire Marshal to test and label portable fire extinguishers for sale in California.

(1) Underwriter's Laboratories, Northbrook, Illinois. All sizes and classifications.

[The next page is 135.]

(2) Factory Mutual Research Corporation, Norwood, Massachusetts. Sizes 10B:C, 1A 10B:C, 2A 40B:C, 3A 40B:C, and 4A 80B:C fire extinguishers filled with Halon 1211 or Halon 1301.

(b) Prohibited Extinguishers. Fire extinguishers using any carbon tetrachloride, chlorobromomethane, or methyl bromide as extinguishing agents shall not be carried for use in or about any vehicle.

(c) Exceptions. This section shall not apply to vehicles (except school buses, SPABS, youth buses, farm labor vehicles, and GPPVs) operated solely within a 5-mile radius of one or adjoining municipalities, vehicles subject to more restrictive provisions in this title or other code, or vehicles in any "driveaway-towaway operation" as defined in Section 303 of the Vehicle Code.

(d) Securement. Each fire extinguisher shall be securely mounted on the motor vehicle or trailer in a conspicuous place or a clearly marked compartment and readily accessible.

(e) Maintenance. Each fire extinguisher shall be maintained in efficient operating condition and equipped with some means of determining if it is fully charged.

(f) School Bus Fire Extinguishers. In addition to the other requirements of this section, school buses shall be equipped with one or two extinguishers having an aggregate rating of not less than 8B:C units, provided each extinguisher is rated at not less than 4B:C. A wheelchair school bus shall be equipped with two extinguishers, each one rated at not less than 8B:C; one to be placed in the driver's compartment and the other at the wheelchair loading door or emergency exit.

(1) School bus fire extinguishers shall be inspected and serviced only by a person, firm, or organization authorized to do so by the State Fire Marshal.

(2) Inspection or servicing shall be done at yearly intervals or at intervals prescribed in regulations adopted by the State Fire Marshal, whichever intervals are shorter.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, 34501.8 and 34508, Vehicle Code; and Section 39831, Education Code. Reference: Sections 31401, 34501, 34501.5, 34501.8 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment of subsection (c) filed 7-30-80; designated effective 9-1-80 (Register 80, No. 31).
2. Amendment of subsection (c) filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).
3. Amendment filed 11-5-81; effective thirtieth day thereafter (Register 81, No. 45).
4. Amendment filed 10-28-82; effective thirtieth day thereafter (Register 82, No. 44).
5. Amendment filed 10-28-86; effective thirtieth day thereafter (Register 86, No. 44).
6. Amendment of subsection (c) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).

§ 1242.5. Liquid Burning Flares, Fusees, Oil Lanterns, etc.

Liquid burning flares, fusees, oil lanterns, or any signal produced by a flame shall not be carried on any commercial motor vehicle using compressed gas as a motor fuel.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 6-17-96; operative 7-17-96 (Register 96, No. 25).

§ 1243. First Aid Kits.

(a) Vehicles Required to Carry Kits. Every school bus, youth bus, farm labor vehicle, and GPPV shall carry a readily visible, accessible, and plainly marked first aid kit.

(b) Construction. The kit shall be constructed to prevent dust and moisture from reaching the contents and maintained in good condition. The kit shall be removable from the place secured.

(c) Minimum Requirements. The required contents of school bus first aid kits and the required number of units (determined by the number of passengers a school bus is designed to carry) are shown in Table I. Each youth bus and farm labor vehicle shall be equipped with a 10-unit first aid kit (Table I). First aid kits in use that conform to the former U. S. Department of Transportation regulations on first aid kits for buses will continue to be accepted.

Table I. Required Units in First Aid Kits

Unit	Number of Passengers		
	1-16	17-42	43 or more
1-in. adhesive compress	1	2	2
2-in. bandage compress	1	2	2
3-in. bandage compress	1	1	2
4-in. bandage compress	1	1	2
Eye dressing packet (3 cotton eye pads, 3 sets adhesive plastic strips)	—	—	1
Plain gauze pads (3 x 3-in.)	1	1	1
Gauze roller bandage (2 rolls, 2 in. x 6 yd.)	1	1	2
Plain absorbent gauze (1/2 sq. yd.)	1	2	4
Plain absorbent gauze (24 x 72-in.)	1	2	3
Triangular bandages (40-in.)	1	3	4
Scissors, tweezers	1	1	1
TOTAL UNITS	10	16	24

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code. Reference: Sections 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment of subsection (c) and repealer of subsection (d) filed 5-14-79; effective July 1, 1979 (Register 79, No. 19).
2. Amendment filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).
3. Amendment of subsections (a) and (c) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16).
4. Amendment of subsection (a) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).
5. Amendment of subsection (c) (Table I) and NOTE filed 4-15-98; operative 5-15-98 (Register 98, No. 16).

§ 1244. Tires, Rims, and Wheels.

All tires, rims, and wheels used on vehicles subject to these regulations shall comply with the requirements of Article 14, Chapter 4, of this title, beginning with Section 1080, and the following provisions:

(a) Aluminum Wheels. No aluminum alloy disc wheel demountable at the hub and manufactured on or before September 30, 1955, shall be used on the front or steering axle(s) of a motor vehicle or the leading vehicle of a vehicle combination.

(b) Spare Tires. Externally mounted spare tires shall be contained and supported by tire carriers or other means specifically designed for the purpose and secured to prevent accidental release of the tires.

(c) School Bus Tires and Rims. All tires and rims used on school buses shall comply with the following requirements:

(1) All tires on a school bus shall be of the same size, except as otherwise specified on the Federal data plate or label.

(2) All Type 1 school buses shall have dual tires on the rear axle.

(3) No tire shall be permitted inside a Type 1 school bus, nor shall any tire compartment project into the passenger compartment. Spare tires shall be secured to the vehicle and shall not be placed across a window, entrance, or any exit, or in any position that may endanger the occupants.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (b) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
2. Amendment of subsection (c) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16).
3. Change without regulatory effect amending first paragraph filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

§ 1245. Brakes—All Vehicles.

(a) Reciprocating Compressor Discharge Line—Every part of the first 24-inch length of a reciprocating air compressor discharge line, measured from the compressor discharge port, shall be designed to withstand at least 450 degrees Fahrenheit for continuous service and, if flexible hose, shall be reinforced by at least one layer of wire braid. The entire air discharge line and its couplings shall show no leakage under a pressure of 200 pounds per square inch for 5 minutes. This provision does not ap-

ply to school buses manufactured prior to January 1, 1968, or to vehicles manufactured on and after March 1, 1975, in compliance with FMVSS 121 (49 CFR 571.121).

(b) Check Valves—Motor vehicles equipped with a check valve in compliance with Vehicle Code Sections 26507 and 26522 shall have a readily accessible means for testing proper operation of the valve, and tools needed for the test shall be carried in the vehicle. The means shall not consist of loosening any connection between the source of compressed air or vacuum and the check valve. This provision does not apply to Type 1 school buses manufactured prior to January 2, 1968.

(1) In air brake systems, the means shall be a manually operated drain cock or other device between the check valve and the compressor.

(2) In vacuum systems, the means may be the stopping of the engine.

(c) Air Reservoirs—Property-carrying vehicles first sold and registered after January 1, 1967, school buses, farm labor vehicles, and Type 1 buses, equipped with air or vacuum brakes, shall have a reserve capacity sufficient to ensure a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by a gauge immediately before the brake application. Such vehicles manufactured on and after March 1, 1975, and equipped with air brakes shall have a reserve capacity sufficient to ensure a full brake application with the engine stopped without depleting the air pressure below 85 percent of that indicated by a gauge immediately before the application.

(1) Air Reservoir Specifications—Air brake reservoirs installed as original equipment on vehicles manufactured in compliance with FMVSS 121 (49 CFR 571.121) are not required to be marked. Replacement air brake reservoirs shall meet SAE J10 in the 1965 or later edition of the SAE Handbook and be marked with the manufacturer's initials followed by "SAE J10 150 psi Rated Working Pressure" and the date of manufacture. Auxiliary air tanks shall meet the requirements of Section 1252 of this title.

(2) Air Reservoir Drains—Air reservoirs used in brake systems shall have means other than a plug for draining water and contaminants from the lowest portion of the reservoir. Multicompartment air brake reservoirs shall provide such means for draining each compartment.

(d) Air Flow Restriction—Any valve or other mechanism of an air brake system that restricts the free flow of compressed air between the brake application control and the brake actuators at application pressures above 10 pounds per square inch under normal operating conditions shall comply with the brake equipment requirements in Article 12, Chapter 4, of this title, beginning with Section 1061, except as provided in Vehicle Code Section 26311(b) governing reduced braking effort on front wheels.

(e) Detachable Connections—Detachable air or vacuum connections shall be constructed, installed, and maintained to ensure against accidental disconnection. When connections at the end of flexible air lines are left detached, they shall be adequately protected against the entrance of dirt.

(f) Brake Tubing and Hose Requirements—Tubing, pipe, and hose used in air, vacuum, or hydraulic brake systems shall be:

(1) designed and constructed in a manner that ensures proper, adequate, and continued functioning,

(2) sufficiently long and flexible to accommodate without damage all normal motions of the parts to which it is attached,

(3) suitably secured against chafing, kinking, or other mechanical damage,

(4) installed in a manner that prevents contact with the vehicle's exhaust system or other source of high temperature, and

(5) installed in a manner that ensures proper continued functioning and that is free of leaks, constrictions, or other defects.

(A) Tubing or pipe shall be supported to minimize fatigue.

(B) Metal-to-metal contact shall be avoided by the use of soft nonmetallic cushions at points of support.

(C) Tubing or pipe shall be protected against road hazards either by a protected location or adequate shielding at exposed areas.

(D) Protective loom, where used, shall be both water and acid resistant.

(E) Vacuum brake systems shall be connected to the engine manifold with fittings at least 3/8 inch in inside diameter.

(g) Brake Tubing and Hose Connections—Connections for air, vacuum or hydraulic brake systems shall:

(1) be adequate in material and construction to ensure proper continued functioning.

(2) be designed, constructed, and installed to ensure an attachment free of leaks, constrictions, or other defects when properly connected, and

(3) use fittings that meet SAE J512 OCT 80, Automotive Tube Fittings, or SAE J246 MAR 81, Spherical and Flanged Sleeve (Compression) Tube Fittings, for tubing splices made on a vehicle on or after July 1, 1992.

(h) Brake Tubing—Metallic tubing shall only be used where relative movement in the line does not occur.

(1) On vehicles manufactured after July 1, 1992, and on any replacements made to the brake line on any vehicle after this date, nonmetallic (plastic) brake tubing shall only be used where relative movement does not occur or through an articulation point provided movement is less than 4.5 degrees in a vertical plane and 7.4 degrees in a transverse horizontal plane. Plastic tubing shall not touch or be attached to leaf, coil, or air suspension springs.

(2) Brake Hose and Coiled Nonmetallic Tubing—Brake hose and coiled nonmetallic brake tubing is for use where substantial relative movement in the line occurs or the line is exposed to potential tension or impact such as between the frame and axle in a conventional suspension system. Only coiled nonmetallic brake tubing or brake hose may be used for connections between towed and towing vehicles or between the frame of a towed vehicle and the sliding subframe of an adjustable axle of that vehicle. If coiled nonmetallic brake tubing is used in these locations it shall be encased in a spring guard or similar device which resists kinking of the tubing at the fittings to which it is attached.

(i) Air Brake Tubing Standards—Air brake tubing that is original equipment on a vehicle at time of manufacture is not required by FMVSS to meet any requirement but is subject to National Highway Traffic Safety Administration (NHTSA) recall if it become a safety defect. Replacement brake tubing installed on or after July 1, 1992, shall meet the following Society of Automotive Engineers Standards:

(1) Metallic Tubing—Metallic tubing shall be copper tubing or galvanized steel pipe meeting SAE J1149, Metallic Air Brake System Tubing and Pipe. Copper tubing shall be permanently and legibly marked "Air Brake."

(2) Nonmetallic Tubing—Nonmetallic tubing shall meet SAE J844, Nonmetallic Air Brake System Tubing, Type B (reinforced). Such tubing shall be identified in contrasting color with the markings "Airbrake, SAE J844 Type B," the nominal outside diameter of the tubing in inches, and the tubing manufacturer's name or symbol.

(j) Brake Hose Standards—Air, hydraulic, and vacuum brake hoses installed on and after September 1, 1974, shall comply with FMVSS 106, Brake Hoses (49 CFR 571.106), except S12 and S13.

(1) Original Equipment Components—Components that are original equipment on a vehicle at time of manufacture are not required by FMVSS to be identified in any manner but are subject to NHTSA recall for noncompliance with the performance requirements of the standards.

(2) Brake Hose—Air, hydraulic, and vacuum brake hose manufactured on or after September 1, 1974, shall be marked in letters at least 1/8 inch high with "DOT", the hose manufacturer's designation, the month and year of manufacture, and the nominal inside diameter of the hose. FMVSS 106 does not require these markings to be visible on a completed brake hose assembly.

(3) Replacement Air Brake Hose Assemblies—Replacement air brake hose assemblies manufactured on or after September 1, 1974, with end fittings attached to the hose by crimping or swaging shall have at least one end fitting etched, stamped, or embossed with a designation at least 1/16 inch high that identifies the hose assembly manufacturer.

(4) Air Brake Hose Fittings—Air brake hose fittings manufactured on or after September 1, 1974, that are not crimped or swaged shall have at

least one component etched, stamped, or embossed in block capital letters, numerals, or symbols at least 1/16 inch high with "DOT", a designation that identifies the manufacturer of that component of the fittings, "A" for nonreusable fittings at "AI" or "AII" for reusable fittings, and the nominal inside diameter in inches or millimeters (or outside diameter of plastic tubing) to which the fitting is properly attached.

(5) Hydraulic Brake Hose Assemblies—Hydraulic brake hose assemblies manufactured on and after September 1, 1974, shall have at least one end fitting etched, stamped, or embossed with a designation at least 1/16 inch high that identifies the manufacturer of the assembly. Each hose shall have at least two clearly identifiable stripes at least 1/16 inch wide placed on opposite sides of the hose parallel to its longitudinal axis, except where the end fittings prevent its installation in a twisted orientation on either side of the vehicle.

(6) Vacuum Brake Hose Assemblies—Vacuum brake hose assemblies manufactured on or after September 1, 1974, with end fittings that are attached to the hose by crimping or swaging, or to plastic tubing by heat shrinking or interference fit, shall have at least one end fitting etched, stamped, or embossed with a designation at least 1/16 inch high that identifies the manufacturer of the assembly.

(7) Manufacturer's Option—At the manufacturer's option, brake hose assemblies may instead be marked by a band around the assembly with the letters "DOT" and with a designation that identifies the hose assembly manufacturer, in letters, numerals, or symbols at least 1/16 inch high.

(k) Air Leakage Rates—Air leakage with the engine stopped and the air reservoir pressure at governor cutout as specified in Section 1061(b) of this title shall not exceed the following rates.

(1) With service brake released and air or spring parking brakes applied:

2 pounds per square inch per minute for single vehicles,

3 pounds per square inch per minute for combinations of two vehicles, and

5 pounds per square inch per minute for combinations of three or more vehicles.

(2) With service brakes applied and air or spring parking brakes released:

3 pounds per square inch per minute for single vehicles,

4 pounds per square inch per minute for combinations of two vehicles, and

6 pounds per square inch per minute for combinations of three or more vehicles.

(3) No leakage shall occur in tubing or hose even if the overall leakage is less than the specified limit.

(l) Hydraulic Brakes—The pressure of hydraulic brakes shall not be higher than the manufacturer's rated capacity of the hose assemblies.

NOTE: Authority cited: Sections 26502, 31401, 34501, 34501.5 and 34508, Vehicle Code. Reference: Sections 26502, 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (c)(4) filed 10-22-81; effective thirtieth day thereafter (Register 81, No. 43).
2. Amendment filed 8-31-83; effective thirtieth day thereafter (Register 83, No. 36).
3. Change without regulatory effect of subsection (e) (Register 86, No. 48).
4. Repealer and new section filed 5-14-92; operative 6-15-92 (Register 92, No. 20).
5. Editorial correction of printing error in subsection (i)(2) (Register 94, No. 2).
6. Repealer of subsection (d), subsection relettering, and amendment of newly designated subsection (j)(5) filed 9-6-95; operative 10-6-95 (Register 95, No. 36).

§ 1246. Brakes—School Buses and Farm Labor Vehicles.

The following additional brake requirements shall apply to school buses and farm labor vehicles:

(a) Air Brakes—Type 1 school buses having 10 or more rows of seats and manufactured after January 1, 1970, and prior to April 1, 1977, shall be equipped with full compressed air brakes. Type 1 school buses equipped with air brakes and manufactured after January 1, 1953, shall have at least two reservoirs connected in series. On all school buses manufactured on or after July 1, 1970, the air-actuated devices outside the

service and emergency brake systems shall also be provided with a reservoir equal to at least six times the total volume at full travel of all auxiliary devices supplied by the reservoir. The reservoir requirement for the air-actuated devices outside the service and emergency brake systems shall not apply to school buses manufactured on or after March 1, 1975, in compliance with FMVSS 121 (49 CFR 571.121).

(b) Warning Devices—Type 1 school bus brake systems shall have warning devices as follows:

(1) Air brakes shall have a buzzer or other audible warning signal and a visual, air-operated, flag-type warning device, both used exclusively for the brake system. Both devices shall give a continuous warning when the air supply pressure in the first reservoir to receive air from the compressor, or any service reservoir, drops below a fixed pressure as specified by Vehicle Code Section 26506. The flag-type device is not required on vehicles manufactured on or after March 1, 1975, in compliance with FMVSS 121 (49 CFR 571.121).

(2) Vacuum brakes shall have a buzzer or other audible warning signal and a visual, vacuum-operated, flag-type warning device, both used exclusively for the brake system. They shall provide continuous warning to the driver when the vacuum in the supply system drops to 8 inches of mercury and less. The requirement for the flag device shall not apply to vehicles manufactured with a dual or split type service brake system powered by power-assist vacuum chambers.

(3) The visual warning devices required in (1) and (2) shall be readily visible to the driver when seated in the normal driving position.

(4) Override switches are prohibited for audible warning devices required in (1) and (2).

(5) The requirements in (1) and (2) for warning devices to be used exclusively for the brake system shall not be construed to prohibit multi-channel warning devices that monitor other vehicle systems in addition to the brake system if such devices provide a clear brake system warning that cannot be activated by any of the other monitored vehicle systems.

(c) Brake System Modification—Brakes on Type 1 school buses may be modified only with the written approval of the school bus chassis manufacturer or by using brake system options of a type available from the bus manufacturer and represented by the bus manufacturer as suitable for use on the specific model school bus. Modifications shall not render the brake system in violation of the provisions of this title or of any other law or regulation. Modifications shall not render inoperative any item of brake-related equipment nor diminish any aspect of performance of a brake system manufactured in compliance with FMVSS 121, except as permitted by written ruling of the National Highway Traffic Safety Administration.

(1) Air system cleaning devices, such as automatic condensate drains and air dryers, are not considered a modification of the brake system if they are installed in accordance with the component manufacturer's instructions.

(2) A conversion from an air brake chamber that has an air applied parking brake or emergency stopping system function to a brake chamber that has a spring applied parking brake or emergency stopping system function, or vice versa, is not considered a modification if the conversion is made in accordance with the substitute component manufacturer's instructions.

(3) Any advisory recommendations by the component manufacturer shall be considered mandatory. The instructions shall be retained by the school bus operator for reference by California Highway Patrol personnel for comparison with the completed installations.

(d) Service Brake System—Type 1 school buses manufactured on and after January 1, 1968, shall comply with the following requirements:

(1) Foot Pedal Travel—The travel of hydraulic brake foot pedals shall not exceed 60 percent of the available travel when measured statically at the minimum pedal force required for compliance with Vehicle Code Sections 26454 on stopping distance.

(2) Air or Vacuum Reservoirs—The combined volume of all service reservoirs shall be at least 12 times the combined volume of all service brake chambers at maximum travel of the pistons or diaphragms.

(3) Check Valves—Brake systems safeguarded by the check valve referenced in Section 1245(b) of this title shall meet the following requirements:

(A) Air Brake System—At least half of the required air reservoir capacity shall be safeguarded to prevent the stored air from being depleted by any failure or leakage in the connection to the source of compressed air. Air supply for the service brakes shall be protected so that failure of the air-actuated devices outside the service brake system will not drop the service brake supply system pressure to less than 60 pounds per square inch.

(B) Vacuum Brake System—The required vacuum brake system reservoir capacity shall be safeguarded to prevent the stored vacuum from being depleted by any failure or leakage in its connection to the source of vacuum. The supply of vacuum for all devices or systems other than the brake system shall be drawn from between the brake system check valve and the source of vacuum.

(e) Emergency Stopping System—Type 1 school buses manufactured after January 1, 1968, shall comply with the following emergency stopping system requirements:

(1) The brakes shall be capable of being applied, released, and reapplied by the driver but shall not be capable of being released from the driver's seat after any reapplication unless energy is available for an immediate reapplication.

(2) The brakes shall be manually applied and released under modulated control by the driver to maintain directional stability during a complete emergency stop.

(3) Failure or malfunction of any part in either the emergency stopping system or the service brake system shall not leave the vehicle without operative brakes capable of stopping the vehicle loaded up to the manufacturer's gross vehicle weight rating within the requirements of California Vehicle Code Section 26508(k)(3).

This provision does not apply to a failure in the mechanical parts of the wheel brake assemblies or the brake pedal and linkage to the brake valve or master cylinder.

(4) School buses manufactured on or after March 1, 1975, in compliance with FMVSS 121 (49 CFR 571.121) and maintained in compliance with that standard, shall be deemed in compliance with this subsection.

(f) Reservoir Capacity—The reservoir capacity of school buses and farm labor vehicles shall be sufficient to complete one operation of the doors after the engine has stopped and the brakes have been fully applied. NOTE: Authority cited: Sections 31401 and 34508, Vehicle Code. Reference: Sections 31401 and 34508, Vehicle Code.

HISTORY

1. Amendment of subsections (b)(2) and (d)(3)(A) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
2. Amendment of subsection (b)(1) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16).
3. Repealer and new section filed 5-14-92; operative 6-15-92 (Register 92, No. 20).
4. Editorial correction of printing error in subsection (e)(3) (Register 92, No. 29).
5. Change without regulatory effect amending subsection (d)(3)(B) and NOTE filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

§ 1247. Towing Equipment.

The lower half of the fifth wheel on any truck, tractor, or dolly shall be securely attached to the frame by nonwelded U-bolts of adequate size or other equally effective means. Capscrews and bolts used to secure the fifth wheel to the vehicle frame shall meet SAE Standard J429 for Grade 5 threaded fasteners in the 1965 or any later edition of the SAE Handbook, and shall be installed so that the frame will not crack, warp, or become deformed. Positive means shall be provided to prevent the lower half of the fifth wheel from shifting on the frame to which it is attached. Locking devices on a sliding fifth wheel shall have sufficient strength to control the gross weight of the vehicle or combination of vehicles being towed. All fifth wheel components shall be maintained in good condition.

§ 1248. Storage Batteries.

Every storage battery on a motor vehicle first sold and registered after January 1, 1967, unless located in the engine compartment, shall be protected by a substantial and securely fastened enclosure or removable cover. Battery compartments and all adjacent metal parts subject to corrosion from battery leakage shall be finished with an acid-resistant substance, and the compartments shall be vented to provide adequate battery ventilation and drainage. Cables passing through a metal compartment to the starting motor shall be insulated against grounding by acidproof and waterproof bushings. When both the battery and the fuel tank are installed under the driver's seat, they shall be separated by a partition, and each compartment shall be provided with independent covering, ventilation, and drainage.

§ 1249. Wiring.

Wiring and fuses on vehicles shall be as follows:

(a) Specifications. Wiring for circuits shall be constructed and installed to conform with mechanical and electrical requirements not less than those recommended for automobile wiring in the 1952 or any later edition of the SAE Handbook. Required lamps shall be connected to the source of power with stranded wire. This shall not prohibit use of the frame or other metal parts of a motor vehicle as a ground-return system, provided there is adequate electrical grounding between towing and towed vehicles.

(b) Wiring Protection. Wires shall be grouped together and protected either by nonmetallic tape, braid, or other covering capable of withstanding severe abrasion or a metallic sheath or tube. Wiring shall be properly supported and located so as to avoid becoming charred, overheated, or enmeshed in moving parts. Insofar as is practical, wiring shall not be adjacent to any part of the fuel system. Unless the wiring is metal covered, the edges of all holes in metal through which the wiring passes shall be rolled or bushed with a grommet of rubber or other suitable material.

(c) Wire Size and Connectors. Wires shall be of sufficient size to eliminate excessive voltage drop and to prevent overheating. All joints shall be soldered or fastened both mechanically and electrically with equally effective connectors and shall be insulated. Voltage at the bulb sockets when lamps are burning shall be at least 85% of the design voltage of the bulb with the engine running.

(d) Detachable Connections. The electrical wiring of detachable connections between towing and towed vehicles shall be contained in a cable, cables, or other substantially constructed protective device, and shall be mechanically and electrically adequate and free of short or open circuits. Suitable provisions shall be made for the prevention of an incorrect connection or an accidental disconnection. Any detachable connection made by twisting wires together from the towed and towing units is prohibited. Wires or cables shall have sufficient slack to accommodate all normal motion of the parts to which they are attached without damage to the connection.

(e) Spare Fuses. Each combination of vehicles or each motor vehicle if operated singly shall be equipped with at least one spare fuse or other overload protective device, if the devices used are not of a reset type, for each kind and size used. In driveaway-towaway operations, spares located on any one of the vehicles will be deemed adequate.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. Amendment of first paragraph and new subsection (e) and NOTE filed 6-17-96; operative 7-17-96 (Register 96, No. 25).

§ 1250. School Bus Wiring.

Additional requirements for school bus wiring are as follows:

(a) All school buses shall be equipped with spare fuses of each size used.

(b) All interior wiring for Type 1 school buses constructed after January 1, 1953, and Type 2 school buses constructed on and after July 1, 1970, shall be concealed, and all exposed wiring shall be protected with a waterproof insulation.

(c) The wiring of each Type 1 school bus constructed after January 1, 1953, shall be arranged in at least ten circuits: (1) starting, (2) ignition, (3) headlamps, taillamps and dash lamps, (4) stop lamps, (5) flashing red/amber lamps, (6) turn signal lamps, (7) clearance lamps and/or side-marker lamps and stepwell lamps, (8) interior lamps, (9) heaters, defrosters, etc., and (10) horn. Each circuit except ignition circuits shall be protected by a separate fuse or circuit breaker with a rating no greater than the safe capacity of the circuit. Fuses, circuit breakers, flashers, pilot lamps, and switches shall be mounted in accessible locations. Head lamps and tail lamps shall be illuminated by a common switch.

(d) Ignition circuits on all school buses manufactured after July 1, 1980, shall incorporate a key-type switch that will stop the engine when the switch is turned to the off position.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. New subsection (d) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
2. Amendment of subsection (c) filed 9-6-95; operative 10-6-95 (Register 95, No. 36).

§ 1251. Dump Body Vehicle Equipment.

Every vehicle equipped with a dump body that tilts to release its load through an opening at the rear by gravity, or a hopper body that releases its load without tilting through a bottom-hinged opening, shall comply with the following applicable requirements:

(a) Identification of Load Release Functions. Identification plates, labels, or markings shall clearly indicate the functions of hopper body load release actuator switches and valves and of dump body elevating controls located in driver's compartments.

(b) Electrical Load Release Controls. Electrical wiring circuits used to actuate hopper body load release mechanisms shall comply with the requirements in Section 1249, subsections (a), (b), and (d) of this title. Such wiring shall not terminate in plugs, connectors, or connections used for other electrical circuits. Load release actuator switches mounted on instrument panels in driver's compartments shall be protected by guards or spring-loaded covers to prevent unintentional operation.

(c) Pneumatic Load Release Controls. Pneumatic control valves located in driver's compartments to actuate hopper body load release mechanisms shall be installed, protected, or guarded to prevent unintentional operation.

(d) Hydraulic Elevating Systems. Every dump body, elevating mechanism, or hydraulic system control shall have a device that gives the driver a clearly audible or visible warning when sufficient force is applied to cause or sustain dumpbody elevation.

(e) External Controls. Unless designed to prevent accidental actuation, load elevating and releasing controls located outside driver's compartments shall be installed in a protected location or shielded to prevent accidental actuation.

§ 1252. Auxiliary Air Tanks.

Airtanks having an inside diameter of more than 6 in. and used for the operation of auxiliary equipment that is not part of the brake system but has the same source of compressed air shall comply with the following requirements:

(a) Air Tanks 1971 and Later. Auxiliary air tanks on vehicles first manufactured and registered after January 1, 1971, shall be constructed and marked in accordance with the 1962 or any later edition of section VIII, Unfired Pressure Vessels, ASME Boiler and Pressure Vessel Code (American Society of Mechanical Engineers), or with SAE Standard J10 in the 1965 or any later edition of the SAE Handbook.

(b) Air Tanks Before 1971. Auxiliary air tanks on vehicles registered prior to January 1, 1971, shall meet the requirements of preceding subsection (a), or they shall be designed and constructed in accordance with recognized engineering practices and standards with a safety factor of not less than four times the tank working pressure.

(c) Securement. Auxiliary air tanks shall be positioned and secured so that, when the vehicle is fully loaded, the bottom of the tank and any connection thereto is not lower than the lowest horizontal edge of the vehicle axle.

(d) Tubing and Hose Requirements. All tubing and hose used in the installation of air tanks subject to this section shall comply with the specific requirements for brake tubing and hose in Section 1245(h) through (k) of this title. This provision shall not apply to auxiliary air-actuated systems equipped with air pressure protection devices that prevent the air pressure in the service brake system from dropping below 60 pounds per square inch in the event of air pressure loss from any portion of the auxiliary system, provided the tubing, hose, and fittings used in such installations are designed for air pressure applications.

NOTE: Authority cited: Sections 31401, 31501, 31501.5 and 34508, Vehicle Code. Reference: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (d) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).
2. Amendment of subsection (d) and NOTE adding Reference filed 7-22-91; operative 8-21-91 (Register 91, No. 46).
3. Amendment of subsection (d) filed 5-14-92; operative 6-15-92 (Register 92, No. 20).

§ 1253. Liquid Fuel Supply Tanks and Systems.

Motor vehicles (except school buses) propelled by fuel that is liquid at normal atmospheric pressures and temperatures shall be equipped as follows:

(a) General Requirements. Every tank or container that contains fuel for the motor vehicle upon which it is installed shall be substantially constructed, free of leaks, securely mounted, maintained in good condition, and sealed by a cap or plug with a bayonet-type joint, screw threads, or other equally effective means of securement. No fuel system shall permit direct gravity or siphon feed to the carburetor or injector.

(b) Projection. No part of any fuel tank, container, or intake pipe, including valves and pipes, shall project beyond the overall width or forward of the front axle of the motor vehicle upon which it is installed. Drains and fittings attached to the bottom of diesel fuel tanks shall be mounted as close to the tank as practicable.

(c) Installation. Fuel supply lines shall be properly supported to minimize vibration.

(1) Fuel lines shall not extend between the towed and towing vehicles of a vehicle combination in motion.

(2) Selector valves for regulating fuel feed from more than one tank shall not be operable while the vehicle is in motion unless they are within easy reach of the driver.

(d) Additional Requirements for Motor Vehicles Manufactured after July 1, 1997.

(1) A fuel line which is not completely enclosed in a protective housing must not extend more than two inches below the fuel tank or its sump. Diesel fuel crossover, return, and withdrawal lines which extend below the bottom of the tank or sump must be protected against damage from impact.

(2) Excess Flow Valve. When pressure devices are used to force fuel from a fuel tank, a device which prevents the flow of fuel from the fuel tank if the fuel feed line is broken must be installed in the fuel system.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New subsections (d)-(d)(2) and new NOTE filed 6-17-96; operative 7-17-96 (Register 96, No. 25).

§ 1254. Liquefied and Compressed Gas Fuel Systems.

Motor vehicles fueled by compressed or liquefied natural gas or liquefied petroleum gas shall be equipped with fuel containers and systems that comply with Article 2, commencing with Section 930 of this title. A school bus that has been modified to use compressed or liquefied natural gas or liquefied petroleum gas shall not be used to transport pupils until the fuel system installation has been inspected by the department.

NOTE: Authority and reference cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
2. Amendment filed 9-6-95; operative 10-6-95 (Register 95, No. 36).

§ 1255. Fuel Tanks and Fuel Lines.

(a) Fuel lines shall not enter or pass through the passenger compartment of any bus, except to provide fuel to a combustion heater installed in compliance with Section 1259.

(b) Fuel tanks on school buses shall be located entirely outside the passenger compartment.

(c) Type 1 Buses. Fuel tanks on Type 1 school buses constructed after January 1, 1950, and prior to April 1, 1977, shall have a capacity of not less than 18 gal and shall be mounted between the front axle and a point not less than 18 in. from the rear end of the frame or body and to the right side. However, if insufficient space is available on the right side of a short wheel base chassis designed to carry fewer than 30 pupils, the tank may be placed on the left side. The tank shall not extend above the side member of the chassis or beyond the outer edge of the body. Filler, vent, and drain openings shall be outside the bus body. The filler shall not project beyond body panels. Except for diesel fuel systems, fittings through which fuel is drawn shall be located above the normal "full" line of tanks installed after January 1, 1974.

(d) Type 2 Buses. For fuel tanks on Type 2 school buses manufactured on and after July 1, 1970, those specifications set forth in the regulations of the Department of Transportation, National Highway Traffic Safety Administration, Federal Motor Vehicle Safety Standards applicable at time of manufacture shall apply.

NOTE: Authority and reference cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 1256. Identification.

(a) Vehicles and Combinations. Every motor vehicle other than a school bus, or at least one vehicle in every combination of vehicles exceeding a total length of 40 feet, shall display on both sides the name or trademark of the motor carrier under whose authority the vehicle or combination of vehicles is being operated or the name of the lessor or lessee thereof. Required markings shall contrast sharply with the background and shall be readily legible during daylight from a distance of 50 feet.

(b) Hazardous Waste Transporters. Each vehicle in a combination of vehicles registered with the Department of Toxic Substances Control for the transportation of hazardous waste shall display on both sides the name or trademark of the hazardous waste transporter, as required by Section 66263.23(e) of Title 22 of this code.

(c) Passenger Stage Service. Buses and other vehicles operated in passenger stage service by a passenger stage corporation, and such vehicles operated by an entity receiving financial transit assistance from the state, shall display in the interior of such vehicles in clear view of passengers a notice prohibiting smoking in the vehicle. The notice shall be displayed as a symbol and in English, as required by Section 25949.2 of the Health and Safety Code.

(d) Farm Labor Vehicles. Every farm labor vehicle shall be identified as follows:

(1) Markings.

(A) The words "FARM LABOR VEHICLE" shall be displayed on each side of each farm labor vehicle in uppercase lettering on a sharply contrasting background. Letters shall be a minimum of 1.5 inches in height and clearly legible from a distance of 50 feet during daylight hours.

(B) The words "TO REPORT VIOLATIONS" in uppercase characters and the toll-free telephone number "1-800-TELL CHP" shall be displayed on the exterior on each side of each farm labor vehicle on a sharply contrasting background. Characters shall be a minimum of 1 inch in height and may be displayed on one or two lines.

(2) Interior Notice. A farm labor vehicle notice in English and Spanish, furnished by the department, shall be displayed in the interior of each farm labor vehicle in a location visible to the passengers. The required notice, *Farm Labor Vehicle Notice*, CHP 408C (New 12-99), shall be completed by an authorized employee of the department to indicate the maximum number of passengers the vehicle is permitted to transport and the vehicle license number. The notice shall also advise the reader of the toll-free departmental telephone number where violations relating to the operation of farm labor vehicles may be reported.

NOTE: Authority cited: Sections 31401 and 34501, Vehicle Code. Reference: Sections 31401, 34501 and 34507.5, Vehicle Code.

HISTORY

1. New subsection (b)(3)(D) filed 8-24-79; designated effective 10-1-79 (Register 79, No. 34).
2. Amendment of subsection (b)(1) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
3. Amendment of subsection (b)(2) filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).
4. Amendment of subsection (b)(3)(B) filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Amendment of subsection (a) and repealer of subsection (c) filed 7-12-85; effective thirtieth day thereafter (Register 85, No. 28).
6. New subsection (b)(3)(E) filed 10-31-86; effective thirtieth day thereafter (Register 86, No. 44).
7. Amendment filed 7-17-89; operative 8-16-89 (Register 89, No. 29).
8. Editorial correction adding text inadvertently omitted from printing (Register 91, No. 18).
9. Editorial correction of subsection (b)(3)(E)3. and restoring missing HISTORY 7. and renumbering former HISTORY 7. to current HISTORY 8. (Register 91, No. 31).
10. Repealer and new section filed 11-27-91; operative 12-27-91 (Register 92, No. 9).
11. Change without regulatory effect amending subsection (a) filed 5-13-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 20).
12. Amendment of subsections (b) and (c) and new subsections (d)-(d)(2) filed 7-3-2001; operative 8-2-2001 (Register 2001, No. 27).

§ 1256.5. School Bus Color and Signs.

(a) Each school bus shall be identified as follows:

(1) Body and Trim Colors. Whenever in this section the color yellow is specified, it shall mean National School Bus Yellow unless otherwise stated. Exteriors (except bumpers, grilles, lamp bodies, and other accessories) shall be yellow. The following items may be black:

(A) Moldings and rub rails.

(B) Seals, scratch guards, and other components manufactured from rubber or similar flexible synthetic materials.

(C) A border no more than 4 inches wide around stop lamps, turn signal lamps, or flashing red/amber lamps. The border around turn signal lamps may incorporate an arrow indicating direction of turn.

(D) The wheels may be a color different from the body color, and the upper half of the engine hood may be black. The roof of a school bus may be painted white, but the words "SCHOOL BUS" shall have a yellow background.

(2) Identifying Signs and Numbers. Each school bus shall be identified with the exterior signs and numbers shown in subsection (b). Signs may be either adhesive decals or painted, and shall be maintained in legible condition. Letters and numerals of all signs required by subsection (b) shall be solid black on a yellow background unless otherwise specifically permitted or required, and width shall be proportionate to height. On school buses manufactured on or after January 1, 1992, required signs applied to curved or slanted surfaces shall have a projected height and width that comply with the size requirements of this section.

(3) Trim, logos, accessories, and other minor appearance items installed as standard factory equipment may have bright metal finishes such as chrome plating or stainless steel.

(b) Required School Bus Signs

(1) School Bus. The words "SCHOOL BUS" or the word "SCHOOL-BUS" shall be displayed as required in Vehicle Code Section 27906(a), in upper case lettering, and shall be located above the windshield and above the rear windows of the bus.

(2) Stop When Red Lights Flash. The words "Stop When Red Lights Flash" shall be displayed as required in Vehicle Code Section 27906(c).

(3) Carrier Name. The name of the motor carrier operating the school bus shall be displayed below the windows on both sides of the bus in letters not less than 4 inches nor more than 6 inches in height. As an alternative, a sign showing the name of the school in letters 4 to 6 inches in height and the name of the district or contractor 2 to 6 inches in height is permitted. Carrier names or lettering styles which constitute a registered trademark may include a registered trademark symbol displayed in close proximity to the carrier name. Addresses, telephone numbers, stripes, slogans, or graphic designs other than the lettering style of the carrier name shall not be considered part of the carrier name and are prohibited. Extremely ornate lettering styles which substantially reduce the legibility of the required sign from a distance of 50 feet shall not be used.

(4) Bus Number. The bus number assigned by the company or school shall be displayed in characters at least 4 inches in height in one of the following manners:

(A) On all four corners of the bus body.

(B) On both front corners and centered on the rear of the bus body.

(C) On buses manufactured on and after January 1, 1992, on both sides and both ends of the bus. Each number display shall be at least 6 inches from any other sign or manufacturer's logo. The front and rear numbers shall be displayed below the bottom edge of the passengers' side window glass, and may be displayed on the bumpers of the bus only if the background behind the number is yellow and extends at least one inch above, below, and to each side of the number. After January 1, 1992, any school bus, regardless of age, may be marked to comply with this subsection instead of subsection (A) or (B) above.

(D) Buses 30 feet in length or longer may display the bus number twice on each side, one display as close as possible to each end of the bus.

(E) No school bus shall display a bus number in more locations than authorized by this section. Except for older school buses permitted to be marked as described in subsections (A) and (B), no school bus shall display a number on a corner of the vehicle to serve as both a side and end number.

(5) Carrier Number. The carrier identification number assigned by the department shall be displayed in characters two inches in height on both sides of the bus, centered not less than two inches nor more than 24 inches below the carrier name. The display shall consist of the letters CA followed by the digits assigned to the carrier. A space may be inserted between the letters CA and the digits.

(A) School buses may display the carrier's valid operating authority or identification number assigned by the Interstate Commerce Commission, the California Public Utilities Commission, or the United States Department of Transportation, in the manner specified above for carrier identification numbers, instead of the carrier identification number assigned by the department.

(B) Carrier identification numbers assigned by the department or identification numbers assigned by the Public Utilities Commission and displayed on school buses prior to September 1, 1989, may continue to be displayed irrespective of the size and location requirements of subsection (b)(5) of this section.

(6) Emergency Exit. A sign reading "EMERGENCY EXIT" in upper case letters 2 inches in height shall be on the exterior of the bus on or above each emergency exit. Exterior emergency exit signs may have a white background if located above the emergency exit in the white area of school buses with white roofs. A sign reading "EMERGENCY EXIT" in upper case letters at least 2 inches in height shall be on the interior of the bus on or above each emergency exit. Interior emergency exit signs shall be of any color that contrasts sharply with the background. Interior emergency exit signs may be backlit if no glaring light is projected into the driver's eyes either directly or by reflection from any surface forward or to either side of the driver.

(A) For exterior or interior emergency exit signs, the words "EMERGENCY DOOR" in upper case letters may be used to identify floor-level emergency doors instead of the words "EMERGENCY EXIT".

(B) Roof emergency exits shall be identified as described in subsection (b)(6) for other emergency exits, except that emergency exit signs for roof exits need not meet the size and color requirements of that subsection if they are clearly identified as emergency exits on the interior and exterior of the emergency exit assembly as supplied by its manufacturer.

(C) School buses manufactured prior to January 1, 1992 may have emergency exit signs applied as decals on the window glass of the emergency exit. If this option is exercised, the emergency exit decals shall meet the size and wording requirements of this subsection, but need not meet the color requirements.

(7) Stop Signal Arm. School buses manufactured on or after September 1, 1992, shall be equipped with at least one stop signal arm. School buses manufactured prior to September 1, 1992, may be equipped with stop signal arms. Stop signal arms shall meet the requirements of Federal Motor Vehicle Standard No. 131 (49 CFR 571.131) and the following:

(A) Size. The stop signal arm shall be a regular octagon which is at least 17.72 inches x 17.72 inches and not more than 18.25 inches x 18.25 inches in diameter.

(B) Color. The stop signal arm shall be red on both sides except as provided in subsection (C). The Stop Signal Arm shall have a white border of 0.47 inches on both sides. The word "STOP" shall be displayed on both sides, in white upper-case letters. The letters shall be a minimum of 5.9 inches in height, and a maximum of 8.0 inches in height, with a minimum stroke width of 0.79 inches and a maximum stroke width of 1.0 inches.

(C) Location. The stop signal arm shall be installed on the left side of the bus, as close as practical to the rear of the bus. The stop signal arm may not be located on a door or emergency exit door, or in any location where it can be contacted by a door or an emergency exit door when the stop signal arm is deployed or retracted. A second stop signal arm may be installed on the left side of the school bus, as close as practical to the front of the bus. When two stop signal arms are installed on a school bus, the rearmost stop signal arm shall not contain any lettering, symbols, or markings on the forward side, and the forward side shall not be reflectorized. Each stop signal arm shall be located such that, when in the extended position:

1. The arm is perpendicular to the side of the bus, plus or minus five degrees;

2. The top edge of the stop signal arm is parallel to and not more than 6 inches from a horizontal plane tangent to the lower edge of the frame of the passenger window immediately behind the driver's window; and

3. The vertical center line of the stop sign is at least 9 inches away from the side of the school bus.

(D) Warning Lamps. Each side of the arm shall be equipped with two alternately flashing red lamps meeting the requirements of SAE J1133, April 1984. The lamps shall be centered on the vertical centerline of the stop signal arm. One of the lamps shall be located at the extreme top of the stop arm and the other at its extreme bottom.

(E) Strobe Lamps. In lieu of warning lamps, each side of the arm may be equipped with two alternately flashing red strobe lamps meeting the requirements of SAE J1133, April 1984. If strobe lamps are used in lieu of required warning lamps, the existing lamps shall be removed, and the strobe lamp shall be installed in compliance with subparagraph (D) of this section.

(F) Reflectorization. Except as provided in subsection (C), if reflectorization is used the entire surface of both sides of the stop signal arm shall be reflectorized with type III retroreflectorized material that meets the minimum specific intensity requirements of FMVSS 131, S6.1.

(G) In lieu of incandescent or strobe warning lamps otherwise required by this section, each side of the stop signal arm may be equipped with

flashing light emitting diodes (LEDs) that spell out the word "STOP," meeting the requirements of FMVSS 131 (49 CFR 571.131). If LEDs are used in lieu of required warning or strobe lamps, the existing lamp-type stop signal arm(s) shall be removed, and the LED stop signal arm(s) shall be installed in compliance with subparagraph (C) of this section.

(H) Operation. The stop signal arm shall be operated by electricity, air or vacuum. Manual operation of the stop signal arm is prohibited. The stop signal arm shall be automatically extended whenever the alternately flashing red signal lamp switch is activated as required by Vehicle Code Section 22112. The stop arm shall not be activated or deployed at any other time.

(c) Optional school bus markings. The following signs, when displayed as specified, are permitted on school buses:

(1) An additional bus number may be placed on the roof for aerial identification. If used, this number shall be black on a white or yellow background. No size requirement shall apply to this number.

(2) Handicapped Sign. A white-on-blue international handicapped (wheelchair) sign may be displayed on any school bus equipped to transport pupils confined to wheelchairs. One sign may be displayed on each side and on the rear of the bus. Each sign shall be no larger than 12 inches in height and the width shall be proportional to the height. The sign shall not obscure any required sign on the bus.

(3) Additional Signs. Signs consisting of numbers, letters or illustrations with contents limited to special identification, bus routing information, warning against unauthorized entry, or an acknowledgment of a sponsor's donation of a school bus may be displayed. No color restrictions apply to this sign. The display area shall be a maximum of 12 inches by 12 inches on the sides of a school bus below the bottom edge of the passengers' side window glass and not closer than 12 inches from any required sign.

(4) Route Identification. A changeable sign designating the current route assignment of a school bus may be displayed on the right side of the bus above the entrance door or through the windshield as described in Vehicle Code Section 26708(b)(5). The sign, when installed above the entrance door, shall not exceed 6 inches in height and 16 inches in length, and shall not obstruct any required light. The face of the sign may be any color, and the body or housing of the sign shall be black or yellow. Such signs shall not emit any light. Any electrically changed signs shall be installed with all control cables protected by grommets where they pass through body panels, and shall be provided with a separate fuse or circuit breaker which does not supply power to any other device. Body or roof panels shall not be cut to recess such signs into the body or roof unless written concurrence is first obtained from the body manufacturer, stating that the proposed modification will not adversely affect the compliance of the bus with any Federal Motor Vehicle Safety Standard applicable at the time the bus was manufactured.

(d) On school buses operated for demonstration purposes and which are not certified by the department for pupil transportation pursuant to Vehicle Code Section 2807(b), the name of the manufacturer, dealer or owner may be displayed in any manner that clearly indicates the entity responsible for the operation of the bus.

(e) On a school bus leased, rented or lent to a school district, private school or contractor, for periods of not more than 30 days in any one school year, temporary signs bearing the carrier name and identification number of the school or contractor may be displayed on both sides of the bus near the name of the bailor in lieu of the permanent signs otherwise required by this section. Such temporary signs need not meet the color requirements set forth in subsection (a) of this section, but shall be displayed in characters of not less than 2 inches in height and in sharp contrast with the background. The temporary signs shall be removed immediately upon return of the bus to the bailor.

(f) Limitations on school bus markings. Colors, signs, bumper stickers, numbers or reflectorizing material not required or specifically permitted by this article shall not be permitted on school buses. A school bus operated for demonstration purposes which is not certified pursuant to

Vehicle Code Section 2807(b) is not subject to the limitations of this subsection. However, prior to certification by the department for the transportation of school pupils, all signs, colors, and other graphic devices not required or permitted by this section shall be removed, and all required signs shall be applied.

(1) The rear bumper of a school bus may be marked with diagonal reflectorized material in accordance with Vehicle Code Section 25500. The rear of a school bus body may be marked with a strip of retroreflective yellow material no greater than 2 inches in width. The strip must be placed from the left lower corner of the required "School Bus" lettering, across to the left side of the bus, then vertically down to the top of the bumper, across the bus on a line immediately above the bumper to the right side, then vertically up to a point even with the strip placement on the left side, and concluding with a horizontal strip terminating at the right lower corner of the "School Bus" lettering. The upper horizontal strip of retroreflective material may be continued below the "School Bus" lettering to connect with the strip on the left side if the body design permits. Retroreflective tape may have interruptions to avoid and/or accommodate functional components such as rivets, rubrails, curved surfaces, hinges and handles, provided the tape is immediately adjacent to these components.

(2) Emergency exits on school buses manufactured on or after May 2, 1994, shall meet the requirements of Federal Motor Vehicle Standard No. 217, S5.5.3 (49 CFR 571.217 S5.5.3) in effect at the time of manufacture. School buses manufactured prior to May 2, 1994, may be marked in accordance with FMVSS 217. Emergency exit markings in compliance with FMVSS 217 S5.5.3 shall have precedence over any other retroreflective marking permitted by this section.

(3) One reflectorized yellow horizontal stripe of any length and not exceeding 12 inches in width may be on each side of a school bus. The carrier's name may be superimposed over the stripe, but if so, shall not be reflectorized as otherwise permitted in subsection (4) below.

(4) The characters of any required sign may be formed from or painted with black material, which may reflect white light. Optional signs and their backgrounds shall not be reflectorized, except that the optional roof aerial identification number permitted in subsection (c)(1) may reflect white light. The background of the roof number shall not be reflectorized.

(5) Interior signs. Posting of safe driving and riding instructions in the driver's compartment is permitted if it does not restrict the driver's view of traffic or the instrument panel.

(6) Vehicle Information Labels. Small exterior tags or labels with lettering of not more than one inch in height indicating operational information such as, but not limited to, type of fuel, tire pressure, air reservoir drain locations, coolant filler location, etc. are not considered signs for the purposes of this section. Markings on fuel containers and fuel filler locations for liquefied petroleum gas (LPG), compressed natural gas (CNG), and liquefied natural gas (LNG) shall comply with the marking requirements for those containers as specified in this title and Vehicle Code Section 27909 regardless of the requirements of this subsection. Vehicle markings required by National Fire Protection Association Standard 52 for CNG-powered vehicles are permitted as specified in NFPA 52-1988 published by that organization.

(7) Logos. Logos of the manufacturer(s) of a school bus are not considered signs for the purposes of this section; however, logos shall not be displayed within 6 inches of any required sign. Exterior signs of any size representing the dealer or distributor of the bus are not permitted unless the dealer or distributor is either the manufacturer of the bus or, in the case of school buses manufactured in two or more stages, the final stage manufacturer. Signs on step well risers that are visible through door glass are not considered to be on the exterior of the bus.

NOTE: Authority cited: Sections 34501.5 and 34508, Vehicle Code. Reference: Sections 34501.5 and 34508, Vehicle Code; Sections 39831 and 39842, Education Code.

HISTORY

1. New section filed 11-27-91; operative 12-27-91 (Register 92, No. 9).
2. New subsection (b)(7) filed 9-15-92; operative 9-15-92 (Register 92, No. 38).

3. Change without regulatory effect amending subsections (b)(7)(C)3, (b)(7)(D) and (b)(7)(G) filed 1–6–93; operative 2–5–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 2).
4. Amendment of subsections (b)(4)(C), (f)(1) and (f)(7) and new subsection (f)(2) and subsection redesignation filed 5–13–94; operative 6–13–94 (Register 94, No. 19).
5. Amendment of subsections (a)(1) and (a)(1)(C) filed 9–6–95; operative 10–6–95 (Register 95, No. 36).
6. Change without regulatory effect amending subsection (c)(3) and NOTE filed 12–5–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 49).
7. New subsection (b)(7)(G) and subsection relettering filed 3–17–99; operative 4–16–99 (Register 99, No. 12).

§ 1257. Mirrors.

All buses subject to this title shall be equipped with interior mirror(s) that give the driver a clear view of the interior of the vehicle and any rear and center entrance or exit doors and stepwells. In lieu of mirrors, trailer-bus combinations and articulated buses may be equipped with closed circuit video systems or adult monitors in voice contact with the driver.

NOTE: Authority and reference cited: Sections 546, 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1258. Mirrors on School Buses.

All Type 1 school buses and Type 2 school buses constructed on and after July 1, 1970, shall be equipped with two exterior rearview mirrors, one on each side of the bus. Every school bus shall be equipped with a cross-view mirror mounted on the front exterior of the bus to provide the seated driver with a clear view of the area directly in front of the bus.

(a) Size of Rearview Mirrors. Type 1 school buses constructed after January 1, 1965, and Type 2 school buses constructed after April 1, 1977, shall have exterior side mounted rearview mirrors, each with at least 50 sq in. in the reflective area.

(b) Size of Cross View Mirrors. All front exterior crossview mirrors required on Type 1 school buses shall have at least 40 sq in. in the reflective area.

§ 1259. Heaters and Defrosters.

(a) Buses. Every bus shall have a safe, effective defroster and heating system, which shall produce sufficient heat to provide reasonable comfort for occupants. All heating system pipes and radiators shall be shielded to protect the occupants and their clothing, and the moving parts of all heaters and defrosters shall present no hazard to occupants. Air intakes shall be located to minimize the entrance of exhaust fumes into the bus. If combustion heaters are used, they shall be installed on new buses by the body or bus manufacturer, and on buses now in service, by authorized dealers or garages. Heaters and defrosters are not required for trailer-buses of open air construction.

(b) School Buses. Every school bus shall be equipped with an effective defrosting device of the hot air duct type.

(c) Trucks and Farm Labor Vehicles. Every truck and farm labor vehicle shall be equipped with an adequate mechanically operated defrosting device, or adequate air-circulating system that removes snow, ice, frost, fog, or internal moisture from the windshield.

NOTE: Authority cited: Sections 31401, 34501 and 34501.5, Vehicle Code. Reference: Section 26712, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 5–14–79; designated effective 7–1–79 (Register 79, No. 19).
2. Amendment filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1260. Ventilation.

Requirements for ventilation are as follows:

(a) Buses and Farm Labor Vehicles. All buses and farm labor vehicles shall provide ventilation that is adequate for passengers in any weather. Openings for ventilation through the front of a vehicle shall be equipped with screens that prevent passage of insects, gravel, and other objects.

(b) School Buses. School bus bodies shall be equipped with a suitable ventilating system of sufficient capacity to maintain adequate ventilation during operation without the opening of windows except in extremely hot weather. Ventilation shall be adequate to assure a complete change of air at least once every 3 minutes while a school bus is moving.

HISTORY

1. Change without regulatory effect amending subsection (b) filed 8–7–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).

§ 1261. Exhaust Systems.

Exhaust systems shall comply with the Vehicle Code and the following:

(a) Every motor vehicle propelled by an internal combustion engine shall be equipped with a system to direct the discharge of combustion exhaust gases.

(b) No part of an exhaust system shall be located where its position would likely result in burning, charring, or damaging the electrical wiring, the fuel supply, or any combustible part of the motor vehicle.

(c) No exhaust system shall discharge to the atmosphere at a location directly below the fuel tank or the fuel tank filler pipe unless a shield is installed in a manner that prevents spilled fuel from contacting the exhaust system.

(d) The exhaust system of a Type 1 bus, other than a school bus, powered by a gasoline engine shall discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus.

(e) The exhaust system of a Type 1 bus, other than a school bus, using fuels other than gasoline shall discharge to the atmosphere either:

(1) At or within 15 inches forward of the rearmost part of the vehicle, or

(2) To the rear of all doors or windows designed to be opened, except windows designed to be opened solely as emergency exits.

(f) The exhaust system of every truck and truck tractor shall discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab. This requirement shall not apply to airport tank trucks used exclusively to fuel aircraft.

(g) Exhaust system repairs shall permit no leakage or discharge of exhaust gases at any location other than the discharge location required or permitted by this section.

(h) The exhaust system shall be securely fastened to the vehicle.

(i) Exhaust systems may use hangers which permit required movement due to expansion and contraction caused by heat of the exhaust and relative motion between engine and chassis of a vehicle.

(j) School Buses. The exhaust pipe of each Type 1 school bus and each Type 2 school bus constructed on or after July 1, 1970, shall project beyond the rear or side of the body of the bus but not beyond the bumper and shall not discharge near an entrance or exit, except that exhaust pipes may discharge near, but not directly under, doors designed to be opened solely as emergency exits. No flexible pipe or tubing shall be used except where necessary to prevent breakage.

NOTE: Authority cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code. Reference: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 393.83, Title 49, Code of Federal Regulations.

HISTORY

1. Amendment of subsection (a), relettering subsection (b) to (j), adding new subsections (b) through (i), amendment of subsection (j) and new NOTE filed 7–22–91; operative 8–21–91 (Register 91, No. 46).

§ 1262. Speedometer and Odometer.

School buses, school pupil activity buses, youth buses, and farm labor vehicles shall be equipped with an accurate speedometer and odometer. The speedometer shall be visible from the driver's seat and illuminated during darkness. School pupil activity buses may use means other than an odometer for determining accrued mileage.

NOTE: Authority and reference cited: Sections 31401, 34501, 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. Amendment filed 10–28–82; effective thirtieth day thereafter (Register 82, No. 44).

§ 1263. Interior Lamps.

All buses operated during darkness shall be equipped with a sufficient number of interior lamps to illuminate the interior of the bus without interfering with the driver's vision.

§ 1264. Passenger Compartments.

(a) **Signaling Device.** All farm labor vehicles in which the passenger compartment is separated from the driver's compartment and all trailer-buses shall be equipped with a buzzer or other signaling device that can be actuated by the passengers to gain the attention of the driver. A horn, as required by Vehicle Code Section 27000, shall not be used to comply with this requirement.

(b) **Vehicle Windows.** Every farm labor vehicle shall have at least one window at each side near the front of the passenger compartment. Each window shall not be less than 10 in. high and 16 in. wide. This requirement may be met by windows complying with Section 1269 of this title.

(c) **Broken Glass.** All cracked or broken glass having sharp or jagged edges, in windows or elsewhere on a farm labor vehicle, shall be removed.

NOTE: Authority and reference cited: Sections 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1265. Sleeper Berths.

The following requirements shall apply to motor vehicles equipped with sleeper berths:

(a) **Mattress.** Sleeper berths shall be equipped with springs and a mattress at least 4 in. thick (unless the mattress is innerspring, air, or foam rubber) and adequate bedding. Sleeper berths shall be constructed to permit ready removal of mattress and bedding for cleaning.

(b) **Ventilation.** Sleeper berths shall be provided with louvers or other means of ventilation that are reasonably dust proof and rain proof.

(c) **Location.** Sleeper berths shall be located to prevent entrance of gases from the exhaust system, overheating or damage by the exhaust system, and leakage from the fuel system. Sleeper berths shall not be located in the cargo space unless completely and securely compartmentalized. No sleeper berth shall be installed in or on any trailer or semitrailer other than a house trailer.

(d) **Communication With Driver.** Unless the sleeper berth is inside the driver's compartment or has a direct entrance thereto, means shall be provided to enable the occupant of the berth to communicate with the driver. Such means may be a telephone, speaker tube, buzzer, pull cord, or other mechanical or electrical device.

(e) **Entrance and Exit.** Sleeper berths shall be constructed and maintained so that the occupant has at least two means of exiting without assistance. The two exits shall be on opposite sides of the vehicle and shall be not less than 18 in. high and 21 in. wide. However, if the berth is part of the cab and between the berth and the driving seat, has a doorway or opening at least 18 in. high and 36 in. wide, the requirement for two exits does not apply.

(f) **Size.** Sleeper berths shall be not less than 75 in. long, measured on the centerline of the longitudinal axis; 21 in. wide at the center; and 21 in. high at the center, measured from the top of the mattress. Sleeper berths shall be constructed so as not to hinder the ready entrance or exit of the occupant.

(g) **Federal Requirements.** Carriers subject to and in compliance with sleeper berth requirements of the U.S. Department of Transportation shall be deemed in compliance with this section.

§ 1266. Drive Shaft Protection.

A drive shaft guard to prevent broken shafts from whipping through the floor or dropping to the ground shall be required on:

(a) **School Buses.**—On all Type 1 school buses constructed after January 1, 1950, and all Type 2 school buses constructed on or after July 1, 1970, each segment of the drive shaft shall be equipped with a guard.

(b) **Other Vehicles.**—All Type 1 buses and all farm labor vehicles designed for more than 16 passengers and the driver shall be equipped with at least one guard or bracket if the drive shaft extends under the passenger compartment.

§ 1267. Bus Entrances and Exits.

The following requirements shall govern entrances and exits of all buses (except buses operated by law enforcement agencies to transport prisoners) and farm labor vehicles:

(a) **Door and Step Clearance.**—Doors and steps shall be kept clear at all times to permit safe entrance and exit of passengers.

(b) **Grab Handles.**—Every Type 1 bus and farm labor truck shall be equipped with grab handles, stanchions, or bars at least 10 in. long and installed within convenient reach of persons boarding or leaving.

(c) **Safety Bars.**—To prevent passengers from falling into the step well, Type 1 buses shall have a safety bar or panel directly behind each step well.

(d) **Door Construction and Maintenance.**—Doors in all buses and farm labor trucks shall be substantially constructed, in accordance with acceptable standards, and maintained in good working order to permit safe entrance and exit. All doors shall afford easy release in case of emergency but shall be prevented from opening accidentally. Manually operated doors shall be constructed so that no parts thereof can come together with an exposed shearing action. Chains, cables, or bars may be used on farm labor trucks instead of doors provided they are:

(1) Secured at not more than 6 in. (152.4 mm) above or below a horizontal centerline of the opening, and

(2) Equipped with a quick release device that allows only enough slack to permit easy operation.

(e) **Doors Not Adjacent to Driver.**—In Type 1 buses (except school buses) any passenger door not immediately adjacent to the driver shall meet the following requirements: For buses manufactured prior to January 1, 1993, the term "not immediately adjacent to the driver" shall mean that the door opening and steps are not within the direct, clear view of the driver, unassisted by mirrors or other devices. For buses manufactured on and after January 1, 1993, the term "not immediately adjacent to the driver" shall mean that the front of the door frame opening is more than 12 inches to the rear of a transverse vertical plane at the front of the driver's seat back rest with the seat adjusted to its rearmost position and the back rest adjusted to its most vertical position. The front of the backrest is that point, on the vertical centerline of the front of the backrest, which is midway between the seat cushion and the top of the seat back, excluding any movable head rest.

(1) Doors closed by power actuators shall be:

(A) Equipped with a sensitive edge, designed and maintained to release the door-closing force, and to reopen sufficiently to fully release a person or object caught in the closing doors.

(i) Except as provided in (iii), doors on buses manufactured on or after January 1, 1993, shall release when the door closes on an object as small as a 1/2-inch diameter smooth cylinder held perpendicular to the plane of the door opening at any point where the door halves meet, or if a single piece door, where the door edge meets the door frame.

(ii) The performance standard specified in (i) and (iii) shall not apply to the top two inches or the bottom two inches of the sensitive edge.

(iii) For buses equipped with a 4-inch or larger gap between the power-closed doors, the doors shall react as specified in (i) when closing on a 1-inch diameter smooth cylinder.

(B) Designed and equipped to signal the driver if the doors completely close on any part of a person's body or any object

(C) Adjusted and maintained, when operated or actuated by treadle steps, to close in not less than 2 1/2 seconds after a person steps off such treadle.

(2) Doors closed by return springs, counterweights, or other passive means shall be:

(A) Designed to permit at least 4-inches of clearance between the solid or metal edges of doors when fully closed. This requirement shall not ap-

ply to a door opened by a power actuator and equipped with a sensitive edge that complies with (e)(1)(A) of this section.

(B) Adjusted to allow at least 1 1/2 seconds closing time from the fully open to the closed position

(C) Designed and maintained so that the force required to start the doors moving away from the completely closed position does not exceed 20 pounds, applied at the solid edge of the door with the bus on a level surface. Door movement allowed by slack in the door closing mechanical linkage shall not be considered in determining compliance with this requirement.

(D) As an alternative to paragraph (C), doors closed by return springs, counter weights, or other means, may instead be equipped with sensitive edges meeting the same requirements as doors closed by power actuators.

(E) Designed and equipped with a door lock control operated by the driver while seated in the driver's seat, and equipped with a warning light visible to the driver to indicate when the door is unlocked.

(3) Except as provided in (C), all doors shall be interlocked with the brakes and accelerator so that the bus cannot move when the doors are open and the doors cannot open when the bus is moving without engaging the interlock.

(A) The interlock shall function so that:

(i) the brakes on at least one axle are applied, and

(ii) the accelerator is released when or before the doors begin to open, and

(iii) the brakes cannot be released nor the accelerator applied while the doors are open.

(B) In buses permitted by section 1217 of this chapter to transport standing passengers, the interlock system may be equipped with speed sensors set at a speed of 3 miles per hour or greater at which speed the interlock may disengage.

(C) Buses may be equipped with a remote control not accessible from the driver's seated position, to override the interlock system to allow emergency movement of the bus if the doors cannot be closed. On buses equipped with such installations, placing the control in the override position shall actuate a warning consisting of an audible indicator and a red light indicator visible to the driver with a label integral with or adjacent to the light stating "Warning—Interlock Deactivated" in letters at least 3/16 inch high.

(4) The provisions of this subsection shall not apply to a door not adjacent to the driver when equipped with a wheelchair lift that prevents persons from entering or exiting such doors while the bus is in motion.

NOTE: Authority cited: Sections 31401, 34501, 34501.5, and 34508, Vehicle Code. Reference: Sections 31400, 31401, 34501, 34501.5, and 34508, Vehicle Code.

HISTORY

1. Amendment filed 5-14-79; designated effective 7-1-79 (Register 79, No. 19).
2. New subsection (e)(3) filed 6-18-80; designated effective 8-1-80 (Register 80, No. 25).
3. Amending of subsections (e)-(e)(2), new subsection (e)(3) and subsection renumbering filed 8-3-92; operative 1-1-93 pursuant to Government Code section 11346.2 (Register 92, No. 32).
4. Change without regulatory effect amending subsection (e)(3)(C) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

§ 1268. Emergency Exits.

Buses (except school buses and buses operated by law enforcement agencies to transport prisoners) and all farm labor trucks shall be equipped with emergency exits as follows:

(a) September 1, 1973, and Later—Every Type 1 bus manufactured on or after September 1, 1973, shall comply with the Federal Motor Vehicle Standard 217 applicable at the time of manufacture.

(b) Before September 1973—Every Type 1 bus manufactured before September 1, 1973, shall be equipped with at least one of the following:

- (1) An emergency door on the left side to the rear of the driver's seat
- (2) An emergency door at the rear center of the bus
- (3) Escape windows of the push-out type

(c) Type 2 Bus—Every Type 2 bus shall be equipped with at least one emergency door or push-out escape window either at the rear of the bus or on each side, to the rear of the driver's seat.

(d) Federal Standard—Buses equipped with emergency exits conforming to FMVSS 217 are deemed in compliance with this section.

(e) Exemption—Any bus in service within single or adjoining municipalities or business or residential districts adjacent to and commercially part of such municipalities is exempt from emergency exit requirements when equipped with a door next to each passenger seat or (in addition to the front entrance) an exit door that can be easily opened by a passenger in an emergency. Open air type buses shall be deemed in compliance with this subsection if the side enclosures do not exceed 50 in. in height measured from the vehicle floor and the open area meets the emergency exit size and location requirements in FMVSS 217 for buses of 10,000 GVWR or less.

(f) Specifications for Emergency Doors—Every emergency door shall have:

(1) An opening from the floor to the top of the window line or higher and at least 24 in. wide

(2) A latch that can be readily opened by a passenger in an emergency

(3) On buses (other than farm labor) a warning device that is not directly connected with any lighting circuit and will actuate, when the door is unlatched, either an audible signal or an easily seen red light on the instrument panel

(4) A sign reading "Emergency Door" on the interior of each emergency door or center exit door used in lieu thereof, except that farm labor vehicles shall have signs reading "Emergency Exit" on the exterior and interior of emergency exits printed in English and the language of the workers being transported

(g) Emergency Exit Locking Device. Every emergency exit locking device shall be designed and installed in such a manner that it cannot move to a locked condition as a result of vehicle vibration, vehicle movement or other unintentional causes.

(h) Farm Labor Truck Emergency Exits—Every farm labor vehicle with side enclosures more than 50 in. high, or with clearance of less than 30 in. between the upper edge of the side enclosures and the top, or with vertical roof supports less than 30 in. apart shall have an emergency exit remote from the entrance. Vehicles conforming with emergency exit requirements of subsection (f) of this section shall be deemed in compliance.

(1) Size of Door Opening. Farm labor vehicle emergency exit doors shall have an opening at least 7 sq ft in area and 2 ft wide. They shall be operable from both the interior and exterior of the vehicle. Single-panel hinged side doors shall be hinged on the front edge.

(2) Aisle Space. Farm labor vehicle aisle space shall be sufficient to permit rapid movement or unloading of passengers in event of an emergency. In no event, shall an aisle or other access to any emergency exit be blocked by baggage or other obstacles.

NOTE: Authority and reference cited: Sections 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 5-14-79; designated effective 7-1-79 (Register 79, No. 19).
2. Amendment of subsection (e) filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).
3. New subsection (g) and subsection relettering filed 4-22-93; operative 5-24-93 (Register 93, No. 17).

§ 1269. Side Windows As Emergency Exits.

Side windows used as emergency exits on buses (other than school buses and buses operated by law enforcement agencies to transport passengers) and all farm labor vehicles shall have the following:

(a) Type 1 Bus—On a Type 1 bus, an unobstructed opening at least 17 3/4 x 13 in. The total escape area shall be at least 67 sq in. for each seating space, including the driver's. At least 40% of the escape areas shall be located on one side of the bus.

(b) Type 2 Bus and Farm Labor Vehicle—On a Type 2 bus and any farm labor vehicle not a Type 1 bus, one or two openings, of at least 564 sq in., with a minimum dimension of at least 12 in.

(1) In lieu of compliance with Section 1268(h)(1), a farm labor vehicle less than 80 in. wide may be equipped with not less than one sliding or push-out escape window on each side of the passenger compartment. Each window shall provide an unobstructed opening of not less than 17 3/4 x 13 in. and shall be constructed and latched so that passengers can open it readily in an emergency. The total escape areas shall equal at least 67 sq in. for each seating space, and not less than 40% of this escape area shall be located on one side of the vehicle. This does not apply to passenger(s) seated in the driver's compartment separated from the passenger compartment.

(2) Rear emergency windows that may be used in lieu of emergency exit doors shall provide an unobstructed opening of not less than 6 sq ft and a minimum width of 16 in.

(3) All push out windows shall have instructions for operation on the interior.

NOTE: Authority and reference cited: Sections 31401, 34501, and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 5-14-79; designated effective 7-1-79 (Register 79, No. 19).
2. Change without regulatory effect amending subsection (b)(1) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

§ 1269.1. Equipment for Transporting Wheelchairs.

Equipment installed after January 1, 1980, on any bus, except a schoolbus, for transporting handicapped persons in wheelchairs shall meet the following requirements:

(a) Wheelchair Lift—Wheelchair lifts installed on such buses shall comply with Chapter 4, Article 15 of this title, commencing with Section 1090 and shall be installed as follows:

(1) Gaps—On a bus in use, gaps between the platform and the bus in areas over which a wheelchair can roll shall not be greater than 15 mm (0.60 in.) horizontally or greater than 6 mm (0.24 in.) vertically.

(2) Effect on Gross Vehicle Weight—Installation of a wheelchair lift shall not cause the manufacturer's gross vehicle weight rating, gross axle weight rating, or tire rating to be exceeded.

(3) Padding—Except in locations within (3.1 in.) of the bus floor, all readily accessible exposed edges or other hazardous protrusions on parts of lifts assemblies located in the passenger compartment or parts of the bus associated with the operation of the lift shall be padded with energy absorbing material to minimize injury in normal use and in case of accident. Padding is not required on buses on which each passenger seating position is equipped with a passenger restraint system, which complies with Federal Motor Vehicle Safety Standard 208.57, published in Title 49, Code of Federal Regulations, Part 571, October 1, 1995. On buses where padding is not installed, operators shall ensure that each passenger transported is properly secured by the restraint system at all times when the bus is in motion.

(4) Control Location—The controls for deploying, lowering, raising, and stowing the lift and moving the barrier shall be at a location where the bus driver or lift attendant has a full view, unobstructed by passengers, of the lift platform, its entrance and exit, and the wheelchair passenger, either directly or with partial assistance of mirrors. Lifts entirely to the rear of the driver's seat shall not be operable from the driver's seat but shall have an override control at the driver's position that can be set to prevent the lift from being operated by the other controls (except for emergency manual operation upon power failure).

(5) Control Interlock.

(A) Except as provided in subsection (B) or (C), wheelchair lift controls shall be interlocked with the parking brake(s), the front or rear service brakes, and with the accelerator or transmission so the bus cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlock is engaged. An accelerator or transmission interlock

is not required for buses in which the engine must be turned off to operate the wheelchair lift controls.

(B) Buses manufactured prior to January 1, 1983, using hydraulic fluid pressure at the wheels for applying the service brakes, shall have the wheelchair lift controls interlocked with the parking brakes or the front or rear service brakes, so the lift cannot be deployed unless the interlock is engaged.

(c) As an alternative to the requirements in (A), on buses equipped with hydraulic brakes, an interlock system which complies with the Americans With Disabilities Act (ADA) requirements in Title 49, Code of Federal Regulations, Section 38.23(b)(2), as published October 1, 1995, will be deemed to comply with the interlock requirements of this section subject to the provisions of 1., 2., 3., and 4. below:

1. The driver must set the vehicle's parking brake before activating the lift control(s).

2. The bus must be equipped with an electrical warning device, clearly audible or visible from the driver's seating position, which is activated at all times when the lift is not stowed and the ignition or run switch is in the "on" or "run" position.

3. If a transmission interlock is utilized, the transmission must be interlocked in the "Park" position.

4. A door interlock will satisfy the requirement only if the door is also interlocked with the vehicle's brakes or transmission in a manner that meets the performance criteria set forth in (A), above.

(6) Certification—When the bus manufacturer or installer uses controls not supplied by the lift manufacturer or modifies the certified lift, the modifications shall comply with the wheelchair lift regulations, and the bus manufacturer or the installer shall so certify. The wheelchair lift shall be installed so the lift manufacturer's certification label, and the bus manufacturer's or installer's certification label, when appropriate, is readily visible and readable. The label(s) shall be maintained in good condition.

(b) Placement, Attachment and Alteration—The placement of the wheelchair lift, including any modification of the bus body or chassis, and modification of the lift or its controls, and the method of attachment shall be in accordance with the bus or lift manufacturer's recommendations and shall not diminish the structural integrity of the bus nor cause a hazardous imbalance of the bus. No part of the assembly when installed and stowed shall extend laterally beyond the normal side contour of the bus nor vertically below the lowest part of the rim of the wheel closest to the lift.

(c) Illumination—During darkness, the outboard end of a wheelchair lift in the down position shall have an illumination of at least 30 lux (2.8 ft-cd) measured on the platform surface.

(d) Securement of Wheelchairs—A device or devices shall be provided to secure wheelchairs during transportation to keep them restrained during normal movement of the bus as in starting, stopping and turning.

(e) Installation, Maintenance, and Operating Instructions—Wheelchair lift installation instructions and inspection and maintenance schedules and procedures shall be available to departmental employees in the location where the bus is garaged or maintained. Lift operating instructions shall be carried in every bus equipped with a wheelchair lift.

(f) Wheelchair Securement—GPPVs used to transport wheelchair passengers shall be equipped with securement devices conforming to the requirements in Section 1293(f).

NOTE: Authority cited: Sections 31401, 34501, 34501.5, 34501.8 and 34508, Vehicle Code. Reference: Sections 31401, 34501, 34501.5, 34501.8 and 34508, Vehicle Code.

HISTORY

1. New section filed 7-13-79; effective thirtieth day thereafter (Register 79, No. 28).
2. Amendment of subsection (a)(5) filed 6-18-80; designated effective 8-1-80 (Register 80, No. 25).
3. Amendment of subsection (a)(5) filed 10-30-80; designated effective 12-1-80 (Register 80, No. 44).
4. New subsection (f) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).

5. Change without regulatory effect amending subsection (a) filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).
6. Amendment of subsections (a)(3) and (a)(5)(A)-(B) and new subsections (a)(3)(C)-(a)(3)(C)4. filed 2-21-96; operative 3-22-96 (Register 96, No. 8).

§ 1270. Seats.

The following requirements govern seats on buses and all farm labor vehicles.

(a) **Bus Driver's Seat.** The driver's seat shall be positioned so that the driver may assume a natural position while driving and have a clear view of the road and mirrors and sufficient leg room to operate the brake, clutch, and accelerator pedals and all other controls without cramping or interference. The driver's seat shall be readily adjustable backward and forward and may be adjustable up and down or may incorporate up and down motion with forward and backward adjustability. On school buses and school pupil activity buses, the driver's seat shall also be equipped with a locking device to prevent accidental separation of the adjustable seat components. In addition, a safety belt meeting the provisions of FMVSS 209 shall be provided for the driver in school buses and school pupil activity buses.

(b) **Bus Passenger Seats.** Jump seats and seats in aisles shall not be permitted in any bus. Seats in school pupil activity buses shall be adequately secured and shall provide a seating space at least 13 inches wide for each passenger.

NOTE: Authority cited: Sections 31401, 34501, and 34501.5, Vehicle Code. Reference: Sections 31400, 31401, 34501, and 34501.5, Vehicle Code.

HISTORY

1. Amendment filed 5-14-79; effective July 1, 1979 (Register 79, No. 19).
2. Amendment of subsection (b) and repealer of subsections (c)-(c)(6) filed 7-3-2001; operative 8-2-2001 (Register 2001, No. 27).
3. Amendment of subsection (a) filed 6-24-2002; operative 7-24-2002 (Register 2002, No. 26).

§ 1270.3. Farm Labor Vehicle Seating.

(a) **Farm Labor Vehicle Passenger Seats.** Seating accommodations for each passenger shall provide a space with a depth of at least 10 inches, a width of at least 15 inches, and a height (measured from the floor) of 15-19 inches for the seat and at least 32 inches for the top of the back of the seat. Aisles between facing seats shall be at least 24 inches wide. Headroom, measured from the ceiling to the top of the cushion at least 7 inches from the interior side wall, shall be at least 37 inches (except for seats installed by the original chassis manufacturer). The passenger compartment of every farm labor vehicle shall be enclosed to a height of at least 46 inches or equipped with other equally effective means to prevent passengers from falling off the vehicle. Farm labor vehicle seat frames and backs shall be rigidly constructed and maintained to ensure structural safety and resistance to displacement of any component in the event of an accident. For the sole purpose of establishing passenger capacity, weight per passenger and driver shall be calculated at 150 pounds.

(1) Each seat cushion shall be fastened to the seat frame by not less than two positive locking devices at the front or rear of the cushion.

(2) Seats shall be secured to the vehicle by bolts at least 1/4 inch in diameter, uniformly spaced, and Grade 5 or better. Bolts shall meet the requirements of SAE Standard J429 (SAE Handbook, 1965 edition or later).

(3) Bolts shall be equipped with flat metal washers at least 1/16 inch thick and 1 1/4 inch in diameter or better. Bolts shall be secured by lock washers and nuts or self-locking nuts.

(4) Not less than four fasteners shall be used to secure each one- to three-passenger seat; at least six fasteners shall secure each four- to six-passenger seat, and at least two fasteners shall secure each additional 54 inches of linear seating space.

(5) Where vehicle design precludes the use of bolts, nuts, and washers, an alternate securement method may be used only if its strength equals or exceeds the fasteners specified in this section.

(6) Buses manufactured in compliance with FMVSS 222 shall be deemed in compliance with this section.

(b) **Seatbelt Installation.** Seatbelts required by this section shall conform to the specifications set forth in Section 571.209 of Title 49 of the Code of Federal Regulations, and shall be anchored to the vehicle in a manner that conforms to the specifications of Section 571.210 of Title 49 of the Code of Federal Regulations.

(1) Each passenger shall be provided with a separate seatbelt assembly. Passengers may not share a seatbelt. The seatbelt shall bear across the hip bones of the passenger and pull rearward and downward with respect to the passenger. The belts shall not be mounted such that the anchorage points are located forward of the seatbelt buckle when secured. Anchorage points shall be spaced so that the seatbelt forms a "U" shaped loop when in use. In no case may both ends of one seatbelt assembly be fastened or connected to the same securement point.

(2) Belts shall be adjustable enough so they fasten securely and fit snugly against the passenger.

(3) Seatbelts shall be manufactured by a manufacturer registered with the National Highway Traffic Safety Administration and specifically intended for automotive safety belt applications, and shall not be improvised.

(4) Seatbelt webbing shall be sewn to attaching plates or threaded through slots in the plates. Seatbelts shall not be secured by bolts piercing or extending through the webbing.

(5) New or used seatbelts may be installed provided they are in good condition, without excessive wear or damage, and are installed properly. Webbing material with cuts on the edges, fraying, or which display evidence of impact stretching or other damage, other than stains or other cosmetic damage, shall be deemed not to be in "good condition."

(6) New seatbelts shall be installed according to the installation instructions furnished by the manufacturer.

(A) For vehicles originally designed to transport passengers, seatbelts shall be installed in a manner equivalent to the original factory configuration.

(B) For vehicles not originally designed to transport passengers or using seats fabricated by a person other than the vehicle manufacturer, seatbelts shall be attached to a sturdy metal portion of the vehicle body, floor, bed or frame with bolts, nuts and washers or reinforcement plates.

(i) Washer or reinforcement plate sizes shall be adjusted as necessary to prevent significant deflection of the floor or other attachment points when the belt is pulled firmly with ordinary human strength.

(7) At a minimum, seatbelt securement bolts shall be 7/16 inch fine thread or 1/2 inch coarse thread, or metric equivalent, unless otherwise specified by the manufacturer. Use of sheet metal screws is not acceptable.

(8) Seatbelts attached to the body, bed, floor or other sheet metal shall be installed using either reinforcement plates or flat washers below or behind the sheet metal. Reinforcement plates shall be at least 2 inches by 2 inches square, flat washers shall be at least 2-1/4 inches diameter. Both shall be at least 1/16 inch thick and shall not have any sharp edges.

(9) Seatbelts shall not be secured to passenger seats unless the entire seat, seatbelt and seatbelt anchorage assembly is manufactured in conformance with FMVSS requirements. Such seats shall be secured to the floor in conformance with the manufacturer's instructions. If the manufacturer's instructions are not available, such seats shall be installed using the largest bolts that will fit through the original factory seat frame-to-vehicle mounting holes, and shall be equipped with sturdy reinforcing plates under the floor. Original factory mounting holes in seat frames shall not be enlarged to accept larger bolts.

(10) Seatbelts shall not be secured to an existing passenger seat unless the seat was originally designed to serve as the anchorage for seat belts by a manufacturer registered with the National Highway Traffic Safety Administration, and the seat was installed by the vehicle manufacturer or in a manner equivalent to the manufacturer's original factory installation, or as specified by the seat manufacturer.

(c) **Maintenance of Seatbelts and Anchorages.** The operator of a farm labor vehicle shall maintain all seatbelt assemblies and seatbelt assembly

anchorages required under this section in good working order for the use of the driver and all passengers.

(d) Operation. Except as provided in 31405 VC, no person may operate a farm labor vehicle on a highway unless that person and all passengers are properly restrained by seatbelt assemblies that conform to this section. Regardless of the passenger capacity calculated pursuant to subsection (a) and indicated on the inspection approval certificate issued pursuant to Section 1231 and on the farm labor vehicle notice pursuant to Section 1256(d)(2), no more passengers shall be transported than the number of properly functioning seatbelts available for use by the driver and passengers.

(e) Derating of Passenger Capacity. Except as provided in subsection (d), passenger capacity shall be determined by the number of seating positions, not by the number of seatbelts. A farm labor vehicle presented for inspection with fewer seatbelts than passenger seating positions shall not be certified by the department until seating positions are removed or seatbelts added to provide a seatbelt for each installed seating position. The department shall not reduce the designated passenger capacity indicated on the inspection approval certificate to any number less than the actual number of seating positions to compensate for missing or defective seatbelts.

NOTE: Authority cited: Section 31401.5, Vehicle Code. Reference: Sections 27315, 31401 and 31401.5, Vehicle Code.

HISTORY

1. New section filed 7-3-2001; operative 8-2-2001 (Register 2001, No. 27).

§ 1270.5. Conspicuity Systems.

(a) Applicability. Except as provided in subsection (b), the following vehicles shall be equipped and maintained with the conspicuity system specified in Federal Motor Vehicle Safety Standard 108 (49 CFR 571.108) applicable on the date of manufacture of the vehicle:

(1) All trailers and semitrailers having an overall width of 80 inches or more and a gross vehicle weight rating of more than 10,000 pounds, and manufactured on or after December 1, 1993.

(2) All truck tractors manufactured on or after July 1, 1997

(b) Exception. Trailer coaches and camp trailers designed exclusively for living or office use are excluded from the requirements of subsection (a).

(c) Definition of Conspicuity System. A conspicuity system shall consist of either retroreflective sheeting or reflex reflectors, or a combination of retroreflective sheeting and reflex reflectors as specified in Federal Motor Vehicle Safety Standard 108.

(d) Optional Installation of Conspicuity Systems. Any trailer, semitrailer, or motor truck having an overall width of 80 inches or more, and any truck tractor may be equipped with the above identified conspicuity system even though not required by this section.

NOTE: Authority cited: Section 34501, Vehicle Code. Reference: Section 34501, Vehicle Code.

HISTORY

1. New section filed 12-4-2000; operative 1-3-2001 (Register 2000, No. 49).

Article 9. Additional Equipment Requirements for School Buses

§ 1271. Data Required by Federal Standards.

(a) In addition to the provisions of this Article, the provisions of Parts 567 and 568, Certification, of Title 49, Code of Federal Regulations applicable at the time of manufacture shall apply to all school buses manufactured after January 1, 1973.

(b) Buses, as defined in this subchapter, manufactured on and after April 1, 1977, shall not be used as school buses unless they comply with the provisions of Parts 567 and 568 of Title 49, Code of Federal Regulations in effect at time of manufacture.

(c) No vehicle manufactured on or after September 1, 1989, shall be used as a school bus unless the vehicle meets the definition of a school bus or a multipurpose passenger vehicle, as defined in Part 571 of Title

49, Code of Federal Regulations, and unless the vehicle meets all Federal Motor Vehicle Safety Standards (49 CFR Part 571) in effect on the date of manufacture for a school bus of the appropriate gross vehicle weight rating.

NOTE: Authority cited: Section 34508, Vehicle Code. Reference: Section 34508, Vehicle Code.

HISTORY

1. Amendment filed 7-17-89; operative 8-16-89 (Register 89, No. 29).

§ 1272. Data Display and Chassis Certification.

School buses shall comply with the following:

(a) Display of Data. Plates or labels displaying the following data shall be permanently attached in each school bus except Type 2 school buses manufactured before July 1, 1970, and shall be readily visible either in the driver's compartment or where prescribed in Part 567, Certification, of Title 49, Code of Federal Regulations:

(1) Gross vehicle weight rating (GVWR)

(2) Minimum tire size and minimum acceptable load range rating

(3) Gross axle weight rating (GAWR)—Front, intermediate (if applicable), and rear

(4) Unladen weight of vehicle as defined in Vehicle Code Section 660.

(5) For vehicles manufactured on or after September 1, 1989 and classed as multipurpose passenger vehicles (MPV) as defined in Part 571 of Title 49, Code of Federal Regulations, the statement: "This multipurpose passenger vehicle meets or exceeds the requirements of all Federal Motor Vehicle Safety Standards in effect on the date of manufacture for a school bus having a Gross Vehicle Weight Rating of (10,000 pounds or less) (More than 10,000 pounds)." The statement shall be completed with only one of the GVWR ranges shown in parentheses, not by including both and striking out one.

(b) Chassis Manufacturer's Certification. A chassis shall not be used on either any Type 2 school bus manufactured on or after July 1, 1970, and prior to April 1, 1977, or any Type 1 school bus manufactured prior to April 1, 1977, unless the manufacturer of the chassis, as defined in Section 1201 of this title, has filed with the Commissioner a certified statement on the departmental form setting forth the gross vehicle weight rating of such chassis. For buses manufactured after January 1, 1973, and prior to April 1, 1977, the manufacturer of the chassis shall file, on a departmental form, only a certified statement that the models listed comply with all applicable laws and regulations.

(c) Chassis Modifications. Repowering with other than original engines, or other chassis modifications shall be done only with the written permission of the vehicle manufacturer(s) listed on the Federal certification label or data plate. If such permission cannot be obtained, a modification may be made if:

(1) It duplicates an original installation or a previously approved installation on the same make and model of school bus, or

(2) It is done in accordance with engineering plans provided by the component manufacturer or an independent engineering firm, and

(3) In either case, the bus is reinspected by an authorized department employee before it is used for pupil transportation.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. New subsection (c) filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).

2. Amendment of subsection (c) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).

3. Amendment of subsection (a) filed 7-17-89; operation 8-16-89 (Register 89, No. 29).

4. Editorial correction adding text inadvertently omitted in printing (Register 91, No. 18).

§ 1273. School Bus Bodies.

School buses shall comply with the following requirements:

(a) Engine Compartment. The engine compartment shall be sealed from the passenger space, to prevent entrance of exhaust gases, and insulated with fireproofing or other materials to prevent the floor from overheating and the passengers from being injured. All closures between the engine compartment and the bus body shall be fitted with gastight gas-

kets, and pedal openings shall be closed by bellows, or self-closing gas-tight boots or gaskets.

(b) Construction. A Type 1 school bus manufactured on and after January 1, 1957, and a Type 2 school bus manufactured on and after July 1, 1970, shall comply with the following additional requirements:

(1) Floors. Floors in Type 1 school buses constructed after January 1, 1957, shall be at least 14-gage steel or equivalent or 5-ply, 5/8 in. laminated wood, marine type, and constructed and maintained to prevent entrance of exhaust gases. Floors in Type 2 buses constructed on and after July 1, 1970, shall be strong enough to support loads and constructed and maintained to prevent entrance of exhaust gases.

(2) Body. The bus body shall be reasonably dustproof and watertight and construction (except of the floor) shall be of prime commercial quality steel or other material with strength at least equivalent to all steel as certified to the department by the bus body manufacturer. If nonmetallic materials are used, they also shall meet the flammability specifications for interior materials in FMVSS 302. In addition, the bus body (including roof bows, body posts, and floor) shall:

(A) Be of sufficient strength to support the entire weight of the fully loaded vehicle on its top or side if overturned.

(B) Have sufficient strainers in the roof structure and corners to provide adequate safety and to resist damage on impact.

(C) As evidence that Type 1 school bus bodies manufactured prior to April 1, 1977, meet these standards, the manufacturer shall furnish to the department for each current body model certification that the bus body meets the "Static Load Test Code for School Bus Body Structure" as issued by the School Bus Body Manufacturers Association.

(3) Inside Height. In a Type 1 school bus manufactured on or after January 1, 1965, the inside body height, measured at the centerline from the back of the door opening to the back of the next to the last row of seats, shall be a minimum of 70 in.

(4) Interior. The interior of school buses shall meet the following requirements:

(A) The ceiling shall be free of all projections likely to cause injury to a pupil.

(B) Except as otherwise provided, the ceiling over any aisle shall not have any projection that protrudes more than 3/4 inch or that reduces the minimum inside height requirements.

(C) Ceilings may have projections over the aisle for air conditioners provided that no portion of the projection is more than 35 inches from an emergency exit and no portion projects below the top of the emergency exit opening.

(D) Type 1 school bus ceilings shall not have any projection over any seat where the minimum distance from the highest point of the seat cushion to the projection is less than 40 inches.

(E) No ceiling projection over any seat shall project lower than the top of any window.

(F) The interior walls on Type 1 school buses and Type 2 school buses manufactured on or after July 1, 1970, shall be lined. Hoses, tubing, and piping installed on interior walls for air conditioning or heating shall be equipped with protective covering designed to prevent puncture or injury.

(G) Materials used on the interiors of school buses manufactured on or after September 1, 1972, shall comply with the specifications of Federal Motor Vehicle Safety Standard 302 in effect at the time of manufacture. Any material used in refurbishing bus interiors shall be fire resistant and shall comply with the standards in effect for new vehicles at the time of installation.

(5) Modifications. No person shall render inoperative, in whole or in part, any device or element of design or equipment of a school bus in compliance with FMVSS 220.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (b)(5) and new subsection (b)(6) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).

2. Amendment of subsection (b)(1) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).

3. Amendment of subsection (b) filed 6-11-81; effective thirtieth day thereafter (Register 81, No. 24).

§ 1274. Used or Changed School Bus.

If a new or used body is placed on a new or used chassis, or a used vehicle not previously certified by the Department for use as a school bus is placed into service as a school bus, the vehicle shall comply with all current regulations and laws applicable to new school buses, except that Federal Motor Vehicle Safety Standards specifically adopted by reference in this title shall apply only when a vehicle was manufactured on or after the effective date of the standards. A previously certified bus reinstated in school bus service by the same or different owner shall meet the requirements of all regulations and laws that would have applied if the bus had not been removed from school bus service.

§ 1275. Chassis Mounting.

The rear end of the chassis frame or any extension thereof on Type 1 school buses constructed after January 1, 1950, and on all Type 2 school buses constructed on or after July 1, 1970, shall support the rearmost sill of the bus body.

§ 1276. School Bus Weight Limits.

Weights imposed upon the axles of school buses shall be limited as follows:

(a) One Axle. The gross weight on any one axle shall not exceed the rated capacity of the axle as certified to the department by the manufacturer of the chassis, or as indicated on the permanent data plate or labels required by Section 1272 of this title.

(b) Rear Axle. A school bus constructed after January 1, 1950, shall have no more than 75% of the gross vehicle weight on the rear axle, measured at the ground.

§ 1277. Power or Grade Ability.

The gross vehicle weight of any Type 1 school bus and any Type 2 school bus manufactured on or after July 1, 1970, shall not exceed 175 lb per certified net published horsepower of the engine at the manufacturer's recommended maximum governed rpm. The gross vehicle weight of any school bus manufactured after January 1, 1973, shall not exceed 185 lb per certified net published horsepower of the engine at the manufacturer's recommended maximum governed rpm.

§ 1277.1. Starter Interlock.

On school buses manufactured on or after January 1, 1968, that are equipped with automatic transmissions, the engine starter shall be inoperative when the transmission shift lever is in a forward or reverse drive position.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. New section filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).

§ 1278. Pupils' Seats.

The following regulations apply to seating in school buses:

(a) Capacity and Weight Estimates. For the sole purpose of indicating the maximum capacity of a school bus, the manufacturer and purchaser shall allow a seating space 13 in. wide per pupil and shall estimate minimum weights of 120 lbs per pupil and 150 lbs for the driver. However, for Type 1 buses built before January 1, 1960, the weight of each elementary pupil may be estimated at a minimum of 80 lbs, although the estimated weights of high school students remain at the minimum of 130 lbs each.

(b) Placement. Seats shall be positioned across the bus, not lengthwise. In Type 1 school buses, no pupil's seat shall be placed ahead of a line drawn across the bus and immediately behind the driver's seat. In Type 1 school buses constructed on or after July 1, 1968, there shall not be less than 25 in. between the front of the back of each seat and the rear of the back of the seat immediately ahead. In Type 2 school buses constructed on or after July 1, 1970, there shall not be less than 24 in. between the front of the back of each seat and the rear of the back of the seat immediately ahead. The foregoing measurements refer to the level plane parallel

to the centerline of the vehicle immediately above the highest portion of the seat cushion. The measured distance shall not include any indentation or depression.

(c) Securement. Pupils' seats shall be securely fastened, as follows:

(1) Frames. Legs of all seat frames shall be secured to the floor with bolts or self-tapping screws. Bolts shall be of at least 1/4-in. diameter and of Society of Automotive Engineers Grade 3 designation or equivalent strength. Bolts shall be secured by a flat washer of at least 1 1/4-in. diameter, or equivalent securement, and a lock washer and nut or self-locking nut. Self-tapping screws shall be at least 5/16 in. in diameter and threaded through 12-gauge steel plating.

(2) Cushions. In Type 1 school buses constructed after January 1, 1957, and Type 2 school buses constructed after January 1, 1968, each seat cushion shall be fastened to the seat frame with a positive locking device at not less than two points on the front or rear of the cushion.

(d) Padding. All seats and seat backs shall be covered with padding. In addition, all school buses constructed after January 1, 1973, shall be equipped with interior protective padding capable of minimizing injuries from impacts, as follows:

(1) All exposed passenger seat rails, except the rearmost seats, shall be padded down to seat-cushion level, and the top rail of the driver's seat shall be padded unless separated from passenger seating by a padded restraining barrier.

(2) Stanchions shall be padded to within 3 in. of the ceiling and the floor.

(3) Guard rails shall be padded from the bus wall to the farthest support.

(e) Modification. No modification of factory seating shall be permitted on Type 2 school buses purchased on or after July 1, 1966, and manufactured before July 1, 1970, except as follows:

(1) A Type 2 school bus constructed before July 1, 1970, shall not transport more than 12 passengers and the driver unless it meets all regulations relating to Type 2 school buses constructed on or after July 1, 1970.

(2) Modifications to increase the seating capacity to 12 passengers shall be allowed only upon the approval of the department. Such approval shall be contingent upon the manufacturer's gross vehicle weight rating.

(f) Exception. This section does not apply to seats consisting of wheelchairs used in accordance with the provisions for wheelchair school buses in this title.

(g) Federal Requirements. School buses manufactured and maintained in compliance with Federal Motor Vehicle Safety Standard 222 shall be deemed in compliance with the seating requirements of this section.

NOTE: Authority cited: Sections 34501.5 and 34508, Vehicle Code. Reference: Sections 34501.5 and 34508, Vehicle Code.

HISTORY

1. Change without regulatory effect amending subsection (b) and adding new NOTE filed 5-11-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 19).

2. Amendment of subsection (a) filed 4-2-98; operative 5-2-98 (Register 98, No. 14).

§ 1279. Aisles.

The aisle in Type 1 school buses shall be at least 12 in. wide; the aisle in Type 2 school buses manufactured on and after July 1, 1970, shall be at least 11 in. wide. Aisles shall provide unobstructed access to all seats on the aisle. The aisle on all Type 1 school buses and Type 2 school buses manufactured on and after April 1, 1977, shall provide unobstructed access to the rear floor-level emergency door, if so equipped. Aisles shall be surfaced with a nonslip material.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. Amendment filed 5-15-81; effective thirtieth day thereafter (Register 81, No. 20).

§ 1280. Steps.

Steps of Type 1 school buses constructed after January 1, 1950, and of Type 2 school buses constructed after January 1, 1970, shall meet the following requirements:

(a) First Step. The first step to the entrance door in a Type 1 school bus shall be not more than 17 in. high, and on a Type 2 school bus not more than 20 in. high, measured from the ground when the bus is unloaded.

(b) Risers. When more than one step issued, risers of the upper steps shall be not more than 13 in. high.

(c) Covering. Steps shall be covered with a nonslip material.

(d) Foot Space. The space for passengers' feet shall not be decreased by any object (except wheelhousings) placed upon or protruding through the floor behind a line drawn across the bus in back of the driver's seat. "Foot space" does not include that part of the floor directly under a seat cushion or within 6 1/2 in. of the sidewall.

(e) Ramps. No floor ramp is permitted on school buses if it makes walking in the aisles hazardous. No such ramp that is less than 6 ft long or has a rise of more than 5 in. is permitted.

NOTE: Authority and reference cited: Sections 34501.5 and 34508, Vehicle Code, and 39831, Education Code.

HISTORY

1. Amendment of subsection (d) filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15). For prior history, see Register 78, No. 33.

§ 1281. Doors.

In addition to the provisions in Section 1267 of this title, the following regulations apply to nonemergency doors on school buses.

(a) Type 1 Buses. Doors on Type 1 school buses shall meet the following requirements:

(1) The entrance and exit door shall be on the right-hand side, toward the front of the bus, and directly within the view and under the control of the driver. The door will be deemed to be directly within the view of the driver only if the front of the opening is in front of a line drawn across the bus immediately in front of the driver's backrest.

(2) Although not required, there may be a door beside the driver for the exclusive use of the driver.

(3) School buses constructed after January 1, 1950, shall comply with these additional requirements.

(A) The entrance and exit door shall provide an unobstructed opening at least 24 in. wide and 65 in. high.

(B) Approved safety glazing shall be installed in door panels. In the lower panel, the bottom of the glazing shall not be more than 35 in. from ground level with the bus unloaded. In the upper panel, the top of the glazing shall not be more than 6 in. from the top of the door.

(C) Flexible material shall be affixed to the vertical-closing edges of the door.

(b) Door Padding. On all Type 1 school buses, and Type 2 school buses manufactured on and after July 1, 1970, the inside top door frame shall be cushioned by soft padding at least 1/2 in. thick, to prevent head injuries.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (a)(3)(B) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20). For prior history, see Register 78, No. 33.

§ 1281.1. Door Warning Devices.

On all school buses, except Type 2 buses manufactured prior to July 1, 1970, every emergency door and every floor level door located to the rear of the driver's seat shall have an electrical warning device that is both audible and visible from the driver's seating position while the ignition switch is on. The visible device shall be a green or red light. The warning device shall be activated as follows:

(a) On Type 1 school buses manufactured on or after January 1, 1950, and all school buses manufactured on or after April 1, 1977, when the door latch is not in the closed position.

(b) On Type 2 buses manufactured on or after July 1, 1970, and prior to April 1, 1977, by opening the door.

(c) On all school buses manufactured after January 1, 1993, when the latch mechanism is not fully engaged and securing the door in the closed position. The warning device shall be activated by movement of the latch mechanism and shall activate prior to the latch reaching a position which would allow the door to open. A warning device which can be deactivated by operating the door handle or latch mechanism without closing the door does not meet this requirement.

NOTE: Authority and reference cited: Section 34508, Vehicle Code.

HISTORY

1. New section filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
2. New subsection (c) filed 4-22-93; operative 5-24-93 (Register 93, No. 17).

§ 1282. Emergency Exits Type 1 School Buses.

Type 1 school buses constructed on and after January 1, 1950, shall comply with the following requirements:

(a) Location and Type. Each school bus shall be equipped with an emergency door located on the left side near the rear of the bus at floor level, and a center rear emergency exit, which may be either a floor level door or an emergency window. The location requirement for a left side emergency door shall not apply to buses manufactured on or after May 9, 1996, in compliance with FMVSS 217 (49 CFR 571.217). If a bus is equipped with a center rear, floor level emergency door, the left side floor level emergency door may be located anywhere on the left side to the rear of the driver's seat. A school bus equipped to transport fewer than 26 passengers may meet the requirement with a single, center rear, floor level emergency door.

(b) Openings. Each emergency door shall provide an unobstructed opening of not less than 24 inches wide and 45 inches high.

(c) Rear Emergency Windows. Each emergency window shall provide an unobstructed opening of not less than 16 x 54 inches, and shall be designed to ensure against accidental closing.

NOTE: Authority cited: Sections 34501.5 and 34508, Vehicle Code. Reference: Sections 34501.5 and 34508, Vehicle Code.

HISTORY

1. Editorial correction in subsection (c) (Register 79, No. 28). For prior history, see Register 78, No. 33.
2. Change without regulatory effect amending section filed 7-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 50).
3. Change without regulatory effect amending subsections (a) and (b) and adding NOTE filed 10-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 44).

§ 1283. Emergency Exits Type 2 School Buses.

Type 2 school buses constructed on and after July 1, 1970, shall have at least one emergency exit to the rear of a line drawn crosswise to the bus directly to the rear of the driver's seat. When the required emergency exit is not located at the rear of the bus, emergency exits shall be provided on both the left and right sides. Emergency exits shall provide at least 564 sq in. of escape area with a minimum dimension of 12 in.

HISTORY

1. For prior history, see Register 78, No. 33.

§ 1284. Emergency Exits—All School Buses.

On all school buses, except Type 2 school buses manufactured prior to July 1, 1970, emergency exits shall meet the following requirements:

(a) Opening. Emergency exits shall be capable of being opened outward from both the interior and exterior of the bus except as exempt in 1293(d)(1)(C). The emergency exit shall be equipped with a positive latching device to keep it closed, but of a type that can be readily opened for authorized use.

(b) Latch Obstruction. No obstruction shall be placed over the handle of an emergency exit.

(c) Identification and Operation of Controls. All interior controls for emergency exits shall be readily identifiable and operable by passengers; control of such exits from the driver's seat is not permitted.

(1) Buses manufactured on or after April 1, 1977, shall have operating instructions describing the motions necessary to unlatch and open the emergency exit, in letters at least 3/8 in. high, of a color that contrasts with its background, and located within 6 in. of the door handle on the interior.

(2) A sign reading "Emergency Exit" in letters at least 2 in. high shall be on the interior and exterior of the bus at each emergency exit. Interior letters shall be in a color that contrasts with the background. Exterior letters shall be black, at or above eye level.

(d) Door Glass. All doors shall be equipped with approved safety glazing material.

(e) Side Doors. Single-paneled side emergency doors, if hinged, shall be hinged on the forward edge.

(f) Attachments. No part of a seat shall be a part of or attached to an emergency door.

(g) Aisle to Side Floor-Level Door. The aisle leading between the seats to a side floor-level emergency door shall not be obstructed by any post, wheelhousing, or other obstacle. For purposes of this subsection, a seat is not an obstacle if applicable provisions of FMVSS 217 are met.

(h) Door Guard. Each emergency door opening may be provided with a securely attached safety guard installed completely across the interior of the door opening. On at least one end, the guard shall be equipped with an easily detachable quick release that is releasable under tension and secured at points on each side of the door frame not more than 6 in. above or below the horizontal centerline of the door. The guard shall not interfere with the opening of the door.

(i) Additional Emergency Exits. Additional emergency exits may be installed, but all shall conform with the minimum specifications in the applicable FMVSS.

(j) Emergency Exits in Wheelchair School Buses. School buses used to transport physically handicapped pupils in wheelchairs shall conform

[The next page is 147.]

to the provisions of this section as well as the provisions of Section 1293 of this subchapter.

NOTE: Authority and reference cited: Sections 34501.5 and 34508, Vehicle Code, and 39831, Education Code.

HISTORY

1. Amendment of section title filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).
2. Amendment of subsection (i) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
3. Amendment of subsections (a) and (g) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
4. Editorial correction of printing error in first paragraph (Register 92, No. 12).

§ 1285. Windows—Type 1 School Bus.

The windows on Type 1 school buses shall be as follows:

(a) Size of Opening. Windows shall open and lower vertically and shall provide unobstructed openings not less than 12 in. in height and 264 sq in. in area.

(b) Exceptions. These windows may be stationary and of lesser dimensions:

(1) Rear windows and the rearmost side windows.
(2) Windows in or immediately adjacent to an entrance or emergency door.

(3) Side windows located forward of the entrance door required by Section 1281.

(4) A window on the left side located between the driver's window and the window adjacent to the nearest passenger seat.

(c) Driver's Window. The foremost window to the left of the driver may be of lesser dimensions and may open and close horizontally.

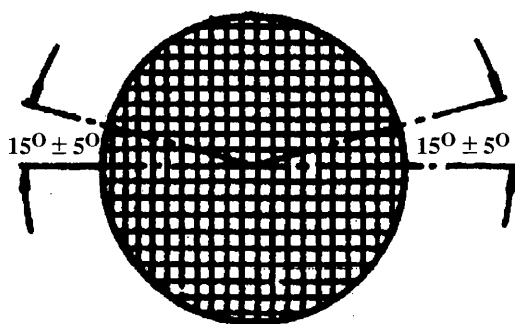
(d) Banding. All exposed edges of glass in windows shall be banded.

(e) Latches. On Type 1 school buses constructed on or after January 1, 1957, window latches shall be designed so that no sharp edges protrude.

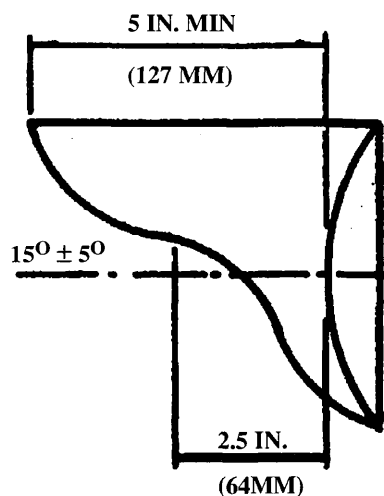
NOTE: Authority and reference cited: Sections 34501.5 and 34508, Vehicle Code; and Section 39831, Education Code.

HISTORY

1. New subsection (b)(3) filed 8-24-79; designated effective 10-1-79 (Register 79, No. 34).
2. Editorial correction (Register 79, No. 38).
3. Amendment of subsection (b)(2) filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).



Front View



Side View

Figure 1. School Bus Warning Lamp Hood

NOTE: Authority cited: Sections 26103 and 34508, Vehicle Code. Reference: Sections 24012, 26103 and 34508, Vehicle Code.

HISTORY

1. New section filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).

4. New subsection (b)(4) filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

§ 1286. Windows—Type 2 School Bus.

The windows on Type 2 school buses constructed on and after July 1, 1970, shall conform to the following requirements:

(a) Banding. All exposed edges of laminated glass used in windows shall be banded.

(b) Latches. Window latches shall be designed so that no sharp edges protrude.

HISTORY

1. For prior history, see Register 78, No. 33.

§ 1287. Glazing Material.

Glazing material shall be free of cracks and breaks or defects that would endanger the driver and passengers or other persons.

§ 1288. Turn Signal System.

Type 1 school buses, and Type 2 school buses constructed on and after July 1, 1970, shall be equipped with amber turn signal lamps. Front turn signal lamps shall be mounted below the windshield. Rear turn signal lamps shall be separated from the tail lamps, stop lamps, and rear reflectors. On Type 1 school buses, rear turn signal lamps shall be mounted below the rear windows.

NOTE: Authority and reference cited: Section 34508, Vehicle Code, and 39831, Education Code.

HISTORY

1. Amendment filed 4-9-79; designated effective 6-1-79 (Register 79, No. 15).
2. Amendment filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).

§ 1288.1. Warning Lamp Hoods.

School bus warning lamps, required by section 25257 of the Vehicle Code, manufactured after January 1, 1973, shall be used in conjunction with lens hoods. The top of the hood shall project at least 120 mm (5 in.) in front of the foremost part of the lens. The sides of the hood at a vertical plane 60 mm (2.5 in.) ahead of the lens shall extend down to 15 ± 5 deg above the horizontal plane, measured from the lens center as shown in Figure 1. The shape of the hood may differ from that shown in Figure 1 provided it meets the specified dimensions. Warning lamps may not be transferred to another school bus unless used in conjunction with lens hoods.

2. Editorial correction adding text inadvertently omitted in printing (Register 91, No. 18).

§ 1289. Wheel Clearance.

School bus wheel housings shall clear the wheels regardless of load, and permit the installation of chains; wheel housings shall not project above the floor into leg space more than 11 in. Leg space is the area immediately forward of the front edge of a seat cushion to the floor.

§ 1290. Bumpers.

Bumpers on Type 1 school buses constructed after January 1, 1950, and on Type 2 school buses constructed on and after July 1, 1970, shall be installed front and rear and shall be attached directly to the chassis frame or other structural members of sufficient strength. Bumpers shall be strong enough to permit the bus to push a vehicle of equal gross loaded weight or be pushed without permanent distortion of bumper, chassis, or body. Rear bumpers of Type 1 school buses shall be designed to prevent anyone from getting a toehold and hitching a ride. A rear bumper is not required when a vehicle is equipped on the rear with a wheelchair loading device that, when retracted, meets or exceeds the protection provided by the original bumper.

§ 1291. Steering Components.

No change shall be made to the steering gear, linkage, or related parts that would alter the manufacturer's intended geometry, nor shall any addition be made that would unsafely affect the operation or stability of a school bus. On school buses constructed after January 1, 1950, the outer rim of the steering wheel shall be at least 3 in. from the instrument panel, windshield frame, and other obstructive surface or mechanical device except the turn signal lever and a gearshift mounted on the steering post.

§ 1292. Roadside Warning Devices.

Every school bus shall be equipped with and display emergency reflectors as specified in Vehicle Code Section 25300.

§ 1293. Wheelchair School Buses.

Provisions of this section shall apply to all school buses transporting pupils in wheelchairs.

(a) Construction of Body—Basic Provisions. Notwithstanding other provisions of this subchapter, a school bus body that is constructed, altered, or modified for the purpose of installing and operating equipment approved for loading, unloading, and transporting physically handicapped pupils and pupils in wheelchairs shall comply with this section and Section 1231. This requirement applies only to those portions of a school bus used to transport pupils in wheelchairs. Pupils not seated in wheelchairs shall be provided aisles, passageways, and exits that conform to all other provisions of law.

(b) Inspection. Each school bus that has been certified pursuant to Vehicle Code Section 2807, and is subsequently modified to conform to the provisions of this section, shall not transport pupils until all changes have been inspected and approved by an authorized employee of the department. The vehicle owner shall provide a wheelchair to be used for testing the performance of vehicle equipment.

(c) Entrance Doors. Entrance doors used by pupils in wheelchairs shall be installed and maintained as follows:

(1) Type 1 school buses equipped with entrance doors that conform with Section 1281 of this subchapter may also be equipped with an additional entrance door which conforms to the provisions of this section. Each door shall be installed by the body manufacturer or with his written approval and statement, or the written statement of an approved independent engineering testing firm, that the installation of the door will not adversely affect the structural integrity of the vehicle.

(2) All such doors shall afford easy manual operation from inside or outside the vehicle in case of emergency and shall be protected from accidental opening, except that a means of opening the door from the inside is not required on doors with wheelchair loading devices obstructing the passageway.

(3) Instructions for the manual operation of the door and wheelchair loading device from outside the vehicle shall be displayed in clear view on the exterior of the vehicle at the exit.

(4) The door shall provide an opening not less than 24 in. wide. There shall be a soft head cushion at least 1/2 in. thick on the inside of the bus at the lower edge of the top of the door opening.

(d) Wheelchair Emergency Exits. School buses transporting pupils in wheelchairs shall have at least two floor-level doors. One door shall be used for the regular loading and unloading of wheelchairs as described in subsection (c). The additional floor-level door shall be an emergency door for the evacuation of pupils in wheelchairs. The additional door shall be equipped and installed at one of the locations specified in Section 1282 for emergency exits. The door shall provide an unobstructed opening not less than 24 in. wide. If a pupil's physical condition prevents that pupil from being readily evacuated through a door 24 in. wide, the door shall be as wide as necessary to permit rapid evacuation of that pupil during an emergency. Type 1 school buses transporting pupils in both wheelchairs and seats shall comply with the requirements of 1282 and 1284 of this subchapter.

(1) Alternate Emergency Exit. Type 2 school buses transporting pupils in wheelchairs and regularly seated pupils may meet the requirement for a left side emergency exit with two emergency windows on the left side providing:

(A) The required rear emergency door is inoperable from the interior due to a retracted wheelchair loading device.

(B) The vehicle is equipped with a right side floor-level emergency door located to the rear of the driver's seat.

(C) The alternate exit consists of not more than two windows each having a minimum opening dimension of 12 in. and a combined total area of at least 564 in. Such exits need be identified and operable only from the bus interior.

(2) Aisles. Aisles on school buses transporting wheelchairs shall be provided as follows:

(A) An emergency passageway with a width of not less than 9 in. shall provide access to each wheelchair station from both the door used to load and unload the wheelchairs and to the floor level emergency exit door required by this section. A wheelwell will not be considered an obstruction for the purposes of this subsection.

(B) Notwithstanding subsection (A), an aisle shall be provided as wide as necessary to effect a rapid evacuation of any wheelchair containing a pupil during an emergency and shall provide access to each wheelchair from both the door used to load and unload the wheelchairs and to the floor level emergency exit door required by this section. An aisle is not considered obstructed if the only obstruction is another wheelchair that can be readily removed.

(e) Wheelchair Loading Devices. Loading devices for the ingress and egress of pupils in wheelchairs shall be installed, maintained, and operated as follows:

(1) Any installation of a wheelchair loading device that requires modification of the vehicle chassis shall be performed by the chassis manufacturer or with the manufacturer's written approval and statement that the chassis modification will not adversely affect the structural integrity of the vehicle.

(2) No loading device shall be constructed or operated in a manner that requires the driver to leave a pupil unattended on the loading device outside the passenger compartment, nor shall any driver permit a pupil to be unattended on a loading device outside the passenger compartment.

(3) Each hoist or elevator-type loading device shall be constructed with a positive method of preventing an unbraked wheelchair from rolling off during the lifting operation.

(4) Any loading device stored inside the vehicle shall be secured to the vehicle in a manner that will prevent hazardous movement during normal operation or in the event of an emergency stop, traffic accident, or vehicle overturn.

(5) Any loading device stored inside the vehicle shall be equipped with padding capable of minimizing injury-producing impact forces, and all exposed edges or other hazardous protrusions shall be padded to within 3 in. of the bus floor.

(6) The travel surface of all loading devices shall be covered with non-skid material.

(f) Securement of Pupils and Wheelchairs. Passengers shall be secured to wheelchairs by a restraining belt specified in subsection (g) while being loaded, unloaded, and transported. Wheelchairs shall be secured as follows:

(1) Wheelchairs shall be secured with fasteners of sufficient strength to prevent the chairs from rotating, prevent the chair wheels from leaving the floor in case of sudden movement, or support the chairs in the event the vehicle is overturned.

(2) Fasteners shall contact the wheelchair on at least three points and shall be spaced to provide the most effective securement. No fastener shall be attached to any door. No fastener shall project more than 1 1/2 in. above the floor in the area between the wheel wells of the vehicle.

(3) Fasteners shall consist of either two webbed belts described in subsection (A) or two all-metal devices described in subsection (B), or one each of such devices, installed in conformance with this subsection.

(A) Webbed safety belts shall meet or exceed federal specifications for Type 2 pelvic restraint seat belts or be certified by the manufacturer to meet or exceed assembly strengths of 5,000 lb in loop fashion or 2,500 lb on each anchorage leg. Certification may be the manufacturer's specifications listed in catalogs or publications. All new construction of webbed fasteners and repairs to webbing shall conform with standards established by the manufacturer of the webbing. Webbed belts attached directly to the vehicle and securement track used for webbed fastener attachments shall be secured to the vehicle at not less than two separate points with bolts, nuts, and lock washers or self-locking nuts. Bolts used shall provide holding strength equal to or greater than that of two bolts 3/8 in. in diameter and of National Fine Thread SAE grade 5. All fastening of webbing and securement tracks shall be in accordance with the manufacturer's specifications provided that no standard established herein may be violated. Where mounting bolts do not pierce the vehicle frame, subframe, body posts, or equivalent metal structure, a reinforcement plate or washer not less than 1/16 in. in thickness and 2 1/2 in. in diameter is required. Smaller diameter washers may be used to install wheelchair securement track provided a minimum of four fasteners and four washers are used for each track installation. These washers shall be not less than 1 1/4 in. in diameter, not less than 1/16 in. in thickness, and have an appropriate inside diameter. In no event shall interior paneling constitute anchorage for a point of securement. When not in use, webbed belts shall be removed or retracted.

(B) All-metal fasteners shall be secured to the vehicle with bolt nuts and lock washers or self-locking nuts of National Fine Thread SAE grade 5 or equivalent. Such devices shall have two points of securement requiring bolts 3/8 in. in diameter or equivalent, or one point of securement requiring a bolt of 1/2 in. in diameter or equivalent. Where mounting bolts do not pierce the vehicle frame, subframe, body post, or equivalent metal structure, a reinforcement plate or washer not less than 1/16 in. in thickness x 2 1/2 in. in diameter is required. In no event shall interior paneling constitute anchorage for a point of securement.

(g) Equipment of Wheelchairs. Wheelchairs shall be equipped as follows:

(1) Brakes and Restraining Belt. Wheelchairs shall be equipped with brakes and a restraining belt properly maintained by the owner of the chair. Electric wheelchairs transported on school buses shall be capable of being locked in gear when placed in a school bus or shall have an independent braking system capable of holding the wheelchair in place.

(2) Batteries. Batteries used to propel electric wheelchairs transported on school buses shall be both leak resistant and spill resistant or shall be placed in a leak resistant container. Batteries shall be secured to the wheelchair frame in such a manner as to prevent separation in the event of an accident.

NOTE: Authority and reference cited: Sections 34501.5 and 34508, Vehicle Code.

HISTORY

1. Amendment of subsection (g)(2)(B) filed 4-3-80; designated effective 7-1-80 (Register 80, No. 14).
2. Amendment filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).
3. Amendment of subsection (f)(3)(A) filed 4-16-86; effective thirtieth day thereafter (Register 86, No. 16).

Chapter 7. Cargo Securement Standards

Article 1. Protection Against Shifting and Falling Cargo

§ 1300. Scope of Regulations.

(a) Applicability. Unless otherwise indicated within a specific section, the provisions of this chapter shall apply to farm labor vehicles and the vehicles listed in Vehicle Code Section 34500 and their operation.

(b) Incorporation by Reference. Motor carriers and drivers engaged in interstate and intrastate commerce shall comply with the federal Protection Against Shifting and Falling Cargo regulations contained in Title 49, Code of Federal Regulations, Part 393, as those regulations now exist or are hereafter amended.

(c) Referenced Regulations. Copies of Title 49 CFR, can be obtained from:

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
PO BOX 371954
PITTSBURGH, PA 15250-7954
(202) 512-1800

Internet purchases: http://www.access.gpo.gov/su_docs/sale.html

(d) Limited application.

(1) This chapter does not apply to the transportation of a pole on a pole dolly by a public utility company or a local public agency engaged in the business of supplying electricity or telephone service, by the Department of Transportation, or by a licensed contractor in the performance of work for a public utility company, a local agency, or the Department of Transportation, when the transportation is between storage yards or between a storage yard and job location where the pole is to be used. However, no more than nine poles shall be transported on a dolly if any of those poles exceeds a length of 30 feet. If poles 30 feet or less are transported by a pole or pipe dolly, no more than 18 poles shall be transported. A pole shall be adequately secured when being transported on a dolly, to prevent shifting or spilling of a load.

(2) This chapter does not apply to a farmer transporting his or her own hay or straw, incidental to his or her farming operation, if that transportation requires that the farmer use a highway, except that this subdivision does not relieve the farmer from loading and securing the hay or straw in a safe manner.

(e) Exemptions. The Commissioner may grant exemptions from any of the requirements of this chapter when, in his judgment, requests appear reasonable, or the results intended by these regulations can be accomplished by alternate methods of compliance. However, no exemption will be granted if, in the opinion of the Commissioner, the exemption would compromise the safety requirements of these regulations. In addition, any exemption granted by the Commissioner is nontransferable and may be rescinded at any time for cause.

(1) Application for Exemption. An application for exemption shall be made in writing to the Commissioner, and it shall include the following data:

Reason for requesting an exemption

Alternate method(s) of compliance

When relevant, the make and model, vehicle identification number, and license number of the vehicle for which the exemption is being requested

The application shall be mailed to:

CALIFORNIA HIGHWAY PATROL
ENFORCEMENT SERVICES DIVISION
POST OFFICE BOX 942898
SACRAMENTO, CA 94298-0001

(2) Copy of Exemption. A copy of any exemption granted shall be carried in the vehicle(s) for which it was issued at all times, unless specified otherwise in the exemption, and shall be presented for inspection upon demand by any authorized representative of the Department.

(3) Blanket Exemptions. The provisions of this subsection do not apply to any blanket exemptions the Commissioner may elect to issue. A blanket exemption is an exemption from a particular provision of this chapter granted to all vehicles, or vehicles manufactured on or after a specified date, pending a change in these regulations.

NOTE: Authority cited: Sections 2402 and 34500.3, Vehicle Code. Reference: Sections 15210, 34500 and 34500.3, Vehicle Code.

HISTORY

1. Repealer and new Article 1 (§§ 1300 through 1303) filed 12-30-69; designated effective 2-2-70 (Register 70, No. 1). For prior history, see Register 67, No. 44.
2. Renumbering of former Article 1 (§§ 1300 through 1303) to Article 8 (§§ 1370 through 1373) and new Article 1 (§§ 1300 through 1305) filed 10-19-73; designated effective 12-1-73 (Register 73, No. 42).
3. Amendment filed 10-22-74; effective thirtieth day thereafter (Register 74, No. 43).
4. Editorial correction of Section and NOTE (Register 82, No. 2).
5. Repealer and new chapter heading, article heading and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer and new chapter heading, article heading and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
7. Repealer and new chapter heading, article heading and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-22-2007 order, including amendment of section and NOTE, transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1301. Definitions. [Repealed]

NOTE: Authority cited: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code. Reference: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. Amendment filed 10-22-74; effective thirtieth day thereafter (Register 74, No. 43).
2. Editorial correction of NOTE (Register 82, No. 2).
3. Amendment filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
4. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1302. General Requirements. [Repealed]

NOTE: Authority cited: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code. Reference: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. New subsection (i) filed 10-22-74; effective thirtieth day thereafter (Register 74, No. 43).
2. Editorial correction of NOTE (Register 82, No. 2).
3. Amendment of subsection (b) filed 9-14-88; operative 10-14-88 (Register 88, No. 38).
4. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by

5-1-2007 or emergency language will be repealed by operation of law on the following day.

5. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1303. Specifications. [Repealed]

NOTE: Authority cited: Sections 24005.5, 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code. Reference: Sections 24005.5, 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. Amendment of subsections (e) and (f) filed 10-22-74; effective thirtieth day thereafter (Register 74, No. 43).
2. Amendment of subsection (e) filed 8-19-76; designated effective 9-24-76 (Register 76, No. 34).
3. Amendment of subsection (f)(5) filed 4-8-77; designated effective 5-16-77 (Register 77, No. 15).
4. Amendment of subsections (f)(5) and (f)(8) filed 1-26-79; effective thirtieth day thereafter (Register 79, No. 4).
5. Amendment of subsections (a) and (f) filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).
6. Amendment filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
7. Amendment of subsection (f) filed 9-14-88; operative 10-14-88 (Register 88, No. 38).
8. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
9. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
10. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1304. Testing and Certification. [Repealed]

NOTE: Authority cited: Sections 24005.5, 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code. Reference: Sections 24005.5, 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. Amendment filed 4-8-77; designated effective 5-16-77 (Register 77, No. 15).
2. Amendment of subsections (a), (b) and (c) filed 1-26-79; effective thirtieth day thereafter (Register 79, No. 4).
3. Amendment of subsections (c) and (d) filed 1-8-82; effective thirtieth day thereafter (Register 82, No. 2).
4. Amendment of subsections (b) and (c) filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
5. Repealer and new section filed 9-14-88; operative 10-14-88 (Register 88, No. 38).
6. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
7. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
8. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1304.1. Test Samples. [Repealed]

NOTE: Authority cited: Sections 29200, 29800, 30800, 31510, 31520, 31530, and 31540, Vehicle Code. Reference: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. New section filed 4-8-77; designated effective 5-16-77 (Register 77, No. 15).
2. Repealer filed 1-26-79; effective thirtieth day thereafter (Register 79, No. 4).
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1305. Condition and Use. [Repealed]

NOTE: Authority cited: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code. Reference: Sections 29200, 29800, 30800, 31510, 31520, 31530 and 31540, Vehicle Code.

HISTORY

1. Editorial correction of NOTE (Register 82, No. 2).
2. Editorial correction of subsection (b) (Register 82, No. 12).
3. Amendment of subsections (b)(3), (c)(2), (e) and (f) filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
4. Amendment of subsection (e)(4) filed 9-14-88; operative 10-14-88 (Register 88, No. 38).
5. Editorial correction of Figure 5 (Register 91, No. 18).
6. Editorial correction of printing error in Figure 5, table (Register 92, No. 12).
7. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2007, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
8. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
9. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1310. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

1. Repealer of Article 2 (Sections 1310 through 1314) and new Article 2 (Sections 1310 through 1314) filed 6-13-74; designated effective 7-20-74 (Register 74, No. 24). For prior history, see Register 69, No. 18, 72, No. 15 and 73, Nos. 13 and 25.
2. Repealer of Article 2 (Sections 1310-1314) and new Article 2 (Sections 1310-1314) filed 9-25-81; effective thirtieth day thereafter (Register 81, No. 39). For prior history, see Register 78, No. 48.
3. Amendment of NOTE filed 9-3-99; operative 10-3-99 (Register 99, No. 36).
4. Repealer of article 2 (sections 1310-1315) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer of article 2 (sections 1310-1315) and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer of article 2 (sections 1310-1315) and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1311. General Provisions. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

1. Amendment of subsections (c) and (d) filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
2. Amendment of section and NOTE filed 9-3-99; operative 10-3-99 (Register 99, No. 36).

3. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1312. Construction of Loads. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

1. Amendment of subsection (b)(2) and NOTE filed 9-3-99; operative 10-3-99 (Register 99, No. 36).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1313. Securement of Loads. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

1. Amendment filed 5-12-83; effective thirtieth day thereafter (Register 83, No. 20).
2. Amendment of subsection (b), redesignation and amendment of former subsection (b)(3) as new subsection (c) and amendment of NOTE filed 9-3-99; operative 10-3-99 (Register 99, No. 36).
3. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1314. Alternative Securement of Jumbo Bales. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

1. Renumbering of former Section 1314 to Section 1315 and new section filed 5-12-83; effective thirtieth day thereafter (Register 83, No. 20).
2. Amendment filed 3-21-84; effective thirtieth day thereafter (Register 84, No. 12).
3. Amendment of section heading, section and NOTE filed 9-3-99; operative 10-3-99 (Register 99, No. 36).
4. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by

12–28–2007 or emergency language will be repealed by operation of law on the following day.

- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1315. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 30800, Vehicle Code. Reference: Section 30800, Vehicle Code.

HISTORY

- Renumbering of Section 1314 to Section 1315 filed 5–12–83; effective thirtieth day thereafter (Register 83, No. 20).
- Amendment of section and NOTE filed 9–3–99; operative 10–3–99 (Register 99, No. 36).
- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1320. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 31520, Vehicle Code.

HISTORY

- Repealer of Article 3 (Sections 1320 through 1323) and new Article 3 (Sections 1320 through 1324) filed 6–13–74; designated effective 7–20–74 (Register 74, No. 24). For prior history, see Register 68, No. 46; 71, No. 20; and 73, No. 13.
- Amendment of Article 3 title only filed 10–1–81; effective thirtieth day thereafter (Register 81, No. 40).
- Repealer of article 3 (sections 1320–1325) and section filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer of article 3 (sections 1320–1325) and section refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer of article 3 (sections 1320–1325) and section refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1321. Definitions. [Repealed]

HISTORY

- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1322. General Provisions. [Repealed]

NOTE: Authority cited: Section 31520, Vehicle Code. Reference: Section 31520, Vehicle Code.

HISTORY

- Amendment of subsections (d) and (e), and repealer of subsection (f) filed 6–15–78; designated effective 7–15–78 (Register 78, No. 24).
- Amendment of subsections (a)–(c) filed 10–30–84; effective thirtieth day thereafter (Register 84, No. 44).

- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.

- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1323. Securement. [Repealed]

NOTE: Authority cited: Section 31520, Vehicle Code. Reference: Section 31520, Vehicle Code.

HISTORY

- Repealer and new section filed 6–15–78; designated effective 7–15–78 (Register 78, No. 24).

- Amendment filed 10–1–81; effective thirtieth day thereafter (Register 81, No. 40).

- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.

- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1324. Load Securement. [Repealed]

NOTE: Authority cited: Section 31520, Vehicle Code. Reference: Section 31520, Vehicle Code.

HISTORY

- Renumbering of Section 1324 to 1325 and new Section 1324 filed 6–15–78; designated effective 7–15–78 (Register 78, No. 24).

- Amendment of subsection (c) filed 10–1–81; effective thirtieth day thereafter (Register 81, No. 40).

- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.

- Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1325. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31520, Vehicle Code. Reference: Section 31520, Vehicle Code.

HISTORY

- Renumbering from Section 1324 filed 6–15–78; designated effective 7–15–78 (Register 78, No. 24).

- Amendment filed 10–1–81; effective thirtieth day thereafter (Register 81, No. 40).

- Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.

- Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.

6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1330. Scope of Regulations. [Repealed]

NOTE: Authority and reference cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Repealer of Article 4 (§ 1330) and new Article 4 (§§ 1330-1338) filed 7-1-66 as an emergency; effective upon filing (Register 66, No. 20).
2. Repealer of Article 4 (§§ 1330-1338) and new Article 4 (§§ 1330-1338) filed 9-26-66 as an emergency; designated effective 10-1-66. Certificate of Compliance included (Register 66, No. 33).
3. Repealer of Article 4 (§§ 1330-1338) and new Article 4 (§§ 1330-1339) filed 7-17-74; designated effective 8-23-74 (Register 74, No. 29). For prior history, see Register 71, Nos. 20 and 30, Register 72, Nos. 22 and 42, Register 73, Nos. 13, 28 and 34.
4. Editorial Correction of NOTE (Register 81, No. 44).
5. Repealer of article 4 (sections 1330-1339) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer of article 4 (sections 1330-1339) and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
7. Repealer of article 4 (sections 1330-1339) and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1331. Definitions. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1332. General Provisions. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Amendment of subsections (d) and (g) filed 10-8-81; effective thirtieth day thereafter (Register 81, No. 41).
2. Amendment of subsection (h) filed 12-23-81; effective thirtieth day thereafter (Register 81, No. 52).
3. Relettering and amendment of former subsection (h) to subsection (i) and new subsection (h) filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).
4. Amendment of subsection (b) filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
5. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
6. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
7. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.

8. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1333. Pyramid Loading of Logs or Poles on Flatbed or Rail-Equipped Vehicles. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1334. Nonpyramid Loading of Small Logs and Poles on Flatbed or Rail-Equipped Vehicles. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1335. Binding of Logs or Poles on Flatbed or Rail-Equipped Vehicles. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1336. Loading of Logs or Poles on Vehicles with Bunks. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.

4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1337. Binding of Logs or Poles on Vehicles with Chock Blocks. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1338. Loading and Binding of Logs or Poles on Vehicles with Bunk Stake Assemblies. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Editorial correction of subsection (b)(3) (Register 74, No. 32).
2. Amendment of subsections (a) and (c) filed 6-18-80; designated effective 8-1-80 (Register 80, No. 25).
3. Amendment filed 10-8-81; effective thirtieth day thereafter (Register 81, No. 41).
4. New subsection (a)(4) and amendment of subsection (b)(5) filed 6-17-83; effective thirtieth day thereafter (Register 83, No. 25).
5. Amendment of subsection (a)(1) filed 2-26-85; effective thirtieth day thereafter (Register 85, No. 9).
6. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
7. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
8. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 29200, Vehicle Code. Reference: Section 29200, Vehicle Code.

HISTORY

1. Amendment filed 10-8-81; effective thirtieth day thereafter (Register 81, No. 41).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.1. Definition. [Repealed]

NOTE: Authority cited: Sections 26103 and 29200, Vehicle Code. Reference: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Renumbering of former Article 1 (Sections 901-906) to new Article 4.5 (Sections 1339.1-1339.6) and renumbering of former Section 901 to Section 1339.1 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer of article 4.5 (sections 1339.1-1339.6) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer of article 4.5 (sections 1339.1-1339.6) and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 4.5 (sections 1339.1-1339.6) and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.2. Identification Markings. [Repealed]

NOTE: Authority cited: Sections 26103 and 29200, Vehicle Code. Reference: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Renumbering of former Section 902 to Section 1339.2 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.3. General Requirements. [Repealed]

NOTE: Authority cited: Sections 26103 and 29200, Vehicle Code. Reference: Sections 26103 and 29200, Vehicle Code.

HISTORY

1. Renumbering of former Section 903 to Section 1339.3 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.4. Test Requirements for Bunk Stakes for Large Logs. [Repealed]

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Section 26103, Vehicle Code.

HISTORY

1. Renumbering of former Section 904 to Section 1339.4 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.

12-28-2007 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.5. Test Requirements for Bunk Stakes for Small Logs. [Repealed]

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Section 26103, Vehicle Code.

HISTORY

1. Renumbering of former Section 905 to Section 1339.5 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1339.6. Bunk Stake Width. [Repealed]

NOTE: Authority cited: Section 26103, Vehicle Code. Reference: Section 26103, Vehicle Code.

HISTORY

1. Renumbering and amendment of former Section 906 to Section 1339.6 filed 2-8-85; effective thirtieth day thereafter (Register 85, No. 6).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1340. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Repealer of Article 5 (§§ 1340-1344) and new Article 5 (§§ 1340-1344) filed 6-25-74; designated effective 7-31-74 (Register 74, No. 26).
2. Editorial Correction of NOTE (Register 81, No. 44).
3. Repealer of article 5 (sections 1340-1344) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 5 (sections 1340-1344) and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer of article 5 (sections 1340-1344) and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1341. Definitions and General Provisions. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by

5-1-2007 or emergency language will be repealed by operation of law on the following day.

3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1342. Junk and Scrap Metal (Including Baled Vehicle Bodies) Loading and Securement. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1343. Unbaled Vehicle Body Loading and Securement. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Editorial Correction adding NOTE (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1344. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment filed 10-20-81; effective thirtieth day thereafter (Register 81, No. 43).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1350. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Repealer of Article 6 (Sections 1350–1355) and new Article 6 (Sections 1350–1356) filed 9–21–74; designated effective 11–1–74 (Register 74, No. 38). For prior history, see Register 64, No. 11.
2. Repealer of article 6 (sections 1350–1356) and section filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer of article 6 (sections 1350–1356) and section refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 6 (sections 1350–1356) and section refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1351. Definitions. [Repealed]

HISTORY

1. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1352. General Provisions. [Repealed]

HISTORY

1. Amendment of subsection (f)(2) filed as an emergency 10–22–74; designated effective 11–1–74 (Register 74, No. 43).
2. Certificate of Compliance filed 12–31–74 (Register 75, No. 1).
3. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1353. Horizontal Eye Coils—Loading and Blocking Requirements. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment of subsection (c)(3) and new subsection (c)(6) filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).
2. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1354. Horizontal Eye Coils—Application of Binders. [Repealed]

HISTORY

1. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1355. Vertical Eye Coils. [Repealed]

HISTORY

1. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1356. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment filed 10–22–81; effective thirtieth day thereafter (Register 81, No. 43).
2. Repealer filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1360. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: 31510, Vehicle Code.

HISTORY

1. New Article 7 (#S #S 1360–1365) filed 5–22–64; designated effective 7–1–64 (Register 64, No. 11).
2. Repealer of Article 7 (Sections 1360–1365) and new Article 7 (Sections 1360–1366) filed 9–20–74; designated effective 11–1–74 (Register 74, No. 38). For prior history, see Register 65, No. 2.
3. Repealer of article 7 (sections 1360–1366) and section filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 7 (sections 1360–1366) and section refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer of article 7 (sections 1360–1366) and section refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1361. Definitions. [Repealed]

HISTORY

1. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1362. General Provisions. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment of subsection (a) filed 6-3-83; effective thirtieth day thereafter (Register 83, No. 23).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1363. Securement of Loads. [Repealed]

HISTORY

1. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1364. Securing of Lifts. [Repealed]

HISTORY

1. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
2. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1365. Stacking of Lifts. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment of subsection (b) filed 6-3-83; effective thirtieth day thereafter (Register 83, No. 23).

2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1366. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31510, Vehicle Code. Reference: Section 31510, Vehicle Code.

HISTORY

1. Amendment filed 11-4-81; effective thirtieth day thereafter (Register 81, No. 45).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1370. Scope of Regulations. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Repealer of Article 8 (#S#S 1370–1373) and new Article 8 (#S#S 1370–1375) filed 6–25–74; designated effective 7–31–74 (Register 74, No. 26). For prior history, see Registers 71, Nos. 20, and 73, Nos. 13 and 42.
2. Editorial correction of NOTE filed 4–28–83 (Register 83, No. 18).
3. Repealer of article 8 (sections 1370–1375) and section filed 12–27–2006 as an emergency; operative 1–1–2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5–1–2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 8 (sections 1370–1375) and section refiled 5–1–2007 as an emergency; operative 5–2–2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer of article 8 (sections 1370–1375) and section refiled 8–22–2007 as an emergency; operative 8–30–2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–28–2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8–22–2007 order transmitted to OAL 12–18–2007 and filed 2–1–2008 (Register 2008, No. 5).

§ 1371. Definitions. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1372. General Provisions. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Amendment of subsections (a)-(c) filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
3. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1373. Construction of Loads. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE: filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1374. Securement of Loads. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1375. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31530, Vehicle Code. Reference: Section 31530, Vehicle Code.

HISTORY

1. Amendment filed 11-9-81; effective thirtieth day thereafter (Register 81, No. 46).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

Article 2. Liquids in Collapsible Containers—Securement and Transportation

§ 1400. Scope.

This article shall govern the transportation of liquids in collapsible rubber or plastic containers with a capacity of 120 gal or more on flatbed vehicles.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. New Article 9 (Sections 1400 through 1406) filed 6-14-74; designated effective 7-20-74 (Register 74, No. 24). Also, see former Article 11 (Sections 1400 through 1409) Register 73, No. 27.
2. Editorial correction of NOTE filed 4-28-83 (Register 83, No. 18).
3. Repealer of article 9 (sections 1400-1406) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer of article 9 (sections 1400-1406) and section and reinstatement and renumbering of former article 11 (sections 1420-1425) to new article 2 (sections 1400-1405) and reinstatement and renumbering of former section 1420 to new section 1400 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Refiling of repealer of article 9 (sections 1400-1406) and section and reinstatement and renumbering of former article 11 (sections 1420-1425) to new article 2 (sections 1400-1405) and reinstatement and renumbering of former section 1420 to new section 1400 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1401. Identification.

Each collapsible container shall be clearly and permanently marked by the manufacturer as follows:

(a) Lading. The liquid lading the container is designed to transport shall be identified. No other liquid shall be transported unless the motor carrier first obtains in writing, from the manufacturer or other competent source, a statement that the container is suitable for the specific alternate lading and the container is so marked.

(b) Maximum Temperature. Each collapsible container designed to transport liquids above ambient temperature shall be labeled near the loading valve: "Maximum allowable cargo temperature is ____ degrees F," as specified by the manufacturer. A container without this label shall transport only ladings at ambient temperature.

(c) Maximum Pressure. Each collapsible container shall be marked by the manufacturer with the maximum pressure, in pounds per square inch, it is designed to withstand. No motor carrier shall transport liquids at a greater pressure.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of repealer and reinstatement and renumbering of former section 1421 to new section 1401 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and reinstatement and renumbering of former section 1421 to new section 1401 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1402. Retest and Repair.

Each collapsible container shall be retested at least once every two years and shall not be returned to service until it has met the manufacturer's retest standards. Any leakage shall be deemed failure of the retest. Any collapsible container that fails the retest shall be repaired before it is used. All repairs shall conform with the manufacturer's repair standards and shall be made by a qualified person.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of repealer and reinstatement and renumbering of former section 1422 to new section 1402 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and reinstatement and renumbering of former section 1422 to new section 1402 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1403. Restraints.

The means of attachment of collapsible containers to the vehicle shall be of equal or greater strength than specified by the manufacturer for restraining straps or similar devices.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Amendment filed 10-30-84; effective thirtieth day thereafter (Register 84, No. 44).
3. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and reinstatement and renumbering of former section 1423 to new section 1403 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Refiling of repealer and reinstatement and renumbering of former section 1423 to new section 1403 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1404. Transportation of Flammables.

Transportation of combustible or flammable liquids is prohibited.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of repealer and reinstatement and renumbering of former section 1424 to new section 1404 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and reinstatement and renumbering of former section 1424 to new section 1404 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1405. Alternate Standards.

Whenever this article requires compliance with manufacturer's standards but the motor carrier is unable to determine them, he/she may write the department for permission to comply by using any standards the department finds necessary to protect health and safety.

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction adding NOTE filed 4-28-83 (Register 83, No. 18).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of repealer and reinstatement and renumbering of former section 1425 to new section 1405 as an emergency on 5-1-2007; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and reinstatement and renumbering of former section 1425 to new section 1405 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1406. Alternate Method of Compliance. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Amendment filed 10-28-81; effective thirtieth day thereafter (Register 81, No. 44).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1410. Scope of Regulations. [Repealed]

NOTE: Authority cited: Sections 2402 and 29800, Vehicle Code. Reference: Section 29800, Vehicle Code.

HISTORY

1. New Article 10 (Sections 1410-1419) filed 5-13-77; designated effective 7-1-77 (Register 77, No. 20).
2. Repealer of Article 10 (Sections 1410-1419) and new Article 10 (Sections 1410-1418) filed 12-7-81; effective thirtieth day thereafter (Register 81, No. 50). For prior history, see Registers 80, No. 25; and 77, No. 27.
3. Repealer of article 10 (sections 1410-1418) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of article 10 (sections 1410-1418) and section refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Repealer of article 10 (sections 1410-1418) and section refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1411. Definitions. [Repealed]

NOTE: Authority cited: Section 29800, Vehicle Code. Reference: Section 29800, Vehicle Code.

HISTORY

1. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.

2. Editorial correction of NOTE filed 8-27-82 (Register 82, No. 35).
3. Repealer of article 11 (sections 1420-1425) and section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former article 11 (sections 1420-1425) to new article 2 (sections 1400-1405) and renumbering of former section 1420 to new section 1400; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Refiling of repealer of article 11 (sections 1420-1425) and section and renumbering of former article 11 (sections 1420-1425) to new article 2 (sections 1400-1405) and renumbering of former section 1420 to new section 1400 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1421. Identification. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction of NOTE filed 8-27-82 (Register 82, No. 35).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former section 1421 to new section 1401; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and renumbering of former section 1421 to new section 1401 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1422. Retest and Repair. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction of NOTE filed 8-27-82 (Register 82, No. 35).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former section 1422 to new section 1402; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and renumbering of former section 1422 to new section 1402 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1423. Restraints. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction of NOTE filed 8-27-82 (Register 82, No. 35).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former section 1423 to new section 1403; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.

4. Refiling of repealer and renumbering of former section 1423 to new section 1403 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1424. Transportation of Flammables. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Editorial correction of NOTE filed 8-27-82 (Register 82, No. 35).
2. Amendment filed 6-22-83; effective thirtieth day thereafter (Register 83, No. 26).
3. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former section 1424 to new section 1404; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
5. Refiling of repealer and renumbering of former section 1424 to new section 1404 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

§ 1425. Alternate Standards. [Repealed]

NOTE: Authority cited: Section 31540, Vehicle Code. Reference: Section 31540, Vehicle Code.

HISTORY

1. Repealer of Section 1425 and renumbering of Section 1426 to Section 1425 filed 1-13-82; effective thirtieth day thereafter (Register 82, No. 3).
2. Repealer filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Refiling of emergency on 5-1-2007, including reinstatement and renumbering of former section 1425 to new section 1405; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Refiling of repealer and renumbering of former section 1425 to new section 1405 as an emergency on 8-22-2007; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

Article 15. Lumber and Lumber Products—Safe Loading, Securement, and Transportation [Repealed]

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Section 29800, Vehicle Code.

HISTORY

1. Repealer of Article 15 (Sections 1500-1507) filed 5-13-77; designated effective 7-1-77 (Register 77, No. 20). For prior history, see Registers 67, No. 38; 68, No. 43; 71, No. 20; 73, No. 13.
2. Repealer of footnote filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.
3. Repealer of footnote refiled 5-1-2007 as an emergency; operative 5-2-2007 (Register 2007, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer of footnote refiled 8-22-2007 as an emergency; operative 8-30-2007 (Register 2007, No. 34). A Certificate of Compliance must be transmitted to OAL by 12-28-2007 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 8-22-2007 order transmitted to OAL 12-18-2007 and filed 2-1-2008 (Register 2008, No. 5).

Chapter 8. Passenger Vehicle Inspection

NOTE: Authority and reference cited: Section 2814, Vehicle Code.

HISTORY

1. Repealer of Subchapter 8 (Sections 1700–1704) filed 1–21–81; effective thirtieth day thereafter (Register 81, No. 4). For prior history, See Registers 75, No. 4; 66, No. 24 and 66, No. 19.

Chapter 9. Abandoned Vehicles

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Sections 22660 and 22710, Vehicle Code.

HISTORY

1. New Subchapter 9 (Section 1720) filed 11–6–74; designated effective 1–1–75 (Register 74, No. 45).
2. Amendment filed 7–20–76; designated effective 8–27–76 (Register 76, No. 30).
3. Repealer of Subchapter 9 (Section 1720) filed 8–4–83; effective thirtieth day thereafter (Register 83, No. 32).

Chapter 10. Internal Affairs

Article 1. Conflict of Interest Code

§ 1800. Conflict of Interest Code for the California Highway Patrol.

(a) Incorporation by Reference. The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation in Title 2, California Code of Regulations, Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of Title 2, California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Highway Patrol.

(b) Designated Employees. Designated employees shall file statements of economic interests with the agency who will make the statements available for public inspection and reproduction (Government Code Section 1008). Upon receipt of the statement of the Commissioner, the agency shall make and retain a copy and forward the original of this statement to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

NOTE: Authority cited: Section 2402, Vehicle Code; and Section 87300, Government Code. Reference: Section 87300, Government Code.

HISTORY

1. New subchapter 10 (sections 1800–1807) filed 7–1–77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 3–16–77 (Register 77, No. 27).
2. Repealer of article 1 (sections 1800–1807) and new article 1 (section 1800 and Appendix) filed 3–18–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 12).
3. Amendment of section 1800 and Appendix filed 10–16–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 8–31–81 (Register 81, No. 42).
4. Amendment of Appendix filed 8–19–83; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 7–12–83 (Register 83, No. 34).
5. Amendment of Appendix filed 5–5–86; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4–8–86 (Register 86, No. 19).
6. Change without regulatory effect of section 1800 filed 2–8–88; operative 3–9–88 (Register 88, No. 7).
7. Amendment of Appendix filed 1–9–91; operative 1–9–91. Approved by Fair Political Practices Commission 4–5–90 (Register 91, No. 11).
8. Editorial correction of printing error inadvertently omitting text (Register 91, No. 17).

9. Amendment filed 2–27–92; operative 3–30–92. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 12–18–91 (Register 92, No. 13).
10. Amendment of section and Appendix filed 3–21–95; operative 4–20–95. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 1–25–95 (Register 95, No. 12).
11. Amendment of Appendix filed 11–24–97 as an emergency; operative 12–24–97. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 9–19–97 (Register 97, No. 48).
12. Amendment of section and Appendix filed 3–13–2000; operative 4–12–2000. Approved by Fair Political Practices Commission 1–24–2000 (Register 2000, No. 11).

Appendix

*Assigned
Disclosure
Categories*

Designated Positions

Commissioner	1
Deputy Commissioner	1
Assistant Commissioner, Field	1
Assistant Commissioner, Staff	1
Executive Assistants to Assistant Commissioners	1
In-House Counsel	1
Commander, Office of Public Affairs	1
Commander, Office of Special Representative	1
Commander, Governor's Protective Detail	1
Commander and Assistant Commander of the following divisions:	
Administrative Services Division	2
Enforcement Services Division	2
Information Management Division	2
Professional Standards Division	2
Protective Services Division	2
Commanders of the following offices and sections:	
Accounting Section	2
Budget Section	2
Facilities Section	2
Network Management Section	2
Office of Dignitary Protection	2
Office of Organization Development	2
Office of Research & Planning	2
Office of Special Projects	2
Software Development and Support Section	2
Telecommunications Section	2
Uniformed staff (except the Commander) of the	
Office of Special Representative	2
Chiefs and Assistant Chiefs of Field Divisions	3
Area Commanders	3
Special Services Commanders in Field Divisions	3
Commanders of the following:	
Office of Capitol Services	4
Office of Court Services	4
Office of Equal Employment Opportunity	4
Office of Employee Relations	4
Chief and Assistant Chiefs, Personnel and Training Division	4
The following Business Services Section Employees:	
Supervisor, Purchasing Unit	4
Supervisor, Purchasing Services	4
Coordinator, Warehouse Supply	4
Supervisor, Contract Management Unit	4
Employees, Contract Management Unit	4
Commanders of the following:	
Academy	4
Audit and Evaluation Section	4
Business Services Section	4
Health and Safety Section	4
Internal Affairs Section	4
Motor Transport Section	4
Personnel Services Section	4
Selection Standards and Examinations Section	4
Support Services Section	4
Commercial Vehicle Section	5
Field Services Section	5
Investigative Services Section	5
Office of Air Operations	5

<i>Designated Positions</i>	<i>Assigned Disclosure Categories</i>
Lieutenants and Sergeants assigned to permanent positions in Headquarters unless otherwise specified in the Appendix.	5
Consultant*	1

*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitation:

The Commissioner may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Commissioner's determination is a public record

and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

DISCLOSURE CATEGORIES

Category 1

Designated employees in Category 1 shall report:

- (a) All investments;
- (b) All interests in real property;
- (c) All income; and
- (d) All business positions held in any business entities.

Category 2

Designated employees in Category 2 shall report:

- (a) All interests in real property;
- (b) Any investments in, business positions with, and income from, any source that:

[The next page is 191.]

(1) Within the previous two years has done business, is currently doing business, or plans to do business with the California Highway Patrol to provide services, equipment, leased space, materials or supplies.

(2) Is a commercial motor carrier, an operator of motor vehicles for hire, or an operator of motor vehicles used for commercial purposes.

(3) Is a manufacturer or vendor of motor vehicles or automotive parts, accessories or supplies.

Category 3

Designated employees in Category 3 shall report items stipulated in Category 2 if:

(a) The real property, investments, business entities, or other sources of income are located within the boundaries of the designated employee's geographical area of departmental responsibility; and/or

(b) The business entities are doing, plan to do, or within the last two years have done, business in that geographical area.

Category 4

Designated employees in Category 4 shall report investments and business positions in any business entity and income from any source of the type that has provided during the two years preceding the filing of this report, or is currently providing, or planning to provide the California Highway Patrol with services, equipment, leased space, materials, or supplies.

Category 5

Designated employees in Category 5 shall report:

Investments in any organization and business positions in any business entity and income from any source that,

(a) Is subject to inspection, regulation, licensing or certification by the California Highway Patrol; or

(b) Is a manufacturer or vendor of motor vehicles or aircraft and automotive or aircraft parts, accessories, or supplies.

§ 1801. Conflict of Interest Code for the California Office of Traffic Safety.

NOTE: Authority cited: Section 87300, Government Code. Reference: Section 87300, Government Code.

HISTORY

1. New section and Appendix filed 10-21-93; operative 11-22-93. Approved by the Fair Political Practices Commission 9-9-93 (Register 93, No. 43).
2. Amendment renumbering duplicative section number 1800 to new section 1801 and amendment of Appendix filed 1-14-98; operative 2-13-98. Approved by Fair Political Practices Commission 11-5-97 (Register 98, No. 3).
3. Change without regulatory effect renumbering former title 13, section 1801 to title 2, division 8, chapter 93, section 58200 filed 11-15-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 47).

Chapter 11. Rules Applicable to Use of State Property

Article 1. General

§ 1850. Applicability.

This chapter shall apply to the conduct of all individuals or groups using state property, except those individuals or groups who obtain permits pursuant to Government Code Section 14998, et seq., which grants the California Film Commission authority to issue permits for filming on state property.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New chapter 11 (articles 1-3), article 1 (sections 1850-1851) and section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1851. Definitions.

As used in this chapter:

(a) "*Commercial Activity*" shall mean any activity or action, undertaken in whole or in part by one or more business entities and/or individuals, whose purpose in whole or in part, directly or indirectly, is to derive or

realize a present or future financial gain for the individual(s) or business entity or entities.

(b) "*Commissioner*" means the Commissioner of the California Highway Patrol.

(c) "*Demonstration*" includes the parading, picketing, selling of non-commercial printed matter or materials, marching, moving in procession, holding of vigils, and engaging in other like forms of activity which involve the communication of views or grievances, orally or by conduct and which has the effect, intent or propensity to draw a crowd or onlookers.

(d) "*Department*" means the Department of California Highway Patrol.

(e) "*Gathering*" shall mean the assemblage of more than two persons for other than the conducting of state business and having the effect, intent or propensity to draw a crowd or onlookers.

(f) "*State Capitol Grounds*" is synonymous with "State Capitol Park" or "Park" and includes the area located in the blocks bound by 9th and 10th, L and N Streets and 10th and 15th, and L and N Streets, in the City of Sacramento, State of California.

(g) "*State Property*" includes all property owned, leased, rented, controlled, used, or occupied by any department or part thereof of the Government of the State of California. For purposes of this chapter, State Property does not include:

(1) Property of the University of California, California State University, or Hastings College of Law, other than property occupied by a state agency not under the authority of the administering body of the University of California, the California State University, or Hastings College of Law.

(2) Property of any department or subdivision of state government, which is authorized by law to employ one or more peace officers within the state civil service, whose primary duty, as defined by law, is the provision of law enforcement services upon the property (e.g., California Exposition and State Fair, state hospitals of the Departments of Mental Health or a Developmental Services, and parks and beaches of the Department of Parks and Recreation).

(3) Property of the Departments of Corrections or Youth Authority which is maintained and used primarily for the custody or housing of inmates or wards under the jurisdiction of the Departments of Corrections or Youth Authority.

(4) Property under the jurisdiction of the California Department of Transportation as outlined in the Streets & Highways Code, Chapter 3, Sections 660-670.

(h) "*Vehicle*" means any device in, upon, or by which any person or property is or may be propelled, moved, or drawn.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

Article 2. Permits

§ 1855. Permits for Activity on State Property.

(a) *Permit Application.* Applications for permits shall be made in writing on a "Permit Application For Activity on State Property," CHP 398, (rev. 3/96) to the appropriate California Highway Patrol office at least ten (10) business days prior to the commencement of any activity discussed in Article 3 below.

(b) *Criteria for Issuance of Permit.* The Department shall issue a permit within ten (10) business days of receipt of a complete and proper application, providing all of the following criteria are met:

(1) The primary purpose of the planned activity is not a "commercial activity." An application shall be denied when the enterprise for which the permit is sought includes, as its primary purpose, a commercial activity, whether or not other non-commercial, non-profit endeavors are incorporated, or otherwise undertaken, in conjunction with the commercial activity. Eligibility for a permit under this section is confined to those in-

dividuals and business entities who seek to engage in activity that is primarily non-commercial (e.g., an expression of ideas or causes of a religious, artistic, political, charitable, educational or cultural nature).

(2) The activity planned can be conducted in the area designated without creating or causing risk of injury or illness to persons; risk of damage or destruction to property and/or impeding the performance of public business to be conducted in the area.

(3) There is no conflict as to time, place, manner, and/or duration of the subject activity with activities for which permits have been issued or are pending issuance.

(4) Permits will not be issued earlier than one (1) calendar year prior to the planned activity. No exclusive rights to permits for designated events shall be issued for consecutive future years to any one applicant.

(5) The activity planned does not conflict with rules in Article 3 of this chapter unless the approved permit specifically exempts the holder of the permit from the rules.

(6) The holder of the permit shall accept financial liability for any damages to state property by members of his or her party and further agrees to leave the area clean. The permit may not be assigned.

(7) Insurance may be required on the planned size and/or complexity of the event as determined by the Department after consultation with the Department of General Services, Office of Risk and Insurance Management. Additionally, the Department of General Services may require a bond or deposit to cover the cost of any potential damage to state property.

(8) One (1) security person shall be designated and provided by the permit holder, at his or her expense, for each fifty (50) persons expected to be in attendance. Each member of security shall wear a distinctive emblem, insignia, or article of wearing apparel at all times during the activity for identification purposes. To provide reference to the terms and conditions of the permit they are charged with enforcing, each member of security shall have a copy of the activity permit on his or her person while present at the event. Employees of the Department shall have the privilege of inspecting the premises covered by this permit at any or all times.

(9) The permit and the rights thereunder may not be assigned to a third party.

(c) *Duration of Permit.* Unless the Department otherwise approves, based on the application for permit, a permit issued under sub-division (b) of this section shall not be valid more than seven (7) calendar days. Extensions may be granted if the event time and location is not in conflict with permits already granted.

(d) *Revocation of Permit.* The Department may revoke a permit if:

(1) It determines that any activity covered by such permit is creating or causing risk injury or illness to persons; risk of damage or destruction to property and/or impeding the performance of public business to be conducted in the area or if the permit holder or persons in their group violate any of the terms of their permit.

(2) Prior to commencement of the permitted event, the Department finds it necessary to cancel the permit due to previously unknown circumstances. The Department reserves the right to cancel any permit or change the location of the activity upon giving one (1) day written notice to the holder of the permit without incurring any liability on the part of the Department and the State of California.

(e) *Exemption.* Permits are not required for bake sales, craft sales, etc., organized and conducted at a worksite by a group of state employees from said worksite, if the primary purpose of the activity is to raise funds for donation to a non-profit organization or raise funds for offsetting the cost of an employee organized social activity. This exemption does not exempt said employees from the necessity of obtaining other permits and permissions as may be required. Employees should contact their respective building managers to determine the proper approval process at their worksite.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New article 2 (sections 1855–1857) and section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

2. Amendment of subsections (b)(4), (b)(7) and (d)(2) filed 4–7–98; operative 5–7–98 (Register 98, No. 15).

§ 1856. Denial or Cancellation of a Permit.

The Department may deny a request for permit or cancel a permit (before or during an event) upon determination of the Commissioner or his or her designee that any of the following conditions have occurred:

(a) Incomplete information, false statement(s), or misrepresentation have been made on the permit application;

(b) Fraud was committed in obtaining the permit;

(c) The person to whom the permit was issued is not present at the activity and is not available for contact by a peace officer of the Department or a representative of the state agency upon whose property the activity is taking place;

(d) The conduct of either the person to whom the permit was issued or persons attending the activity involves a violation of the permit, these regulations, state law, or any other statute or ordinance.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

§ 1857. Appealing Denial or Cancellation of Permit.

(a) *Procedures.* The denial or cancellation of a permit under Section 1855 or 1856 shall state the reasons for such denial or cancellation. Within five (5) business days of the notification of denial or cancellation the applicant or holder of the permit may apply to the Commissioner for a review of the reasons for denial or cancellation. The proceedings for review shall be held within five (5) business days thereafter, before the Commissioner or his or her designee.

(b) *Exclusion from Appeal Process:* This section and the appeal procedures set forth herein shall apply only in cases where a timely permit application was filed in accordance with Section 1855 and the permit was denied. No appeal shall be available if a timely permit application was not filed.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

Article 3. Restrictions on Use of State Buildings and Grounds

§ 1860. Types of Permits.

(a) *Permits for Demonstration or Gathering.* No person shall hold or conduct any demonstration or gathering in or upon any state buildings or grounds unless a permit has been issued by the Department.

(b) *Permits for Structures or Equipment.* No person shall build, construct, set-up, place or maintain, or attempt such, in or upon any of the state property, any tent, platform, booth, bench, table, building, sound system, or other structure, unless a permit for such a structure has been issued by the Department.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New article 3 (sections 1860–1869) and section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).
2. Redesignation of former subsection (2) as subsection (b) and amendment of newly designated subsection (b) filed 4–7–98; operative 5–7–98 (Register 98, No. 15).

§ 1861. Prohibited Conduct.

No person shall remain in or upon any state property after having been ordered or directed by a member of the California Highway Patrol or the person having charge of the facility to leave said property, provided, said order or direction to leave is issued after the determination that one or more of the following has occurred:

(a) *Creating Loud and Unusual Noises.* Said person, alone or in conjunction with others, is creating loud and unusual noises which impede or disturb the state employees in the performance of their duties or which

otherwise impede or disrupt the general public transacting business with the state agency(ies) located within, about, or upon state property.

(b) *Obstructing or Interfering with the Usual Use of State Property.* Said person, alone or in conjunction with others, is obstructing or interfering with the usual use of entrances, foyers, corridors, offices, elevators, stairways, garages, or parking lots, or is creating a health and/or safety hazard in such use within, about, or upon state property.

(c) *Present In or Upon State Property when Closed to Public.* Said person is in or on state property, or area thereof, during the hours when said state property is not open to the general public, and said person does not have a permit, the authority or lawful reason to be there.

(d) *Emergency Order.* Said person refuses to comply with an emergency order.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1862. Signs, Posters, Placards, Banners.

(a) *Requirements for Size.* Carrying, transporting or using signs, posters or banners exceeding thirty inches (30") by thirty inches (30") in size, in or on any state property, is prohibited unless prior written permission has been obtained from the Commissioner or his or her designee whose review, under this section, shall not be made on the basis of content.

(1) The size of the handles or supports for such signs, posters, placards or banners shall be limited to one-fourth inch (1/4") in thickness by three-fourth inch (3/4") in width and shall extend no more than eighteen inches (18") beyond a single exterior edge of such signs, posters, placards or banners.

(2) All such handles or supports shall be made of wood without exception.

(b) *Requirements for Carrying.* All such signs, posters, placards or banners shall be hand carried and not in any way affixed, fastened, or attached to the premises; nor self-supporting and placed for display; nor leaned against any wall, partition, or other portion of a state property.

(c) *Prohibited Signs.* The carrying of such signs, posters, placards or banners is prohibited if it obstructs freedom of passage over, through, or in state property.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1863. Decorations.

No decorations are to be hung, tacked, taped, or in any way affixed to trees, shrubbery, fencing, or lamp posts on state property.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1864. Fire.

Fire is not permitted on state property.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1865. Parking.

(a) *Issuance of Parking Permits — State Capitol Grounds.* Parking permits shall be issued by the Department under the authority of and under such conditions as may be prescribed by the Commissioner. Said parking permits shall be subject to revocation or suspension at any time. Unless sooner revoked or suspended, such permits shall expire at the end of the calendar year in which issued.

(b) *Exception to Required Parking Permit — State Capitol Grounds.* No person shall stop, park or leave standing, any vehicle without proper parking permits displayed, on the State Capitol grounds except:

7(1) Members of the State Legislature.

(2) The operator of any vehicle which displays in plain view while stopped, parked or left standing on said grounds, a valid parking permit issued by the Department; the State Senate Rules Committee; or the State Assembly Rules Committee.

(3) Persons stopping or parking a vehicle when necessary to avoid conflict with other traffic or in compliance with a traffic control signal device or the direction of a California Highway Patrol Officer in control of traffic.

(4) Persons stopping or parking a vehicle temporarily in areas designated by the California Highway Patrol for the purpose of loading or unloading merchandise or picking up or discharging passengers, and then only for the period of time required to load or unload, pick up or discharge such merchandise or passengers.

(c) *Issuance of Parking Permits — State Property.* Parking permits may be issued under the authority of and under such conditions as may be prescribed by the agency in control of said property.

(d) *Display of Parking Permits.* In locations where signs are posted indicating parking permits are required, no person shall stop, park, or leave standing, any vehicle on any property of the State of California, except where such vehicle displays in plain view a valid parking permit.

(e) *Unattended Vehicles.* Vehicles left unattended, without proper parking permits displayed, may be immediately removed by tow.

(f) *Conformance with Posted Signs.* Unless otherwise directed by a California Highway Patrol Officer, no person shall stop, park, or leave standing any vehicle on said state property unless such vehicle is parked, stopped or left standing in areas designated for public parking and in conformance with such signs as may be posted on said grounds from time to time.

(g) *Driveways.* No person shall stop, park or leave standing, any vehicle on any part of the driveways running from L Street to the Capitol Garage and from N Street to said garage.

(h) *Loading Areas.* No person shall stop, park or leave standing any vehicle on any part of the loading area adjacent to the State Capitol Garage and west of the driveway from N Street to said garage except persons who have obtained permits from the Department for parking spaces designated for him or her, or persons who are actually loading or unloading merchandise at the loading dock.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11-26-96; operative 12-26-96 (Register 96, No. 48).

§ 1866. Dogs, Cats, and Other Domesticated Animals.

(a) *Presence in State Capitol Park.* Dogs, cats, and other domesticated animals are prohibited in State Capitol Park, for other than official or authorized purposes, except when held by the custodians thereof, or on a leash. Unleashed dogs or cats, and other domesticated animals shall be subject to impounding in a manner consistent with the applicable municipal, county and state laws and ordinances.

(b) *Presence In or Upon State Property.* Dogs, cats, and other domesticated animals are prohibited in state buildings and grounds, except:

(1) Specially trained guide dogs, signal dogs, or service dogs used exclusively to assist blind, deaf, or other disabled persons. For purposes of the chapter, guide dog, signal dog and service dogs means any dog which meets the criteria as defined under federal regulations adopted to implement Title III of the Americans with Disabilities Act of 1990.

(2) Animals held or leashed as described in paragraph (a) within the confines of State Capitol Park or other state grounds.

(3) Animals which are authorized for exhibit or used for official or authorized purposes.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

§ 1867. Operation and Use of Bicycles, Roller Skates, Skateboards, and Other Wheeled Conveyances.

(a) The riding, operation or use of bicycles, roller skates, skateboards, or other wheeled conveyances is prohibited in or upon state property (as defined for this chapter) except as follows:

(1) Wheeled conveyances used by disabled persons.
(2) Any wheeled conveyance used by a state employee in the course of his or her employment.

(3) Any wheeled conveyance used by a person upon that portion of State Capitol Park known as the “Thirteenth Street Walk” and described as that portion of 13th Street between L and N Streets.

(4) Roller skating is permitted, from dusk to dawn, seven (7) days a week on paths, walks and driveways in that portion of the State Capitol grounds extending from 13th Street to 15th Street and from L Street to N Street.

(5) Roller skating is permitted, from 6 p.m. to dusk, Monday through Friday and from dawn to dusk on Saturdays, Sundays and holidays on the State Capitol grounds extending from 10th Street to 13th Street and from L Street to N Street.

(b) Notwithstanding subsection (a), roller skating is not permitted upon the steps of the State Capitol, or in the interior of the State Capitol or in the interior of any other state building, or in the driveway extending from L and N Streets into the State Capitol Garage.

(c) Notwithstanding subsection (a), operation of wheeled conveyances shall be prohibited if done in a manner other than is reasonable or prudent, having due regard for pedestrians, weather, visibility, the traffic on, and the surface and width of, the area’s grounds.

(d) The parking of bicycles in or upon state property is prohibited except at designated bicycle parking racks or facilities established by the agency in control of a given state property.

(e) This section shall not apply to any peace officer acting within the scope of his or her employment.

(f) This section shall not apply to any location defined as a street or highway under applicable provisions of the California Vehicle Code.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code; and Section 21200, Vehicle Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

§ 1868. Flower Beds and Lawns.

(a) The walking on or crossing over or through flower beds or other areas within the park where plants, shrubs, trees or any other growing things, other than lawns, are located is prohibited.

(b) The picking of or in any way damaging, mutilating or destroying flowers, plants, shrubs or any other growing things in the park is prohibited.

(c) The walking on or crossing over lawns or terraces within the park is prohibited where such walking or crossing is likely to cause damage to said lawns and terraces.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

§ 1869. Games and Sports.

The playing of games which involve running, jumping, tackling, strenuous activity or physical contact between players, including but not limited to football, baseball, Frisbee, golf, catch, and soccer, is prohibited in State Capitol Park.

NOTE: Authority cited: Section 14685, Government Code. Reference: Section 14685(c), Government Code.

HISTORY

1. New section filed 11–26–96; operative 12–26–96 (Register 96, No. 48).

Chapter 12. Computer Crime

Article 1. Computer Crime Reporting

§ 1875. Computer Crime Reporting for State Agencies.

This chapter shall apply to all California State Agencies.

(a) Representatives of state agencies are to notify the California Highway Patrol (CHP) via the Emergency Notification Tactical Alert Center upon discovery of all computer related crimes, as required by Government Code section 14613.7(a).

(b) The Emergency Notification Tactical Alert Center is available by telephone at (916) 657–8287, 24 hours a day, seven days a week, to receive reports of computer crimes from state agencies.

NOTE: Authority cited: Section 2402, Vehicle Code. Reference: Sections 14613.7(a) and 14615(b), Government Code.

HISTORY

1. New chapter 12, article 1 (section 1875) and section filed 1–12–2006; operative 2–11–2006 (Register 2006, No. 2).

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Division 3. Air Resources Board

Chapter 1. Motor Vehicle Pollution Control Devices

Article 1. General Provisions

§ 1900. Definitions.

(a) The definitions of this section supplement and are governed by the definitions set forth in chapter 2 (commencing with section 39010), part 1, division 26 of the Health and Safety Code. The definitions set forth in the applicable model-year new vehicle certification and assembly-line test procedures adopted in this chapter are hereby incorporated by reference.

(b) In addition to the definitions incorporated under subdivision (a), the following definitions shall govern the provisions of this chapter;

(1) "Add-on part" means any aftermarket part which is not a modified part or a replacement part.

(2) "Consolidated part" means a part which is designed to replace a group of original equipment parts and which is functionally identical of those original equipment parts in all respects which in any way affect emissions (including durability).

(3) "Emissions-related part" means any automotive part, which affects any regulated emissions from a motor vehicles which is subject to California or federal emissions standards. This includes, at a minimum, those parts specified in the "Emissions-Related Parts List," adopted by the State Board on November 4, 1977, as last amended May 19, 1981.

(4) "Gaseous fuels" means any liquefied petroleum gas, liquefied natural gas, or compressed natural gas fuels for use in motor vehicles.

(5) "Heavy-duty engine" means an engine which is used to propel a heavy-duty vehicle.

(6) "Heavy-duty vehicle" means any motor vehicle having a manufacturer's gross vehicle weight rating greater than 6,000 pounds, except passenger cars.

(7) "Identical device" means a crankcase emission control device identical in all respects, including design, materials, manufacture, installation and operation, with a device which has been certified by the Air Resources Board or the Motor Vehicle Pollution Control Board pursuant to the Health and Safety Code, but which is manufactured by a person other than original manufacturer of the device.

(8) "Independent low volume manufacturer" means a manufacturer with California annual sales of less than 10,000 new passenger cars, light-duty trucks and medium-duty vehicles following aggregation of sales pursuant to this section 1900(b)(8). Annual sales shall be determined as the average number or sales sold for the three previous consecutive model years for which a manufacturer seeks certification; however, for a manufacturer certifying for the first time in California, annual sales shall be based on projected California sales for the model year. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. The annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, one of which is 10% or greater part owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of 10% or more in each of the firms; or (3) vehicles produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies; or (4) vehicles imported or distributed by all firms where the vehicles are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

(9) "Intermediate volume manufacturer" means any pre-2001 model year manufacturer with California sales between 3,001 and 60,000 new light- and medium-duty vehicles per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1993; any 2001 through 2002 model year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1993; and any 2003 and subsequent model year manufacturer with California sales between 4,501 and 60,000 new light- and medium-duty vehicles based on the average number of vehicles sold for the three previous consecutive model years for which a manufacturer seeks certification. For a manufacturer certifying for the first time in California, model year sales shall be based on projected California sales. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. For purposes of applying the 2005 and subsequent model year zero-emission vehicle requirements for intermediate-volume manufacturers under section 1962(b), the annual sales from different firms shall be aggregated in the case of (1) vehicles produced by two or more firms, each one of which either has a greater than 50% equity ownership in another or is more than 50% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 50% in each firm.

For purposes of applying the 2009 and subsequent model year Greenhouse Gas requirements for intermediate volume manufacturers under section 1961.1, the annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, each one of which either has a greater than 10% equity ownership in another or is more than 10% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 10% in each firm.

(10) "Large volume manufacturer" means any 2000 and subsequent model year manufacturer that is not a small volume manufacturer, or an independent low volume manufacturer, or an intermediate volume manufacturer.

(11) "Light-duty truck" means any 2000 and subsequent model motor vehicle certified to the standards in section 1961(a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle, rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

(12) "Medium-duty passenger vehicle" means any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which: (1) is an "incomplete truck" i.e., is a truck that does not have the primary load carrying device or container attached; or (2) has a seating capacity of more than 12 persons; or (3) is designed for more than 9 persons in seating rearward of the driver's seat; or (4) is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area, for purposes of this definition.

(13) "Medium-duty vehicle" means any pre-1995 model year heavy-duty vehicle having a manufacturer's gross vehicle weight rating of 8,500 pounds or less; any 1992 through 2006 model-year heavy-duty low-emission, ultra-low-emission, super-ultra-low-emission or zero-emission vehicle certified to the standards in section 1960.1(h)(2) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; any 1995 through 2003 model year heavy-duty vehicle certified to the standards in section 1960.1(h)(1) having a manufacturer's gross vehicle weight rating of 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission, super-ultra-

low-emission or zero-emission vehicle certified to the standards in Section 1961(a)(1) or 1962 having a manufacturer's gross vehicle weight rating between 8,501 and 14,000 pounds.

(14) "Modified part" means any aftermarket part intended to replace an original equipment emission-related part and which is not functionally identical to the original equipment part in all respects which in any way affect emissions, excluding a consolidated part.

(15) "Motorcycle Engine" means an engine which is used to propel a new, street-use motorcycle.

(16) [Reserved]

(17) "Passenger car" means any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(18) "Reactivity adjustment factor" means a fraction applied to the NMOG emissions from a vehicle powered by a fuel other than conventional gasoline for the purpose of determining a gasoline-equivalent NMOG level. The reactivity adjustment factor is defined as the ozone-forming potential of clean fuel vehicle exhaust divided by the ozone-forming potential of gasoline vehicle exhaust.

(19) "Recall" means:

(A) The issuing of notices directly to consumers that vehicles in their possession or control should be corrected, and/or

(B) Efforts to actively locate and correct vehicles in the possession or control of consumers.

(20) "Replacement part" means any aftermarket part intended to replace an original equipment emissions-related part and which is functionally identical to the original equipment part in all respects which in any way affect emissions (including durability), or a consolidated part.

(21) "Subgroup" means a set of vehicles within an engine family distinguishable by characteristics contained in the manufacturer's application for certification.

(22) "Small volume manufacturer" means, with respect to the 2001 and subsequent model-years, a manufacturer with California sales less than 4,500 new passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years for which a manufacturer seeks certification as a small volume manufacturer; however, for manufacturers certifying for the first time in California model-year sales shall be based on projected California sales. A manufacturer's California sales shall consist of all vehicles or engines produced by the manufacturer and delivered for sale in California, except that vehicles or engines produced by the manufacturer and marketed in California by another manufacturer under the other manufacturer's nameplate shall be treated as California sales of the marketing manufacturer. Except as provided in the next paragraph, beginning with the 2009 model year, the annual sales from different firms shall be aggregated in the following situations: (1) vehicles produced by two or more firms, one of which is 10% or greater part owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of 10% or more in each of the firms; or (3) vehicles produced by two or more firms having a common corporate officer(s) who is (are) responsible for the overall direction of the companies; or (4) vehicles imported or distributed by all firms where the vehicles are manufactured by the same entity and the importer or distributor is an authorized agent of the entity.

For purposes of compliance with the zero-emission vehicle requirements, heavy-duty vehicles and engines shall not be counted as part of a manufacturer's sales. For purposes of applying the 2005 and subsequent model year zero-emission vehicle requirements for small-volume manufacturers under section 1962(b), the annual sales from different firms shall be aggregated in the case of (1) vehicles produced by two or more firms, each one of which either has a greater than 50% equity ownership in another or is more than 50% owned by another; or (2) vehicles produced by any two or more firms if a third party has equity ownership of greater than 50% in each firm.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43104, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39500, 40000,

43000, 43013, 43018.5, 43100, 43101, 43101.5, 43102, 43103, 43104, 43106 and 43204, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Amendment of NOTE section filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Amendment filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
3. Amendment of subsection (b) filed 7-6-81; effective thirtieth day thereafter (Register 81, No. 28).
4. Repealer of article 1 (sections 1900-1905, not consecutive) and new article 1 (sections 1900-1904) filed 1-14-83; effective thirtieth day thereafter (Register 81, No. 3). for prior history, see Registers 81, No. 28; 77, Nos. 49 and 12; and 73, No. 45).
5. Amendment of subsection (b) filed 4-20-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 90, No. 55).
6. Amendment of subsection (b) filed 7-17-90; operative 8-16-90 (Register 90, No. 35).
7. Amendment of subsection (b) filed 8-2-91; effective 9-2-91 (Register 91, No. 49).
8. Amendment of subsection (b)(9) and new subsections (b)(15) and (b)(16) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
9. Amendment of subsections (b)(9) and (b)(15) filed 11-8-93; operative 12-8-93 (Register 93, No. 46).
10. Repealer of subsection (b)(15) filed 1-3-97; operative 1-3-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 1).
11. Amendment of subsections (b)(8) and (b)(9), new subsections (b)(17)-(b)(19) and amendment of NOTE filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
12. New subsection (b)(11) and subsection renumbering filed 11-22-99; operative 12-22-99 (Register 99, No. 48).
13. Amendment of subsections (a)(19)-(a)(20) and new subsections (a)(21)-(a)(21)(D) filed 5-24-2002; operative 6-23-2002 (Register 2002, No. 21).
14. Amendment of subsections (b)(18) and (b)(19) filed 6-24-2002; operative 7-24-2002 (Register 2002, No. 26).
15. Amendment of subsections (b)(18)-(19) and (b)(21) filed 2-25-2004; operative 3-26-2004 (Register 2004, No. 9).
16. Amendment of section and NOTE filed 9-15-2005; operative 1-1-2006 (Register 2005, No. 37).

§ 1901. Classification.

Motor vehicles and portable or mobile internal combustion engines for which emission control devices will be certified or accredited are divided into the following classifications:

- (a) (1) Under 50 cubic inches engine displacement.
- (2) 50 through 100 cubic inches engine displacement.
- (3) Over 100 through 140 cubic inches engine displacement.
- (b) Over 140 through 200 cubic inches engine displacement.
- (c) Over 200 through 250 cubic inches engine displacement.
- (d) Over 250 through 300 cubic inches engine displacement.
- (e) Over 300 through 375 cubic inches engine displacement.
- (f) Over 375 cubic inches engine displacement.

(g) Motor vehicles which because of unusual engine design cannot be classified, for purposes of emissions control, by engine displacement.

This classification supersedes any other classification system set forth in any previously adopted test procedure.

NOTE: Authority cited: Sections 39600, 39601 and 43000, Health and Safety Code. Reference: Sections 43100, 43101 and 43600, Health and Safety Code.

§ 1902. Test Procedures.

Test procedures referred to in this chapter may be obtained from the State Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601 and 43000, Health and Safety Code. Reference: Sections 43011, 43101, 43104 and 43600, Health and Safety Code.

§ 1903. Plans Submitted.

Any person seeking approval, accreditation, or certification by the State Board for any device to control emissions from motor vehicles shall submit plans thereof to the State Board. Such plans shall be accompanied by reliable test data indicating compliance with the appropriate emission standards and test procedures adopted by the State Board, and with criteria established by the State Board as set forth in this chapter.

Plans may be submitted to the Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601 and 43000, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000 and 43011, Health and Safety Code; and Section 27156, Vehicle Code.

§ 1904. Applicability to Vehicles Powered by Fuels Other Than Gasoline or Diesel.

Pursuant to section 43006 of the Health and Safety Code, provisions of this Code which refer to "gasoline-powered" vehicles or motor vehicles, except section 1970, shall apply to motor vehicles which have been modified to use a fuel other than gasoline or diesel unless otherwise specified.

NOTE: Authority cited: Sections 39600, 39601 and 43006, Health and Safety Code. Reference: Sections 43004, 43005 and 43600, Health and Safety Code.

HISTORY

1. Amendment of section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).

§ 1905. Exclusion and Exemption of Military Tactical Vehicles and Equipment.

(a) For purposes of this chapter, military tactical vehicle means a motor vehicle owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(b) This chapter shall not apply to vehicles defined as military tactical vehicles or to engines used in military tactical vehicles. This includes all vehicles and engines:

(1) Excluded from regulation under 40 CFR Part 85, subpart R, section 85.1703, and

(2) Exempted from regulations under the federal national security exemption, 40 CFR, subpart R, sections 85.1702(a)(2), 85.1704(b), 85.1708, and 85.1710. It shall also not apply to those motor vehicles or motor vehicle engines covered by the definition of military tactical vehicle, including commercially available vehicles, for which a federal certificate of conformity has been issued under 40 CFR Part 86.

(c) On January 1, 1997, the U.S. Department of Defense shall submit to the ARB a list of all vehicle types that are excluded and or exempted under the above provisions and which are located in the State of California. If any additional vehicle types are added to the list during the previous 12 months, the U.S. Department of Defense shall update the list and submit it to the ARB by January 1 of the following year.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43013 and 43018, Health and Safety Code.

HISTORY

1. New section filed 7-3-96; operative 7-3-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 27).

Article 2. Approval of Motor Vehicle Pollution Control Devices (New Vehicles)

§ 1950. Requirements.

No motor vehicle pollution control device for new motor vehicles shall be approved unless such device meets the standards set forth in this article, and all other applicable criteria set forth in Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, commencing with section 43100, and in this subchapter.

NOTE: Section 209 of the federal Clean Air Act (42 U.S.C. 7543) provides:

(a) No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

(b)(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will

be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standard shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.

(c) Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any requirement of certification, inspection, or approval which relates to motor vehicle emissions and is applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).

(d) Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles."

Information regarding waivers of federal preemption for the new motor vehicle and new motor vehicle engine emission standards and accompanying enforcement procedures included in this article may be obtained from the Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601 and 43100, Health and Safety Code. Reference: Sections 39002, 39003, 43000 and 43011, Health and Safety Code.

HISTORY

1. Amendment filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer of Article 2 (sections 1950-1976, not consecutive) and new Article 2 (sections 1950-1976, not consecutive) filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3). For prior history, see Registers 74, Nos. 39 and 51; 75, Nos. 10, 12, 18, 21 and 33; 76, Nos. 16, 29, 43 and 52; 77, Nos. 12, 15, 25, 32, 43 and 51; 78, Nos. 14, 24 and 36; 79, Nos. 6, 19, 22, 45 and 50; 80, Nos. 10, 21, 23, 26, 41 and 50; 81 Nos. 4, 5, 21, 22, 28, 35, 48 and 51; and 82, Nos. 8, 11 and 39.
3. Change without regulatory effect adding text NOTE filed 5-22-90 pursuant to section 100, Title 1, California Code of Regulations (Register 90, No. 28).

§ 1952. Exhaust Emission Standards and Test Procedures—1972 Heavy-Duty Gasoline-Powered Vehicles.

The exhaust emissions from a new 1972 model-year gasoline-powered truck, truck tractor or bus, 6,001 pounds and over, manufacturer's maximum gross vehicle weight rating, subject to registration and sold and registered in this state, shall not exceed:

(a) 180 parts per million hydrocarbons.

(b) 1.0 percent carbon monoxide.

The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1970 and Subsequent Model-Year Gasoline-Powered Motor Vehicles over 6,001 Pounds Gross Vehicle Weight," dated November 20, 1968.

This regulation shall remain in effect until December 31, 1982, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1982, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101 and 43104, Health and Safety Code.

§ 1955.1. Exhaust Emission Standards and Test Procedures—1975 Through 1978 Model–Year Passenger Cars.

(a) The exhaust emissions from new 1975 through 1978 model–year gasoline–fueled passenger cars having an engine displacement of 50 cubic inches or greater, subject to registration and sold and registered in this state, shall not exceed:

<i>Model Year</i>	Exhaust Emission Standards (grams per mile)		
	<i>Hydrocarbons</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i>
1975	0.9*	9.0	2.0
1976	0.9*	9.0	2.0
1977	0.41	9.0	1.5
1978	0.41	9.0	1.5

*Hydrocarbon emissions from limited–production passenger cars shall not exceed 1.5 grams per mile.

(b) The test procedures for determining compliance with these standards are set forth in “California Exhaust Emission Standards and Test Procedures for 1975 through 1978 Model Passenger Cars, Light–Duty Trucks, and Medium–Duty Vehicles,” adopted by the State Board, February 19, 1975, as last amended June 8, 1977.

[The next page is 195.]

(c) This regulation shall remain in effect until December 31, 1983, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1983, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100 and 43104, Health and Safety Code.

§ 1955.5. Exhaust Emission Standards and Test Procedures—1975 Through 1978 Model-Year Light-Duty Trucks.

(a) The exhaust emissions from new 1975 through 1978 model-year light-duty trucks having an engine displacement of 50 cubic inches or greater, subject to registration and sold and registered in this state, shall not exceed:

Model Year	Exhaust Emission Standards (grams per mile)		
	Hydrocarbons	Carbon Monoxide	Oxides of Nitrogen
1975	2.0	20	2.0
1976	0.9	17	2.0
1977	0.9	17	2.0
1978	0.9	17	2.0

(b) The standards shown in subdivision (a) for the 1975 model year shall apply to 1975 and 1976 model limited-production light-duty trucks.

(c) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1975 Through 1978 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the State Board, February 19, 1975, as last amended June 30, 1976.

(d) This regulation shall remain in effect until December 31, 1983, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1983, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101 and 43104, Health and Safety Code.

§ 1956. Exhaust Emission Standards and Test Procedures—1973 and Subsequent Heavy-Duty Gasoline-Powered Vehicles.

(a) Exhaust emissions from new 1973 and 1974 model-year gasoline-powered engines for use in heavy-duty motor vehicles (6,001 pounds and over, manufacturer's maximum gross vehicle weight) shall not exceed:

- (1) Hydrocarbon plus oxides of nitrogen—16 grams per brake horsepower hour;
- (2) Carbon monoxide—40 grams per brake horsepower hour;

The test procedures for determining compliance with these standards are set forth in "California Exhaust Emissions Standards, Test and Approval Procedures for 1973 and Subsequent Model-Year Engines in Gasoline-Powered Motor Vehicles Over 6,001 Pounds Gross Vehicle Weight," dated February 17, 1971, amended January 19, 1972.

In accordance with this section, as originally enacted, new 1973 model-year heavy-duty vehicles must contain 1973 model-year engines. In subsequent years, model-year engine controls, not model-year vehicle.

(b) Exhaust emissions from new 1975 and 1976 model-year gasoline-powered engines for use in heavy-duty motor vehicles (over 6,000 pounds, manufacturer's maximum gross weight) shall not exceed:

- (1) Hydrocarbons plus oxides of nitrogen—10 grams per brake horsepower hour,
- (2) Carbon monoxide—30 grams per brake horsepower hour.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards, Test and

Approval Procedures for 1975 and Subsequent Model-Year Engines in Gasoline-Powered Motor Vehicles Over 6,000 Pounds Gross Vehicle Weight," dated February 19, 1975.

(c) Exhaust emissions from new 1977 gasoline-powered engines for use in heavy-duty motor vehicles shall not exceed:

- (1) Hydrocarbons plus oxides of nitrogen—5 grams per horsepower hour,

- (2) Carbon monoxide—25 grams per brake horsepower hour;

or

- (1) Hydrocarbons—1.0 grams per brake horsepower hour;
- (2) Carbon Monoxide—25 grams per brake horsepower hour;
- (3) Oxides of Nitrogen—7.5 grams per brake horsepower hour.

These two sets of standards shall be alternatives. A manufacturer shall have the option for each engine family of showing compliance with either set.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards and Test Procedures for 1975 and Subsequent Model-Year Gasoline-Fueled Heavy-Duty Engines and Vehicles," dated February 19, 1975 as last amended March 31, 1976.

(d) Exhaust emissions from new 1978 model-year gasoline-fueled heavy-duty engines and vehicles, except medium-duty vehicles, shall not exceed:

- (1) Hydrocarbon plus oxides of nitrogen—5 grams per brake horsepower hour;

- (2) Carbon monoxide—25 grams per brake horsepower hour; or

- (1) Hydrocarbons—1.0 gram per brake horsepower hour;
- (2) Carbon monoxide—25 grams per brake horsepower hour;
- (3) Oxides of Nitrogen—7.5 grams per brake horsepower hour.

These two sets of standards shall be alternatives. A manufacturer shall have the option for each engine family of showing compliance with either set.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards and Test Procedures for 1975 to 1978 Model-Year Gasoline-Fueled Heavy-Duty Engines and Vehicles," dated February 19, 1975, as last amended October 5, 1976.

A manufacturer may elect to certify heavy-duty vehicles less than 10,000 pounds maximum gross vehicle weight rating as medium-duty vehicles under Section 1959 of this chapter, in which event heavy-duty emission standards and test procedures shall not apply.

(e) This regulation shall remain in effect until December 31, 1988, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1988, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101 and 43104, Health and Safety Code.

§ 1956.1. Exhaust Emission Standards and Test Procedures — 1985 Through 2006 Model-Year Heavy-Duty Urban Bus Engines and Vehicles.

(a) The exhaust emissions from new 1985 and subsequent model heavy-duty diesel cycle urban bus engines and vehicles fueled by methanol, natural gas, liquefied petroleum gas, and petroleum shall not exceed the following, by model year:

- (1) 1985–1986 — 1.3 grams per brake horsepower-hour (g/bhp-hr) total hydrocarbons (or Organic Material Hydrocarbon Equivalent [OMHCE] for methanol-fueled buses), 15.5 g/bhp-hr carbon monoxide (CO), and 5.1 g/bhp-hr oxides of nitrogen (NOx).

- (2) 1987–(a manufacturer may certify to the 1988 emission standards one year early as an option) — 1.3 g/bhp-hr total hydrocarbons (or OMHCE for methanol-fueled buses), 15.5 g/bhp-hr CO, and 5.1 g/bhp-hr NOx.

- (3) 1988–1990 — 1.3 g/bhp-hr HC (or OMHCE for methanol-fueled buses), 15.5 g/bhp-hr CO, 6.0 g/bhp-hr NOx, 0.60 g/bhp-hr particulate

matter (PM), and for 1990 only, 1.2 g/bhp-hr optional non-methane hydrocarbons (NMHC).

(4) 1991–1993 — 1.3 g/bhp-hr HC (or OMHCE for methanol-fueled buses), 1.2 g/bhp-hr optional NMHC, 15.5 g/bhp-hr CO, 5.0 g/bhp-hr NOx, and 0.10 g/bhp-hr PM. Emissions from methanol-fueled, natural-gas-fueled and liquefied-petroleum-gas-fueled urban bus engines may be included in the averaging program for petroleum-fueled engines other than urban bus engines.

(5) 1994–1995 — 1.3 g/bhp-hr HC (or OMHCE for methanol-fueled buses), 1.2 g/bhp-hr optional NMHC, 15.5 g/bhp-hr CO, 5.0 g/bhp-hr NOx (or optional 3.5 g/bhp-hr to 0.5 g/bhp-hr NOx), and 0.07 g/bhp-hr PM. Emissions from methanol-fueled, natural-gas-fueled and liquefied-petroleum-gas-fueled urban bus engines, may be included in the averaging program for petroleum-fueled engines other than urban bus engines.

(6) 1996–2003 — 1.3 g/bhp-hr HC or OMHCE, 1.2 g/bhp-hr optional NMHC, 15.5 g/bhp-hr CO, 4.0 g/bhp-hr NOx, and 0.05 g/bhp-hr PM (0.07 PM g/bhp-hr in-use), except as provided in paragraph (7) below.

(A) For 1996 and 1997 only, a manufacturer may apply to the Executive Officer for an exemption from the 4.0 g/bhp-hr NOx standard, not to exceed 10% of the average of the manufacturer's total urban bus sales in California for the three preceding model years, upon providing technical justification and sales data for each exemption applied for.

(B) 1998 through 2003 model year engines may generate averaging, banking, and trading credits in accordance with the requirements for averaging, banking and trading programs set forth in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy Duty Diesel Engines and Vehicles" incorporated by reference in subdivision (c) of this section.

(C) Manufacturers may choose to certify 1998 through 2002 model year bus engines produced before October 1, 2002, to an optional NOx emissions standard between 0.5 g/bhp-hr and 2.5 g/bhp-hr. A manufacturer may certify to any standard between the values of 2.5 g/bhp-hr and 0.5 g/bhp-hr, by 0.5 g/bhp-hr increments. Manufacturers may not use engines certified to this optional NOx standard for any averaging, banking, or trading program set forth in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy Duty Diesel Engines and Vehicles" incorporated by reference in subdivision (c) of this section.

(7) October 1, 2002, PM standard — For diesel-fueled, dual-fuel, and bi-fuel bus engines except for heavy-duty pilot ignition engines, the PM standard shall be 0.01 g/bhp-hr (0.01 PM g/bhp-hr in-use) for 2002 and subsequent model year engines produced beginning October 1, 2002. Manufacturers may choose to meet this standard with an aftertreatment system that reduces PM to 0.01 g/bhp-hr.

(8) October 2002–2006 optional standards — Except for diesel-fueled, dual-fuel, and bi-fuel engines but including heavy-duty pilot ignition engines, manufacturers may choose to certify 2002–2006 model year bus engines produced beginning October 1, 2002, to an optional 1.8 g/bhp-hr to 0.3 g/bhp-hr NOx plus NMHC standard, measured as the arithmetic sum of the NOx and NMHC exhaust component certification values, without restriction on individual component certification values; provided that engines certified to this optional reduced-emission NOx plus NMHC standard may not participate in any averaging, banking, or trading program set forth in the test procedures document incorporated by reference in subdivision (c) of this section. A manufacturer may certify to any standard between the values of 1.8 g/bhp-hr to 0.3 g/bhp-hr, by 0.3 g/bhp-hr NOx + NMHC increments. Manufacturers certifying to this optional standard must also certify to a PM standard of 0.03, 0.02, or 0.01 g/bhp-hr.

(9) October 2002–2003 optional standards for diesel-fueled, dual-fuel, and bi-fuel engines except for heavy-duty pilot ignition engines — Manufacturers may choose to certify 2002–2003 model year diesel-fueled, dual-fuel, and bi-fuel bus engines produced beginning October 1, 2002, to an optional 1.8 g/bhp-hr to 0.3 g/bhp-hr NOx plus NMHC standard, measured as the arithmetic sum of the NOx and NMHC exhaust component certification values, without restriction on individual component certification values; provided that engines certified to this optional

reduced-emission NOx plus NMHC standard may not participate in any averaging, banking, or trading program set forth in the test procedures document incorporated by reference in subdivision (c) of this section. A manufacturer may certify to any standard between the values of 1.8 g/bhp-hr to 0.3 g/bhp-hr, by 0.3 g/bhp-hr NOx + NMHC increments. Manufacturers certifying to this optional standard must also certify to a PM standard of 0.01 g/bhp-hr.

(10) 2004–2006 — Except as provided in paragraph (11), below, the required standard shall be 2.4 g/bhp-hr NOx + NMHC measured as the arithmetic sum of exhaust component certification values for these pollutants, without restriction on individual component values, 15.5 g/bhp-hr CO, and 0.05 g/bhp-hr PM (0.07 g/bhp-hr PM in-use).

(A) Manufacturers may choose to certify to a 2.5 g/bhp-hr optional combined NOx + NMHC standard, provided that the NMHC exhaust component certification value shall not exceed 0.5 g/bhp-hr.

(B) Emissions averaging may be used to meet the combined NOx + NMHC standard, the optional combined NOx + NMHC standard set forth in paragraph (A), and the PM standard.

(C) The combined NOx + NMHC standard and the optional combined NOx + NMHC standard described in paragraph (A) may serve as the certification standard for the higher emitting fueling mode of an engine certified under the dual fueling mode certification process set forth in section 1956.8(a)(4), Title 13, CCR.

(11) 2004–2006 — For diesel-fueled, or dual-fuel, and bi-fuel urban bus engines except for heavy-duty pilot ignition engines, the standards are 0.5 g/bhp-hr NOx, 0.01 g/bhp-hr PM, 0.05 g/bhp-hr NMHC, 5.0 g/bhp-hr CO, and 0.01 g/bhp-hr formaldehyde. As an option, manufacturers may choose to meet the NOx and PM standards with a base engine that is certified to the standards in paragraph (10) above, equipped with an aftertreatment system that reduces NOx to 0.5 g/bhp-hr and PM to 0.01 g/bhp-hr standards. The NMHC, CO, and formaldehyde standards in this paragraph (11) shall still apply. Manufacturers shall be responsible for full certification, durability, testing, and warranty and other requirements for the base engine. For the aftertreatment system, manufacturers shall not be subject to the certification durability requirements, or in-use recall and enforcement provisions, but are subject to warranty provisions for functionality.

(A) Engine manufacturers may sell diesel-fueled, dual-fuel, or bi-fuel engines to any transit fleet exempted by the Executive Officer under paragraphs (b)(8) and (c)(7) of section 2023.1, Title 13, CCR, from the requirements of paragraphs (b)(5) and (c)(4) of section 2023.1, certified to the standards in either paragraphs (9) or (10) above, provided that engines certified to the standards in paragraph (10) must be certified to a 0.01 g/bhp-hr PM standard.

(B) Manufacturers may sell diesel-fueled hybrid-electric buses that are certified to a 1.8 g/bhp-hr NOx, 0.01 g/bhp-hr PM, 0.5 g/bhp-hr NMHC, and 15.5 g/bhp-hr CO standard to any transit agency that has received written authorization from the Executive Officer pursuant to paragraph (c)(9) of section 2023.1, title 13, CCR. The formaldehyde standard set forth in paragraph (11), above, shall not apply to the HEBs sold pursuant to this subparagraph.

(b) 2003–2006 bi-fuel heavy-duty pilot ignition engines — A bi-fuel engine meeting the definition of a heavy-duty pilot ignition engine set forth in section 2020 may be certified to the standards in section 1956.1(a)(8) and (a)(10), provided that the engine is certified to an optional PM standard of 0.03, 0.02, or 0.01 g/bhp-hr.

(c) Test Procedures. The test procedures for determining compliance with standards applicable to 1985 through 2006 model-year heavy-duty diesel cycle urban bus engines and vehicles and the requirements for participation in the averaging, banking and trading programs, are set forth in the "California Exhaust Emission Standards and Test Procedures for 1985 through 2003 Model Heavy-Duty Diesel Engines and Vehicles," adopted April 8, 1985, as last amended December 12, 2002, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," adopted December 12, 2002, as last amended July 26, 2007, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hy-

brid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes," adopted October 24, 2002, which are incorporated by reference herein.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43100, 43101, 43104 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39017, 39033, 39500, 39650, 39657, 39667, 39701, 40000, 43000, 43000.5, 43009, 43013, 43018, 43102 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment of subsection (a)(11) filed 6-4-2001; operative 6-4-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 23).
3. Amendment filed 10-16-2003; operative 11-15-2003 (Register 2003, No. 42).
4. Amendment of subsection (c) filed 11-4-2003; operative 12-4-2003 (Register 2003, No. 45).
5. Redesignation and amendment of second paragraph of subsection (a)(11) as new subsection (a)(11)(A) and new subsection (a)(11)(B) filed 1-31-2005; operative 1-31-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 5).
6. Amendment of subsections (a)(11)(A)-(B) and (b) filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).
7. Editorial correction restoring inadvertently deleted subsection (a)(8) (Register 2006, No. 35).
8. Amendment of section heading and subsection (a)(10), repealer of subsection (a)(12) and amendment of subsections (b)-(c) filed 9-7-2006; operative 10-7-2006 (Register 2006, No. 36).
9. Amendment of section heading and subsection (c) filed 9-11-2007; operative 10-11-2007 (Register 2007, No. 37).

§ 1956.2. Fleet Rule for Transit Agencies.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43701(b), Health and Safety Code. Reference: Sections 39002, 39003, 39017, 39500, 39650, 39667, 40000, 43000, 43000.5, 43013, 43018, 43701(b), 43801 and 43806, Health and Safety Code; and Sections 233 and 28114, Vehicle Code.

HISTORY

1. New section filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment of subsection (c)(5) and new subsections (c)(8)-(c)(8)(C) filed 6-4-2001; operative 6-4-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 23).
3. Amendment of section and NOTE filed 10-16-2003; operative 11-15-2003 (Register 2003, No. 42).
4. New subsection (b)(5), subsection renumbering, amendment of subsection (d)(3) and new subsections (d)(9)-(d)(9)(C) filed 1-31-2005; operative 1-31-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 5).
5. Renumbering of portions of former section 1956.2 to sections 2023 and 2023.1 filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 1956.3. Zero-Emission Bus Requirements.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43100, 43101, 43104 and 43806, Health and Safety Code. Reference: Sections 39002, 39003, 39017, 39018, 39500, 39701, 40000, 43000, 43000.5, 43009, 43013, 43018, 43102, 43801 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment of subsections (b)(2)(B)-(D) and (b)(3)(C) filed 1-31-2005; operative 1-31-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 5).
3. Renumbering of former section 1956.3 to section 2023.3 filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 1956.4. Reporting Requirements for all Urban Bus Transit Agencies.

NOTE: Authority cited: Sections 39600, 39601, 39659, 39667, 39701, 43018 and 41511, Health and Safety Code. Reference: Sections 39667, 39700, 39701, 41510, 41511, 43000, 43000.5, 43013, 43018, 43801 and 43806, Health and Safety Code.

HISTORY

1. New section filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
2. Amendment of subsection (g) filed 6-4-2001; operative 6-4-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 23).
3. Amendment of section and NOTE filed 10-16-2003; operative 11-15-2003 (Register 2003, No. 42).

4. New subsections (e)(3)-(e)(3)(D), subsection renumbering, amendment of newly designated subsections (e)(4) and (e)(4)(B) and new subsections (h)-(h)(3) filed 1-31-2005; operative 1-31-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 5).
5. Renumbering of former section 1956.4 to section 2023.4 filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 1956.5. Exhaust Emission Standards and Test Procedures—1979 Model-Year Heavy-Duty Engines and Vehicles.

(a) The exhaust emissions from new 1979 model-year heavy-duty engines, except engines used in medium-duty vehicles, shall not exceed:

Exhaust Emission Standards *
(grams per brake horsepower hour)

Note	Hydrocarbons	Carbon Monoxide	Oxides of Nitrogen	Hydrocarbons Plus Oxides of Nitrogen
1	1.0	25	7.5	—
2	1.5	25	7.5	—
3	—	25	—	5

*The three sets of standards shall be alternatives. A manufacturer shall have the option of showing compliance with any one of the three sets.

NOTES:

1. Measured by procedures specified in Subpart H (gasoline-powered engines) or Subpart J (diesel-powered engines) of Part 86, Title 40, Code of Federal Regulations, as they existed on September 8, 1977.
2. Measured by procedures specified in Subpart D (gasoline and diesel-powered engines) of Part 86, Title 40, Code of Federal Regulations, as they existed on September 8, 1977.
3. Measured by the procedures specified in Subpart D, Subpart H, or Subpart J, as applicable, of Part 86, Title 40, Code of Federal Regulations, as they existed on September 8, 1977.

(b) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1979 and Subsequent Model-Year Heavy-Duty Engines and Vehicles," adopted October 5, 1976, as last amended March 1, 1978.

(c) A manufacturer may elect to certify heavy-duty vehicles of less than 10,000 pounds maximum gross vehicle weight rating as medium-duty vehicles under Section 1959.5 of this chapter, in which event heavy-duty emission standards and test procedures shall not apply.

(d) This regulation shall remain in effect until December 31, 1989, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1989, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101, and 43104, Health and Safety Code.

§ 1956.6. Exhaust Emission Standards and Test Procedures—1980 Model Heavy-Duty Engines and Vehicles.

(a) The exhaust emissions from new 1980 model heavy-duty engines and vehicles, except engines used in medium-duty vehicles, shall not exceed:

Exhaust Emission Standards
(grams per brake horsepower hour)

Model Year	Hydrocarbons	Carbon Monoxide	Hydrocarbons plus Oxides of Nitrogen
1980	1.0	25	6.0
OR*	—	25	5

*The two sets of standards are alternatives. A manufacturer has the option for each engine family of showing compliance with either set. Separate deterioration factors shall be established, where applicable, for HC, CO, NOx, and/or the combined emissions of HC and NOx.

(b) The test procedures for determining compliance with these standards are set forth in the "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines and Vehicles," adopted May 24, 1978.

(c) A manufacturer may elect to certify heavy-duty vehicles of less than 10,000 pounds maximum gross vehicle weight rating as medium-duty vehicles under Section 1960.0 of this chapter, in which event heavy-duty emission standards and test procedures shall not apply.

(d) This regulation shall remain in effect until December 31, 1990, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1980, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101 and 43104, Health and Safety Code.

§ 1956.7. Exhaust Emission Standards and Test Procedures—1981 Through 1986 Model Heavy-Duty Gasoline-Powered Engines and Vehicles and 1981 Through 1984 Model Heavy-Duty Diesel-Powered Engines and Vehicles.

(a) The exhaust emissions from new 1981 through 1986 model heavy-duty gasoline-powered engines and new 1981 through 1984 model heavy-duty diesel-powered engines, except engines used in medium-duty vehicles, shall not exceed:

Primary Exhaust Emission Standards
(grams per brake horsepower hour)

Model Year	Gasoline or Diesel Powered	Hydrocarbons	Carbon Monoxide	Hydrocarbons Plus Oxides of Nitrogen
1981–1983	Both	1.0	25	6.0
OR*	Both	—	25	5
1984	Both	0.5	25	4.5
1985–1986	Gasoline Only	0.5	25	4.5

*The two sets of standards for each model year are alternatives. A manufacturer has the option for each engine family of showing compliance with either set. Separate deterioration factors shall be established, where applicable, for HC, CO, NOx, and/or the combined emissions of HC and NOx.

The following optional exhaust emission standards are applicable to engines tested pursuant to the optional federal test procedures and regulations for 1984 model heavy-duty engines. These standards replace the federal standards in Code of Federal Regulations Sections 86.084–10 and 86.084–11 for hydrocarbons, carbon monoxide and oxides of nitrogen, only.**

Optional Exhaust Emission Standards
(grams per brake horsepower hour)

Model Year	Hydrocarbons	Carbon Monoxide	Oxides of Nitrogen
1984	1.3	15.5	5.1

**The federal 13-mode optional standards for 1984 model-year diesel-powered engines do not apply. In addition, the engine crankcase emission control requirement in Subparagraph 86.084–11(b)(2)(c) shall not apply for the 1984 model year.

(b) The test procedures for determining compliance with 1981 standards are set forth in the “California Exhaust Emission Standards and Test Procedures for 1981 Model Heavy-Duty Engines and Vehicles,” adopted April 23, 1980.

(c) The test procedures for determining compliance with standards applicable to 1982 through 1986 models are set forth in the “California Exhaust Emission Standards and Test Procedures for 1982 through 1986

Model Heavy-Duty Gasoline-Powered Engines and Vehicles and 1982 through 1984 Model Heavy-Duty Diesel-Powered Engines and Vehicles,” adopted October 5, 1976, as last amended April 25, 1986.

(d) A manufacturer may elect to certify heavy-duty vehicles of less than 10,000 pounds maximum gross vehicle weight rating as medium-duty vehicles under Section 1960.1 of this chapter, in which event heavy-duty emission standards and test procedures shall not apply.

(e)(1) For 1982 through 1984, the executive officer may authorize use of engines certified to meet federal emission standards, or which are demonstrated to meet appropriate federal emission standards, in up to a total of 100 heavy-duty vehicles in any one calendar year when the executive officer has determined that no engine certified to meet California emission standards exists which is suitable for use in the vehicles. For 1985 and future years, the use of engines which are not heavy-duty engines certified for sale in California may be authorized pursuant to Section 1956.8.

(2) In order to qualify for an exemption, the vehicle manufacturer shall submit, in writing, to the executive officer the justification for such exemption. The exemption request shall show that, due to circumstances beyond the control of the vehicle manufacturer, California certified engines are unavailable for use in the vehicle. The request shall further show that redesign or discontinuation of the vehicle will result in extreme cost penalties and disruption of business. In evaluating a request for an exemption, the executive officer shall consider all relevant factors, including the number of individual vehicles covered by the request and the anti-competitive effect, if any, of granting the request. If a request is denied, the executive officer shall state in writing the reasons for the denial.

(3) In the event the executive officer determines that an applicant may meet the criteria for an exemption under this subsection, but that granting the exemption will, together with previous exemptions granted, result in over 100 vehicles being permitted under this subsection to use non-California engines in heavy-duty vehicles in any one calendar year through 1984, the exemption may be granted only by the state board, under the criteria set forth herein.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101 and 43104, Health and Safety Code.

HISTORY

1. Amendment filed 11–23–83; effective thirtieth day thereafter (Register 83, No. 48).
2. Amendment filed 5–15–85; effective thirtieth day thereafter (Register 85, No. 20).
3. Editorial correction of printing error of subsection (a) (Register 85, No. 43).
4. Amendment of subsections (a) and (c) filed 9–15–86; effective thirtieth day thereafter (Register 86, No. 38).

§ 1956.8. Exhaust Emissions Standards and Test Procedures—1985 and Subsequent Model Heavy-Duty Engines and Vehicles.

(a)(1) The exhaust emissions (i) from new 1985 through 2003 model heavy-duty diesel engines (except methanol-fueled engines), and heavy-duty natural-gas-fueled and liquefied-petroleum-gas-fueled engines derived from diesel-cycle engines, and (ii) from all new 1993 through 2003 model heavy-duty methanol-fueled, diesel engines, except in all cases engines used in medium-duty vehicles, shall not exceed:

Exhaust Emission Standards
For 1985–2003 Model Heavy-Duty Engines Other than Urban Bus Engines
(grams per brake horsepower-hour [g/bhp-hr])

Model Year	Total Hydrocarbons or OMHCE ^A	Optional Non-methane Hydrocarbons ^A	Carbon Monoxide	Oxides of Nitrogen	Particulates
1985–1986	1.3		15.5	5.1	—
1987 ^B	1.3		15.5	5.1	—
1988–1989	1.3		15.5	6.0	0.60
1990	1.3	1.2	15.5	6.0	0.60
1991–1993 ^C	1.3	1.2	15.5	5.0	0.25 ^D
1994–1997	1.3	1.2	15.5	5.0	0.10 ^D
1995–1997 ^E	1.3	1.2	15.5	3.5 to 0.5	0.10
1998–2003 ^F	1.3	1.2	15.5	4.0 ^{G,H}	0.10 ^G
1998–2003 ^E	1.3	1.2	15.5	2.5 to 0.5 ^I	0.10

^A The total or optional non-methane hydrocarbon standards apply to petroleum-fueled, natural-gas-fueled and liquefied-petroleum-gas-fueled engines. The Organic Material Hydrocarbon Equivalent, or OMHCE, standards apply to methanol-fueled engines.

- ^B As an option a manufacturer may elect to certify to the 1988 model-year emission standards one year early, for the 1987 model year.
- ^C For methanol-fueled engines, these standards shall be applicable beginning with the 1993 model year.
- ^D Emissions averaging may be used to meet this standard. Averaging is restricted to within each useful life subclass and is applicable only through the 1995 model year. Emissions from engines used in urban buses shall not be included in the averaging program.
- ^E These are optional standards. A manufacturer may elect to certify to an optional NOx standard between the values, inclusive, by 0.5 grams per brake horsepower-hour increments. Engines certified to any of these optional NOx standards are not eligible for participation in any averaging, banking or trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in (b), below.
- ^F These are mandatory standards.
- ^G Engines of 1998 through 2003 model years may be eligible to generate banking credits based on these standards according to the requirements of the averaging, banking and trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in (b), below.
- ^H May be used as the certification standard for the higher emitting fueling mode of an engine certified under the dual fueling mode certification process of (a)(3)(4), below.
- ^I May be used as the certification standard for the lower emitting fueling mode of an engine certified under the dual fueling mode certification process of (a)(3)(4), below.

(2)(A) The exhaust emissions from new 2004 and subsequent model heavy-duty diesel engines, heavy-duty natural gas-fueled and liquefied-petroleum-gas-fueled engines derived from diesel-cycle engines, and heavy-duty methanol-fueled diesel engines, and the optional, re-

duced-emission standards for 2002 and subsequent model engines produced beginning October 1, 2002, except in all cases engines used in medium-duty vehicles, shall not exceed:

Exhaust Emission Standards for 2004 and Subsequent Model Heavy-Duty Engines, and Optional, Reduced Emission Standards for 2002 and Subsequent Model Heavy-Duty Engines Produced Beginning October 1, 2002, Other than Urban Bus Model-Year Engines Produced From October 1, 2002 Through 2006^L (grams per brake horsepower-hour [g/bhp-hr])

Model Year	Oxides of Nitrogen Plus Non-methane Hydrocarbons	Optional Oxides of Nitrogen Plus Non-methane Hydrocarbons	Oxides of Nitrogen	Non-methane Hydrocarbons	Carbon Monoxide	Particulates
2004-2006 ^H	2.4 ^{A,C,E,J}	2.5 ^{B,C,E,J}	n/a	n/a	15.5	0.10 ^C
October 1, 2002-2006	n/a	1.8 to 0.3 ^{A,D,F}	n/a	n/a	15.5	0.03 to 0.01 ^G
2007 and subsequent ^M	n/a	n/a	0.20 ^I	0.14	15.5	0.01 ^K

- ^A This is the standard for the arithmetic sum of the oxides of nitrogen exhaust component certification value and the non-methane hydrocarbon exhaust component certification value, without individual restriction on the individual component values.
- ^B This is the standard for the arithmetic sum of the oxides of nitrogen exhaust component certification value and the non-methane hydrocarbon exhaust component certification value, with the non-methane hydrocarbon individual component value not to exceed 0.5 g/bhp-hr.
- ^C For 2004 through 2006 model years, emissions averaging may be used to meet this standard. Averaging must be based on the requirements of the averaging, banking and trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8(b), below.
- ^D A manufacturer may elect to certify to an optional reduced-emission NOx+NMHC standard between the values, inclusive, by 0.3 grams per brake horsepower-hour increments. Engines certified to any of these optional reduced-emission NOx standards are not eligible for participation in any averaging, banking or trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8(b), below.
- ^E May be used as the certification standard for the higher emitting fueling mode of an engine certified under the dual fueling mode certification process of section 1956.8(a)(4), below.
- ^F May be used as the certification standard for the lower emitting fueling mode of an engine certified under the dual fueling mode certification process of section 1956.8(a)(4), below.
- ^G A manufacturer may elect to certify to an optional reduced-emission PM standard between the specified values, inclusive, by 0.01 grams per brake horsepower-hour increments. Engines certified to any of these optional reduced-emission PM standards are not eligible for participation in any averaging, banking or trading programs described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8(b), below.
- ^H Engine manufacturers subject to the Heavy-Duty Diesel Engine Settlement Agreements (Settlement Agreements)¹ must produce engines in compliance with the requirements contained in their respective Settlement Agreement. Most engine manufacturers subject to the Settlement Agreements are required to manufacture engines meeting the exhaust emission standards for 2004 and subsequent model years engines beginning October 1, 2002.
- ^I A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the NOx emissions averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated in section 1956.8 (b), below. If the manufacturer elects to include engine families in any of these programs, the NOx family emission limit (FEL) may not exceed the following FEL caps: 2.00 grams per brake horsepower-hour (0.75 grams per megajoule) for model years before 2010; 0.50 grams per brake horsepower-hour (0.19 grams per megajoule) for model years 2010 and later. The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.
- ^J For 2007 through 2009 model years, a manufacturer may use these emission standards in accordance with section 1956.8 (a)(2)(B). A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the NOx plus NMHC emissions averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated in section 1956.8 (b), below. If the manufacturer elects to include engine families in any of these programs, the NOx family emission limit (FEL) may not exceed the following FEL caps: 2.00 grams per brake horsepower-hour (0.75 grams per megajoule) for model years. The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.
- ^K A manufacturer may elect to include any or all of its heavy-duty diesel engine families in any or all of the particulate averaging, banking, or trading programs for heavy-duty diesel engines, within the restrictions described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" incorporated by reference in section 1956.8 (b), below. The particulate FEL for each engine family a manufacturer elects to include in any of these programs may not exceed an FEL cap of 0.02 grams per brake horsepower-hour (0.0075 grams per megajoule). The FEL cap applies whether credits for the engine family are derived from averaging, banking, or trading programs.
- ^L For 2007 and subsequent model-year urban bus engines, this section applies. For urban bus model-year engines produced from October 1, 2002 through 2006, refer to section 1956.1.
- ^M For model years between 2007 and 2009, transit agencies purchasing urban buses and/or urban bus engines shall meet the requirements set forth in section 2023.1.

¹Seven of the largest heavy-duty diesel engine manufacturers will be implementing measures to reduce emissions beginning October 1, 2002, to meet the requirements of the Heavy-Duty Diesel Engine Settlement Agreements reached with the ARB. The Heavy-Duty Diesel Engine Settlements were agreements reached in response

to lawsuits brought by the United States Environmental Protection Agency and violations alleged by the ARB pertaining to excess in-use emissions caused by the use of defeat devices and unacceptable algorithms. Navistar signed its Settlement Agreement on October 22, 1998. Cummins, Detroit Diesel Corporation, Caterpillar, Volvo, Mack and Renault signed their Settlement Agreements on December 15, 1998.

(B) Phase-in Options.

1. Early NOx compliant engines. For model years 2007, 2008, and 2009, a manufacturer may, at their option, certify one or more of their engine families to the combined NOx plus NMHC standard or FEL applicable to model year 2006 engines under section 1956.8 (a)(2)(A), in lieu of the separate NOx and NMHC standards or FELs applicable to the 2007 and subsequent model years, specified in section 1956.8 (a)(2)(A). Each engine certified under this phase-in option must comply with all other emission requirements applicable to model year 2007 engines. To qualify for this option, a manufacturer must satisfy the U.S.-directed production requirement of certifying no more than 50 percent of engines to the NOx plus NMHC standards or FELs applicable to 2006 engines, as specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(1), as adopted January 18, 2001. In addition, a manufacturer may reduce the quantity of engines that are required to be phased-in using the early certification credit program specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(2), as adopted January 18, 2001, and the "Blue Sky" engine program specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(4), as adopted January 18, 2001.

2. Early PM compliant engines. A manufacturer certifying engines to the 2007 and subsequent model year PM standard listed in section 1956.8(a)(2)(A) (without using credits, as determined in any averaging, banking, or trading program described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," to comply with the standards) before model year 2007 may reduce the number of engines that are required to meet the 2007 and subsequent model year PM standard listed in section 1956.8(a)(2)(A) in model year 2007, 2008 and/or 2009. To qualify for this option, a manufacturer must satisfy the PM emission requirements pursuant to the methods detailed in 40 Code of Federal Regulations, part 86, section 86.007-11 (g)(2)(ii), as adopted January 18, 2001.

(3) Formaldehyde exhaust emissions from new 1993 and subsequent model methanol-fueled diesel engines, shall not exceed:

<i>Model Year</i>	<i>Formaldehyde (g/bhp-hr)</i>
1993-1995	0.10
1996 and subsequent	0.05

(4) An engine family whose design allows engine operation in either of two distinct alternative fueling modes, where each fueling mode is characterized by use of one fuel or a combination of two fuels and by significantly different emission levels under each mode, may certify to a different NOx or NOx plus NMHC (as applicable depending on model year) standard for each fueling mode, provided it meets the following requirements:

(A) The NOx or NOx plus NMHC certification standard used for operation under the higher emitting fueling mode must be one of the standards denoted by footnote H in paragraph (a)(1) and footnote E in paragraph (a)(2).

(B) The NOx or NOx plus NMHC certification standard used for operation under the lower emitting fueling mode must be one of the reduced-emission standards denoted by footnote I in paragraph (a)(1) and footnote F in paragraph (a)(2).

(C) The engine family is not used to participate in any manufacturer's averaging, banking or trading program.

(D) The engine family meets all other emission requirements contained in this section.

(E) The higher emitting fueling mode must be intended only for fail-safe vehicle operation when a malfunction or inadvertent fuel depletion precludes operation in the lower emitting fueling mode, as evidenced by a significantly reduced horsepower versus engine speed curve when operating in the higher emitting fueling mode when compared to the similar curve for the lower emitting fueling mode.

(5) No crankcase emissions shall be discharged directly into the ambient atmosphere from any new 2007 or later model year diesel heavy-duty diesel engine, with the following exception: heavy-duty diesel engines equipped with turbochargers, pumps, blowers, or superchargers for air induction may discharge crankcase emissions to the ambient atmosphere if the emissions are added to the exhaust emissions (either physically or mathematically) during all emission testing. Manufacturers using this exception must manufacture the engines so that all crankcase emissions can be routed into a dilution tunnel (or other sampling system approved in advance by the Executive Officer), and must account for deterioration in crankcase emissions when determining exhaust deterioration factors. For the purpose of section 1956.8(a)(2), crankcase emissions that are routed to the exhaust upstream of exhaust aftertreatment during all operation are not considered to be "discharged directly into the ambient atmosphere."

(6) Heavy-Duty Diesel Engine Idling Requirements.

(A) Engine Shutdown System. The requirements in this subsection apply to engine manufacturers and original equipment manufacturers, as applicable, that are responsible for the design and control of engine and/or vehicle idle controls.

1. Requirements. Except as provided in subsections (a)(6)(B) and (a)(6)(C), all new 2008 and subsequent model-year heavy-duty diesel engines shall be equipped with an engine shutdown system that automatically shuts down the engine after 300 seconds of continuous idling operation once the vehicle is stopped, the transmission is set to "neutral" or "park", and the parking brake is engaged. If the parking brake is not engaged, then the engine shutdown system shall shut down the engine after 900 seconds of continuous idling operation once the vehicle is stopped and the transmission is set to "neutral" or "park." The engine shutdown system must be tamper-resistant and non-programmable. A warning signal, such as a light or sound indicator inside the vehicle cabin, may be used to alert the driver 30 seconds prior to engine shutdown. The engine shutdown system must be capable of allowing the driver to reset the engine shutdown system timer by momentarily changing the position of the accelerator, brake, or clutch pedal, or other mechanism within 30 seconds prior to engine shutdown. Once reset, the engine shutdown system shall restart the engine shutdown sequence described in this paragraph above, and shall continue to do so until the engine shuts down or the vehicle is driven.

2. Engine Shutdown System Override. The engine shutdown system may be overridden, to allow the engine to run continuously at idle, only under the following conditions:

a. If the engine is operating in power take-off (PTO) mode. The PTO system shall have a switch or a setting that can be switched "on" to override the engine shutdown system and will reset to the "off" position when the vehicle's engine is turned off or when the PTO equipment is turned off. Subject to advance Executive Officer approval, other methods for detecting or activating PTO operation may be allowed; or,

b. if the vehicle's engine coolant temperature is below 60°F. The engine shutdown system shall automatically be activated once the coolant temperature reaches 60°F or above. The engine coolant temperature shall be measured with the engine's existing engine coolant temperature sensor used for engine protection, if so equipped. Other methods of measuring engine coolant temperature may be allowed, subject to advance Executive Officer approval.

c. if an exhaust emission control device is regenerating, and keeping the engine running is necessary to prevent aftertreatment or engine damage, the engine shutdown system may be overridden for the duration necessary to complete the regeneration process up to a maximum of 30 minutes. Determination of what constitutes the need for regeneration will be based on data provided by the manufacturer at time of certification. Regeneration events that may require longer than 30 minutes of engine idling

ling to complete shall require advance Executive Officer approval. At the end of the regeneration process, the engine shutdown system shall automatically be enabled to restart the engine shutdown sequence described in subparagraph (a)(6)(A)1. above. A vehicle that uses a regeneration strategy under engine idling operating conditions shall be equipped with a dashboard indicator light that, when illuminated, indicates that the exhaust emission control device is regenerating. Other methods of indicating that the exhaust emission control device is regenerating may be used with advance Executive Officer approval.

d. if servicing or maintenance of the engine requires extended idling operation. The engine's electronic control module may be set to temporarily deactivate the engine shutdown system for up to a maximum of 60 minutes. The deactivation of the engine shutdown system shall only be performed with the use of a diagnostic scan tool. At the end of the set deactivation period, the engine's electronic control module shall reset to restart the engine shutdown system sequence described in subparagraph (a)(6)(A)1. above.

(B) Exempt Vehicles. Heavy-duty diesel engines to be used in buses as defined in California Vehicle Code sections 233, 612 and 642, school buses as defined in California Vehicle Code section 545, recreational vehicles as defined in Health and Safety Code 18010, medium duty vehicles as defined in section 1900(b)(13) of title 13, California Code of Regulations, military tactical vehicles as defined in section 1905 of title 13, California Code of Regulations, and authorized emergency vehicles as defined in California Vehicle Code section 165 are exempted from these requirements.

(C) Optional NOx idling emission standard. In lieu of the engine shutdown system requirements specified in subsection (a)(6)(A) above, an engine manufacturer may elect to certify its new 2008 and subsequent model-year heavy-duty diesel engines to an optional NOx idling emission standard of 30 grams per hour. Compliance with this optional standard will be determined based on testing conducted pursuant to the supplemental NOx idling test cycle and procedures specified in section 86.1360–2007.B.4 of the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” as incorporated by reference in subsection (b). The manufacturer may request an alternative test procedure if the technology used cannot be demonstrated using the procedures in section 86.1360–2007.B.4, subject to advance approval of the Executive Officer. A manufacturer certifying to the optional NOx idling standard must not increase emissions of CO, PM, or NMHC, determined by comparing results from the supplemental NOx idling test cycle and procedures specified in section 86.1360–2007.B.4 of the referenced “California Ex-

haust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles” to emission results from the idle mode of the supplemental steady state test cycle or emission results from idle portions of the transient test cycle for heavy duty diesel engines, respectively specified in sections 86–1360–2007 and 86.1327–98 of the referenced “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles.” With advance Executive Officer approval, a manufacturer may use other methods of ensuring that emissions of CO, PM, and NMHC are not adversely affected in meeting the optional NOx requirement. Also, manufacturers shall state in their application for certification that meeting the optional NOx idling requirement will not adversely affect the associated emissions of CO, PM and NMHC.

An engine manufacturer certifying its engine to the optional NOx idling emission standard must also produce a vehicle label, as defined in subsection 35.B.4 of the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” as incorporated by reference in subsection (b).

(D) Optional Alternatives to Main Engine Idling. All new 2008 and subsequent model year heavy duty diesel engines may also be equipped with idling emission reduction devices that comply with the compliance requirements specified in title 13, CCR, section 2485(c)(3).

(b) The test procedures for determining compliance with standards applicable to 1985 and subsequent model heavy-duty diesel engines and vehicles and the requirements for participation in the averaging, banking and trading programs, are set forth in the “California Exhaust Emission Standards and Test Procedures for 1985 through 2003 Model Heavy-Duty Diesel Engines and Vehicles,” adopted April 8, 1985, as last amended December 12, 2002, the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” adopted December 12, 2002, as last amended October 17, 2007, and the “California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle Classes,” adopted October 24, 2002, which are incorporated by reference herein.

(c)(1)(A) The exhaust emissions from (i) new 1987 through 2004 model heavy-duty Otto-cycle engines (except methanol-fueled engines and except heavy-duty Otto-cycle natural-gas-fueled and liquified-petroleum-gas-fueled Otto-cycle engines derived from diesel-cycle engines) and (ii) from new 1993 through 2004 model heavy-duty methanol-fueled Otto-cycle engines (except in all cases engines used in medium-duty vehicles) shall not exceed:

Exhaust Emission Standards for Heavy-Duty Otto-Cycle Engines (grams per brake horsepower-hour or g/bhp-hr)				
Model Year	Total Hydrocarbons or OMHCE ^A	Optional Non-Methane Hydrocarbons ^A	Carbon Monoxide ^B	Oxides of Nitrogen
1987 ^C	1.1 ^D 1.9 ^E		14.4 ^D 37.1 ^E	10.6 10.6
1988–1989	1.1 ^D 1.9 ^E		14.4 ^D 37.1 ^E	6.0 6.0
1990	1.1 1.9 ^E	0.9 ^D 1.7 ^E	14.4 ^D 37.1 ^E	6.0 6.0
1991–1994	1.1 ^D 1.9 ^E	0.9 ^D 1.7 ^E	14.4 ^D 37.1 ^E	5.0 5.0
1995–1997	1.9 ^E	1.7 ^E	37.1 ^E	5.0
1998–2003 ^G	1.9 ^E 1.9 ^E	1.7 ^E 1.7 ^E	37.1 ^E 37.1 ^E	2.5 to 5.0 ^F 4.0
				1.5 to 0.5 ^F
<hr/>				
Non-Methane Hydrocarbons plus Oxides of Nitrogen (NMHC + NOx)			Carbon Monoxide	
2004 ^G	2.4 g/bhp-hr; or 2.5 with 0.5 g/bhp-hr cap on NMHC		37.1	

^AThe total or optional non-methane hydrocarbon standards apply to petroleum-fueled, natural-gas-fueled and liquefied-petroleum-gas-fueled engines and methanol-fueled engines beginning in 2004. The Organic Material Hydrocarbon Equivalent, or OMHCE, standards apply to 1987 through 2003 methanol-fueled engines.

^BPrior to the 2002 model year, carbon monoxide emissions from engines utilizing exhaust after treatment technology shall also not exceed 0.5 percent of the exhaust gas flow at curb idle.

^CManufacturers with existing heavy-duty Otto-cycle engines certified to the California 1986 steady-state emission standards and test procedures may as an option certify those engines, for the 1987 model year only, in accordance with the standards and test procedures for 1986 heavy-duty Otto-cycle engines established in Section 1956.7.

^DThese standards are applicable to Otto-cycle engines intended for use in all heavy-duty vehicles.

^EApplicable to heavy-duty Otto-cycle engines intended for use only in vehicles with a gross vehicle weight rating greater than 14,000 pounds. Also, as an option, a manufacturer may certify one or more 1988 through 1994 model Otto-cycle heavy-duty engine configurations intended for use in all heavy-duty vehicles to these emission standards, provided that the total model-year sales of such configuration(s) being certified to these emission standards represent no more than 5 percent of total model-year sales of all Otto-cycle heavy-duty engines intended for use in vehicles with a Gross Vehicle Weight Rating of up to 14,000 pounds by the manufacturer.

^FThese are optional standards and apply to all heavy-duty engines intended for use only in vehicles with a gross vehicle weight rating greater than 14,000 pounds. A manufacturer may elect to certify to an optional standard between the values, inclusive, by 0.5 grams per brake horsepower-hour increments.

^GA manufacturer may request to certify to Option 1 or Option 2 federal NMHC + NOx standards as set forth in 40 CFR § 86.005–10(f), as adopted October 6, 2000.

(B) The exhaust emissions from new 2005 and subsequent model heavy-duty engines subject to the alternative standards in 40 CFR heavy-duty Otto-cycle engines, except for Otto-cycle medium- and §86.005–10(f), shall not exceed:

California Emission Standards for 2005 and Subsequent Model
Heavy-Duty Otto-Cycle Engines^A
(in g/bhp-hr)

Model Year	Emission Category	NMHC + NOx	NMHC	NOx	CO ^F	HCHO	PM
Standards for Heavy-Duty Otto-Cycle Engines Used In Incomplete Medium-Duty Vehicles 8,501 to 14,000 pounds GVW ^B							
2005 through 2007	ULEV	1.0 ^{C,E}	n/a	n/a	14.4	0.05	n/a
	SULEV	0.5	n/a	n/a	7.2	0.025	n/a
2008 and subsequent	ULEV	n/a	0.14 ^E	0.20 ^E	14.4	0.01	0.01
	SULEV	n/a	0.07 ^E	0.10 ^E	7.2	0.005	0.005
Standards for Heavy-Duty Otto-Cycle Engines Used In Heavy-Duty Vehicles Over 14,000 pounds GVW							
2005 through 2007	n/a	1.0 ^{C,E}	n/a	n/a	37.1	0.05 ^D	n/a
2008 and subsequent	n/a	n/a	0.14 ^E	0.20 ^E	14.4	0.01	0.01

^AThese standards apply to petroleum-fueled, alcohol-fueled, liquefied petroleum gas-fueled and natural gas-fueled Otto-cycle engines.

^BA manufacturer of engines used in incomplete medium-duty vehicles may choose to comply with these standards as an alternative to the primary emission standards and test procedures for complete vehicles specified in section 1961, title 13, CCR. A manufacturer that chooses to comply with these optional heavy-duty engine standards and test procedures shall specify, in the Part I application for certification, an in-use compliance test procedure, as provided in section 2139(c), title 13 CCR.

^CA manufacturer may request to certify to the Option 1 or Option 2 federal NMHC + NOx standards as set forth in 40 CFR § 86.005–10(f). However, for engines used in medium-duty vehicles, the formaldehyde level must meet the standard specified above.

^DThis standard only applies to methanol-fueled Otto-cycle engines.

^EA manufacturer may elect to include any or all of its medium- and heavy-duty Otto-cycle engine families in any or all of the emissions ABT programs for HDEs, within the restrictions described in section 1.15 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," incorporated by reference in section 1956.8(d). For engine families certified to the Option 1 or 2 federal standards, the FEL must not exceed 1.5 g/bhp-hr. If a manufacturer elects to include engine families certified to the 2005 and subsequent model year standards, the NOx plus NMHC FEL must not exceed 1.0 g/bhp-hr. For engine families certified to the 2008 and subsequent model year standards, the FEL is the same as set forth in 40 CFR 86.008–10(a)(1).

^FIdle carbon monoxide: For all Otto-cycle heavy-duty engines utilizing aftertreatment technology, and not certified to the on-board diagnostics requirements of section 1968, et seq., as applicable, the CO emissions shall not exceed 0.50 percent of exhaust gas flow at curb idle.

(2) Formaldehyde exhaust emissions from new 1993 and subsequent model methanol-fueled otto cycle engines shall not exceed:

Model Year	Formaldehyde (g/bhp-hr)
1993–1995	0.10
1996 and Subsequent	0.05

(d) The test procedures for determining compliance with standards applicable to 1987 and subsequent model heavy-duty Otto-cycle engines and vehicles are set forth in the "California Exhaust Emission Standards and Test Procedures for 1987 through 2003 Model Heavy-Duty Otto-Cycle Engines and Vehicles," adopted April 25, 1986, as last amended December 27, 2000, the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," adopted December 27, 2000, as last amended October 17, 2007, the "California Non-Methane Organic Gas Test Procedures," adopted July 12, 1991, as last amended July 30, 2002, and the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicles, in the Urban Bus and Heavy-Duty Vehicle

Classes," adopted October 24, 2002, which are incorporated by reference herein.

(e) A manufacturer may elect to certify complete heavy-duty vehicles of 14,000 pounds or less maximum gross vehicle weight rating as medium-duty vehicles under section 1960.1 or section 1961 of this chapter, in which event the heavy-duty emission standards and test procedures in this section shall not apply.

(f)(1) In 1985 and future years, the executive officer may authorize use of engines certified to meet federal emission standards, or which are demonstrated to meet appropriate federal emission standards, in up to a total of 100 heavy-duty vehicles, including otto-cycle and diesel heavy-duty vehicles, in any one calendar year when the executive officer has determined that no engine certified to meet California emission standards exists which is suitable for use in the vehicles.

(2) In order to qualify for an exemption, the vehicle manufacturer shall submit, in writing, to the executive officer the justification for such exemption. The exemption request shall show that, due to circumstances beyond the control of the vehicle manufacturer, California certified en-

gines are unavailable for use in the vehicle. The request shall further show that redesign or discontinuation of the vehicle will result in extreme cost penalties and disruption of business. In evaluating a request for an exemption, the executive officer shall consider all relevant factors, including the number of individual vehicles covered by the request and the anti-competitive effect, if any, of granting the request. If a request is denied, the executive officer shall state in writing the reasons for the denial.

(3) In the event the executive officer determines that an applicant may meet the criteria for an exemption under this subsection, but that granting the exemption will, together with previous exemptions granted, result in over 100 vehicles being permitted under this subsection to use non-California engines in heavy-duty vehicles in any one calendar year, the exemption may be granted only by the state board, under the criteria set forth herein.

(g) The exhaust emissions from new 1995 through 2003 model-year engines used in incomplete medium-duty vehicles or diesel engines used in medium-duty vehicles shall not exceed:

Exhaust Emission Standards^A

(grams per brake horsepower-hour, or g/bhp-hr)

Model Year	Carbon Monoxide	NMHC + NO _x ^B	Particulates ^C
1995 ^D through 2003	14.4	3.9	0.10

^AThis set of standards is optional. Manufacturers of engines used in incomplete medium-duty vehicles or diesel engines used in medium-duty vehicles from

8501–14,000 pounds, gross vehicle weight may choose to comply with these standards as a alternative to the primary emission standards and test procedures specified in section 1960.1, Title 13, California Code of Regulations. Manufacturers that choose to comply with these optional heavy-duty standards and test procedures shall specify, in the application for certification, an in-use compliance test procedure, as provided in section 2139(c), Title 13, California Code of Regulations.

^BThis standard is the sum of the individual non-methane hydrocarbon emissions and oxides of nitrogen emissions. For methanol-fueled engines, non-methane hydrocarbons shall mean organic material hydrocarbon equivalent.

^CThis standard shall only apply to diesel engines and vehicles.

^DIn the 1995 model-year only, manufacturers may certify up to 50 percent of their medium-duty engines or vehicles to the applicable 1994 model-year standards and test procedures. For the 1995 through 1997 models, alternative in-use compliance is available for medium-duty manufacturers. A manufacturer may use alternative in-use compliance for up to 100 percent of its fleet in the 1995 and 1996 model years and up to 50 percent of its fleet in the 1997 model year. The percentages shall be determined from the manufacturers' projected California sales of medium-duty vehicles. For engines certified to the standards and test procedures of this subsection, "alternative in-use compliance" shall consist of an allowance of 25 percent over the HC + NO_x standard. In-use compliance testing shall be limited to vehicles or engines with less than 90,000 miles.

(h) The exhaust emissions from new:

(1) 1992 through 2004 model-year Otto-cycle engines used in incomplete medium-duty low-emission vehicles, ultra-low-emission vehicles, and super-ultra-low-emission vehicles; and

(2) 1992 and subsequent model diesel engines used in medium-duty low-emission vehicles, ultra-low-emission vehicles, and super-ultra-low-emission vehicles shall not exceed:

Exhaust Emission Standards for Engines Used in Incomplete Otto-Cycle Medium-Duty Low-Emission Vehicles, Ultra-Low-Emission Vehicles, and Super Ultra-Low-Emission Vehicles, and for Diesel Engines Used in Medium-Duty Low-Emission Vehicles, Ultra-Low-Emission Vehicles, and Super Ultra-Low-Emission Vehicles^{A,F}
(grams per brake horsepower-hour)

Model Year	Vehicle Emissions Category ^B	Carbon Monoxide	NMHC + NO _x ^C	Non-Methane Hydrocarbons	Oxides of Nitrogen	Formaldehyde	Particulates ^D
1992 ^E –2001	LEV	14.4	3.5 ^K	n/a	n/a	0.050	0.10 ^K
2002–2003 ^E	LEV	14.4	3.0 ^K	n/a	n/a	0.050	0.10 ^K
1992–2003 ^{E,H}	ULEV	14.4	2.5 ^K	n/a	n/a	0.050	0.10 ^K
2004 and subsequent ^L	ULEV – Opt. A	14.4	2.5 ^{I,J,K}	n/a	n/a	0.050	0.10 ^{J,K}
2004 and subsequent ^L	ULEV – Opt. B/n/a	14.4	2.4 ^{I,J,K}	n/a	n/a	0.050	0.10 ^{J,K}
2007 and subsequent ^D	ULEV	15.5	n/a	0.14	0.20	0.050	0.01
1992 and subsequent ^L	SULEV	7.2	2.0 ^K	n/a	n/a	0.025	0.05 ^K
2007 and subsequent ^D	SULEV	7.7	n/a	0.07	0.10	0.025	0.005

^AThis set of standards is optional. Manufacturers of engines used in incomplete medium-duty vehicles or diesel engines used in medium-duty vehicles from 8501–14,000 pounds gross vehicle weight rating may choose to comply with these standards as a alternative to the primary emission standards and test procedures specified in section 1960.1, or section 1961, Title 13, California Code of Regulations. Manufacturers that choose to comply with these optional heavy-duty standards and test procedures shall specify, in the application for certification, an in-use compliance test procedure, as provided in section 2139(c), Title 13, California Code of Regulations.

^B"LEV" means low-emission vehicle.

^C"ULEV" means ultra-low-emission vehicle.

^D"SULEV" means super ultra-low-emission vehicle.

^EThis standard is the sum of the individual non-methane hydrocarbon emissions and oxides of nitrogen emissions. For methanol-fueled engines, non-methane hydrocarbons shall mean organic material hydrocarbon equivalent ("OMHCE").

^FThese standards apply only to diesel engines and vehicles.

^GManufacturers may certify engines used in incomplete medium-duty vehicles or diesel engines used in medium-duty vehicles to these standards to meet the requirements of section 1956.8 (g), Title 13, California Code of Regulations.

^HIn-use compliance testing shall be limited to vehicles or engines with fewer than 90,000 miles.

^I[Reserved]

^JFor engines certified to the 3.5 grams per brake horsepower-hour (g/bhp-hr) LEV standards, the in-use compliance standard shall be 3.7 g/bhp-hr for the first two model years of introduction. For engines certified to the 2002 and 2003 model year LEV standards, the in-use compliance standard shall be 3.2 g/bhp-hr. For engines certified to the 1992 through 2003 model year ULEV standards, the in-use compliance standard shall be 2.7 g/bhp-hr for the first two model years of introduction. For engines certified to the 1992 and subsequent SULEV standards, the in-use compliance standard shall be 2.2 g/bhp-hr for the first two model years of introduction.

^KManufacturers have the option of certifying to either option A or B. Manufacturers electing to certify to Option A must demonstrate that the NMHC emissions do not exceed 0.5 g/bhp-hr.

^LEmissions averaging may be used to meet these standards for diesel engines, using the requirements for participation in averaging, banking and trading programs, as set forth in the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," incorporated by reference in section 1956.8(b), above.

^MEngines of 1998 and subsequent model years may be eligible to generate averaging, banking and trading credits based on these standards according to the requirements of the averaging, banking and trading programs described in the "California Exhaust Emission Standards and Test Procedures for 1985 through 2003 Model Heavy-Duty Diesel Engines and Vehicles" and the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," incorporated by reference in section 1956.8(b), above.

^NFor 2007 and subsequent model year diesel engines used in medium-duty vehicles, these emission standards are not applicable.

(3) 2007 and later model year engines subject to (h)(2) have the following Phase-in Options.

(A) Early NOx compliant engines. For model years 2007, 2008, and 2009, a manufacturer may, at their option, certify one or more of their engine families to the combined NOx plus NMHC standard or FEL applicable to model year 2006 engines under section 1956.8(h)(2), in lieu of the separate NOx and NMHC standards or FELs applicable to the 2007 and subsequent model years, specified in section 1956.8(h)(2). Each engine certified under this phase-in option must comply with all other emission requirements applicable to model year 2007 engines. To qualify for this option, a manufacturer must satisfy the U.S.-directed production requirement of certifying no more than 50 percent of engines to the NOx plus NMHC standards or FELs applicable to 2006 engines, as specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(1), as adopted January 18, 2001. In addition, a manufacturer may reduce the quantity of engines that are required to be phased-in using the early certification credit program specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(2), as adopted January 18, 2001, and the "Blue Sky" engine program specified in 40 Code of Federal Regulations, part 86, section 86.007-11(g)(4), as adopted January 18, 2001.

(B) Early PM compliant engines. A manufacturer certifying engines to the 2007 and subsequent model year PM standard listed in section 1956.8 (h)(2) (without using credits, as determined in any averaging, banking, or trading program described in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," to comply with the standards) before model year 2007 may reduce the number of engines that are required to meet the 2007 and subsequent model year PM standard listed in section 1956.8(h)(2) in model year 2007, 2008 and/or 2009. To qualify for this option, a manufacturer must satisfy the PM emission requirements pursuant to the methods detailed in 40 Code of Federal Regulations, part 86, section 86.007-11 (g)(2)(ii), as adopted January 18, 2001.

(4) No crankcase emissions shall be discharged directly into the ambient atmosphere from any new 2007 or later model year diesel heavy-duty diesel engine, with the following exception: heavy-duty diesel engines equipped with turbochargers, pumps, blowers, or superchargers for air induction may discharge crankcase emissions to the ambient atmosphere if the emissions are added to the exhaust emissions (either physically or mathematically) during all emission testing. Manufacturers taking advantage of this exception must manufacture the engines so that all crankcase emission can be routed into a dilution tunnel (or other sampling system approved in advance by the Executive Officer), and must account for deterioration in crankcase emissions when determining exhaust deterioration factors. For the purpose of section 1956.8(h)(2), crankcase emissions that are routed to the exhaust upstream of exhaust aftertreatment during all operation are not considered to be "discharged directly into the ambient atmosphere."

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 5-15-85; effective thirtieth day thereafter (Register 85, No. 20).
2. Amendment of subsections (a) and (b) filed 9-15-86; effective thirtieth day thereafter (Register 86, No. 38).
3. Relettering and amendment of former subsection (c) to (e), relettering of former subsection (d) to (f) and new subsections (c) and (d) filed 9-15-86; effective thirtieth day thereafter (Register 86, No. 38).
4. Editorial correction of subsection (a) printing error (Register 87, No. 50).
5. Amendment of subsection (d) filed 6-6-88; operative 6-6-88 pursuant to Government Code section 11346.2(d) (Register 88, No. 25).
6. Amendment filed 2-21-90; operative 3-23-90 (Register 90, No. 8).
7. Amendment filed 6-14-90; effective 7-14-90 (Register 90, No. 33).
8. Amendment of subsections (b), (c), (d) and (g) filed 8-2-91; operative 9-2-91 (Register 91, No. 49).
9. Amendment of subsections (a), (b), (d) and (g) and new subsection (h) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).

10. Amendment of subsections (b) and (d) filed 12-9-92; operative 1-1-93 (Register 92, No. 50).
11. Amendment of subsection (d) filed 7-20-93; operative 8-19-93 (Register 93, No. 30).
12. Amendment of subsection (b) filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
13. Amendment of (a)(1) table and notes, subsection (b) and NOTE filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
14. Amendment of subsections (b) and (d) filed 4-13-95; operative 4-13-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 15).
15. Amendment of subsections (a)(1), (b), (c)(1) and (d) filed 12-14-95; operative 1-13-96 (Register 95, No. 50).
16. Amendment filed 9-23-96; operative 10-23-96 (Register 96, No. 39).
17. Amendment of subsection (b) filed 7-25-97; operative 8-24-97 (Register 97, No. 30).
18. Amendment filed 4-15-99; operative 5-15-99 (Register 99, No. 16).
19. Amendment filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
20. Amendment of section and NOTE filed 4-30-2001; operative 5-30-2001 (Register 2001, No. 18).
21. Amendment of subsection (b) filed 7-25-2001; operative 7-25-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 30).
22. Redesignation and amendment of subsection (a)(2) as subsection (a)(2)(A), new subsections (a)(2)(B) and (a)(5), amendment of subsections (b) and (h), new subsections (h)(3)-(4) and amendment of NOTE filed 10-18-2002; operative 11-17-2002 (Register 2002, No. 42).
23. Change without regulatory effect amending subsections (a)(2)(B)(i)-(ii) and (h)(3) filed 4-16-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 16).
24. Amendment of section and NOTE filed 10-16-2003; operative 11-15-2003 (Register 2003, No. 42).
25. Amendment of subsections (b), (c)(1)(B), (d) and (h)(2) footnotes J-K filed 11-4-2003; operative 12-4-2003 (Register 2003, No. 45).
26. Amendment of subsection (a)(2)(A) table heading and table, new table footnotes L and M and redesignation of former subsections (a)(2)(B)(i)-(ii) as subsections (a)(2)(B)1.-2. filed 9-7-2006; operative 10-7-2006 (Register 2006, No. 36).
27. New subsections (a)(6)-(a)(6)(D), amendment of subsection (b) and amendment of NOTE filed 10-16-2006; operative 11-15-2006 (Register 2006, No. 42).
28. Amendment of subsections (a)(2)(A), (b), (d) and (h)(2) filed 9-11-2007; operative 10-11-2007 (Register 2007, No. 37).
29. Amendment of subsections (b) and (d) and amendment of NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 1956.9. Optional Exhaust Emission Standards for Retrofitted Heavy-Duty Engines.

1973 and later model-year heavy-duty engines that have been retrofitted to produce emissions less than the original certification emission level may be certified to optional emission standards as follows:

(a)(1) Total Hydrocarbons

$(X - n \times 0.2)$ grams per brake horsepower-hour

where $X = 0.75 \times$ new engine total hydrocarbon standard for the engine's model year, with the further requirement that X is rounded down to the nearest lower 0.2 grams per brake horsepower-hour increment; and where n is an integer such that $n \times 0.2$ is greater than or equal to zero.

For diesel engines, $X = 0.75 \times$ original emission certification value for the engine's model year. For engines originally certified to a combined hydrocarbon plus oxides of nitrogen standard, $X = 0.75 \times$ original engine certification standard pro-rated by the hydrocarbon portion of the original emission certification level. If the original certification levels are not available, the hydrocarbon baseline standard shall be prorated by the hydrocarbon and oxides of nitrogen values of the next later model year with separate hydrocarbon and oxides of nitrogen standards.

(a)(2) Non-methane Hydrocarbons

For engines originally certified to an optional non-methane hydrocarbon standard,

$(X - n \times 0.2)$ grams per brake horsepower-hour

where $X = 0.75 \times$ new engine non-methane hydrocarbon standard for the engine's model year, with the further requirement that X is rounded down to the nearest lower 0.2 grams per brake horsepower-hour increment; and where n is an integer such that $n \times 0.2$ is greater than or equal to zero. For diesel engines, $X = 0.75 \times$ original emission certification value for the engine's model year.

(b) Carbon Monoxide

$(X - n \times 5.0)$ grams per brake horsepower-hour

where $X = 0.75 \times$ new engine carbon monoxide standard for the engine's model year, with the further requirement that X is rounded down to the nearest lower 5 grams per brake horsepower-hour increment; and where n is an integer such that $n \times 5.0$ is greater than or equal to zero. For diesel engines, $X = 0.75 \times$ original emission certification value for the engine's model year.

(c) Oxides of Nitrogen

$(X - n \times 0.5)$ grams per brake horsepower-hour

where $X = 0.75 \times$ new engine oxides of nitrogen standard for the engine's model year, with the further requirement that X is rounded down to the nearest lower 0.5 grams per brake horsepower-hour increment; and where n is an integer such that $n \times 0.5$ is greater than or equal to zero. For engines originally certified to a combined hydrocarbon plus oxides of nitrogen standard, $X = 0.75 \times$ original engine certification standard, pro-rated by the oxides of nitrogen portion of the original emission certification level. If the original emission certification levels are not available, the oxides of nitrogen baseline standard shall be pro-rated by the hydrocarbon and oxides of nitrogen values of the next later model year with separate hydrocarbon and oxides of nitrogen standards.

(d) Particulate Matter

$(X - n \times 0.05)$ grams per brake horsepower-hour

where $X = 0.75 \times$ new diesel engine particulate matter standard for the engine's model year, with the further requirement that X is rounded down to the nearest lower 0.05 grams per brake horsepower-hour increment; and where n is an integer such that $n \times 0.05$ is greater than or equal to zero. For diesel engines that were not originally certified to a particulate matter emission standard, $X = 0.75 \times 0.6$ grams per brake horsepower-hour. Gasoline engines may not be certified to an optional exhaust emission standard for particulate matter.

(e) 1972 and earlier model year engines may be certified to credit standards as described in (a)(1), (b), (c), and (d) using 1973 model year new engine emission standards as the basis for calculating "X."

(f) The test procedures for determining compliance with an optional standard shall be the test procedure used to originally certify the engine. To certify to an optional emission standard, a retrofitted engine must meet all of the requirements of "California Certification and Installation Procedures for Alternative Fuel Retrofit Systems for Motor Vehicles Certified for 1994 and Subsequent Model Years and for all Model Year Motor Vehicle Retrofit Systems Certified for Emissions Reduction Credit," adopted March 11, 1993, as amended November 21, 1995, which is incorporated by reference herein.

NOTE: Authority cited: Sections 43701 (b) and (c), Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43004, 43006, 43008, 43013, and 43108, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 2-5-96; operative 3-6-96 (Register 96, No. 6).

§ 1957. Exhaust Emission Standards and Test Procedures—1973 and Subsequent Model-Year Heavy-Duty Diesel-Powered Vehicles.

(a) Exhaust emissions from new 1973 and 1974 model-year diesel-powered engines for use in heavy-duty motor vehicles (6,001 pounds and over, manufacturer's maximum gross vehicle weight) shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen—16 grams per brake horsepower hour;

(2) Carbon monoxide—40 grams per brake horsepower hour.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards, Test and Approval Procedures for Diesel Engines in 1973 and Subsequent Model-

Year Vehicles Over 6,001 Pounds Gross Vehicle Weight," dated November 18, 1970, as last amended February 17, 1971.

In accordance with this section, as originally enacted, new 1973 model-year heavy-duty vehicles must contain 1973 model-year engines. In subsequent years, model-year engine controls, not model-year vehicle.

(b) Exhaust emissions from new 1975 and 1976 model-year diesel powered engines for use in heavy-duty motor vehicles (over 6,000 pounds, manufacturer's maximum gross vehicle weight) shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen—10 grams per brake horsepower hour;

(2) Carbon monoxide—30 grams per brake horsepower hour;

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards, Test and Approval Procedures for 1975 and Subsequent Model-Year Engines in Diesel-Powered Motor Vehicles Over 6,000 Pounds Gross Vehicle Weight," dated December 19, 1973, amended August 8, 1974.

(c) Exhaust emissions from new 1977 model year diesel-powered engines for use in heavy-duty motor vehicles shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen—5 grams per brake horsepower hour;

(2) Carbon monoxide—25 grams per brake horsepower hour;

or

(1) Hydrocarbons—1.0 gram per brake horsepower hour;

(2) Carbon monoxide—25 grams per brake horsepower hour;

(3) Oxides of nitrogen—7.5 grams per brake horsepower hour.

These two sets of standards shall be alternatives. A manufacturer shall have the option for each engine family of showing compliance with either set.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards and Test Procedures for 1975 and Subsequent Model-Year Diesel-Fueled Heavy-Duty Engines and Vehicles," dated December 19, 1973, as last amended March 31, 1976.

(d) Exhaust emissions from new 1978 model-year diesel-fueled heavy-duty engines and vehicles, except medium-duty vehicles, shall not exceed:

(1) Hydrocarbons plus oxides of nitrogen—5 grams per brake horsepower hour;

(2) Carbon monoxide—25 grams per brake horsepower hour;

or

(1) Hydrocarbons—1.0 gram per brake horsepower hour;

(2) Carbon monoxide—25 grams per brake horsepower hour;

(3) Oxides of Nitrogen—7.5 grams per brake horsepower hour.

These two sets of standards shall be alternatives. A manufacturer shall have the option for each engine family of showing compliance with either set.

The test procedures for determining compliance with these standards are those set forth in "California Exhaust Emission Standards and Test Procedures for 1975 to 1978 Model-Year Diesel-Fueled Heavy-Duty Engines and Vehicles," dated December 19, 1973, as last amended October 5, 1976.

A manufacturer may elect to certify heavy-duty vehicles less than 10,000 pounds maximum gross vehicle weight rating as medium-duty vehicles under Section 1959 of this chapter, in which event heavy-duty emission standards and test procedures shall not apply.

(e) This regulation shall remain in effect until December 31, 1988, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1988, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101 and 43104, Health and Safety Code.

§ 1958. Exhaust Emission Standards and Test Procedures—Motorcycles and Motorcycle Engines Manufactured on or After January 1, 1978.

(a) This section shall be applicable to motorcycles, motorcycle engines, and the manufacturers of either motorcycles or motorcycle en-

gines produced on or after January 1, 1978. Motorcycles and motorcycle engines are excluded from the requirements of this section if:

- (1) The engine displacement is less than 50 cubic centimeters, or
- (2) An 80 kilogram (176 pound) driver cannot
 - (A) start from a dead stop using only the engine, or
 - (B) exceed a maximum speed of 40 kilometers per hour (24.9 miles per hour) on a level paved surface.
- (b) Exhaust emissions from new street-use motorcycles and motorcycle engines, subject to registration and sold and registered in this state, shall not exceed:

Table of Standards

Model-Year	Engine Displacement (in cubic centimeters)	Exhaust Emission Standards (grams per kilometer)	
		Hydrocarbon (HC) + Oxides of Nitrogen (NOx)	Carbon Monoxide
1978 to 1979	50 to less than 170	5.0 (HC only)	17
	170 to less than 750	5.0+0.0155(D-170)* (HC only)	17
	750 or greater	14 (HC only)	17
1980 to 1981	All (50 cc or larger)	5.0 (HC only)	17
1982 and subsequent 1982 through 1985 (manufactured prior to March 1, 1985)	50 cc to 279 cc	1.0 (HC only)	12
1985 (manufactured after February 28, 1985) through 1987	280 cc or greater	2.5 (HC only)	12
1988 through 2003	280 cc or greater	1.4 (HC only), applied as a corporate average,** provided that each engine family shall have only one applicable standard	12
1988 through 2003	280 cc to 699 cc	1.0 (HC only), applied as a corporate average,** provided that each engine family shall have only one applicable standard	12
1988 through 2003	700 cc or greater	1.4 (HC only), applied as a corporate average,** provided that each engine family shall have only one applicable standard	12
2004 through 2007	280 cc or greater	1.4 (HC + NOx), applied as a corporate average,** provided that each engine family shall have only one applicable standard	12
2008 and subsequent	280 cc or greater	0.8 (HC + NOx), applied as a corporate average,** provided that each engine family shall have only one applicable standard	12

*D = engine displacement of motorcycles in cubic centimeters.

** Compliance with a standard to be applied as a "corporate average" shall be determined as follows:

$$\frac{\sum_{j=1}^n (\text{PROD}_{jx}) (\text{STD}_{jx})}{\sum_{j=1}^n (\text{PROD}_{jx})} = \text{STD}_{ca}$$

where,

n = Class III motorcycle engine families (engines with displacement of 280 cc or greater manufactured after February 28, 1985).

PROD_{jx} = Number of units of Class III engine family j produced for sale in California in model year x

STD_{jx} = The manufacturer designated HC or HC + NOx emission standard, whichever applies, for engine family j in model year x, which shall be determined by the manufacturer subject to the following conditions:

(1) for Model Year 1988 through 2003 motorcycle engines and motorcycles with engine displacement of 280 cc or greater, no individual engine family exhaust emission standard shall exceed 2.5 g/km HC, and

(2) for Model Year 2004 and subsequent motorcycle engines and motorcycles with engine displacement of 280 cc or greater, no individual engine family exhaust emission standard shall exceed 2.5 g/km HC+NO_x, and

(3) no engine family designation or engine family exhaust emission standard shall be amended in a model year after the engine family is certified for the model year, and

(4) prior to sale or offering for sale in California, each engine family shall be certified in accordance with Section 1958(c) and shall be required to meet the manufacturer's designated HC or HC + NO_x standard, whichever applies, as a condition of the certification Executive Order. Prior to certification the manufacturer shall also submit estimated production volumes for each engine family to be offered for sale in California.

$STD_{Ca} = A$ manufacturer's corporate average HC or HC + NO_x exhaust emissions, whichever applies, from those California motorcycles or motorcycle engines subject to the California corporate average HC or HC + NO_x exhaust emission standard, as established by an Executive Order certifying the California production for the model year. This order must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year and shall include but not be limited to the following requirements:

(1) During the manufacturer's production year, for each engine family, the manufacturer shall provide the following information to the Executive Officer within 30 days after the last day in each calendar quarter:

(A) vehicle identification numbers and an explanation of the identification code;

(B) the total number of vehicles or motorcycle engines produced for sale in California and their applicable designated emissions standards.

(2) The manufacturer's average HC or HC + NO_x exhaust emissions, whichever applies, shall meet the applicable corporate average standard at the end of the manufacturer's production for the model year.

(3) Production and sale of vehicles which result in non-compliance with the California standard for the model year shall cause a manufacturer to be subject to civil penalties, per vehicle, pursuant to Health and Safety Code Section 43154. All excess emissions resulting from final non-compliance with the California standard shall be made up in the following model year.

(4) For a period of up to one year following the end of the model year, for each model the manufacturer shall submit California sales and registration data as it becomes available.

(c) The test procedures for determining compliance with these standards are set forth in Subparts E and F, Part 86, Title 40, Code of Federal Regulations, as they existed on April 15, 1978, for 1978 through 1987 model years, and they existed on July 7, 1986, for 1988 and subsequent model years.

(1) When the word "Administrator" is used in these federal regulations, it shall mean the executive officer of the state board.

(2) When a California service accumulation vehicle is used, the California standards for Class I and II motorcycles for the manufacturer designated standards (STD_{jx}) for Class III motorcycles as defined above shall supersede corresponding federal standards in Subpart E of the federal regulations.

(3) Pursuant to the federal certification protocol under 40 CFR Section 86.432-78, a manufacturer has the option of applying an outlier test point procedure. Where the manufacturer chooses to apply the optional procedure, the California statistical outlier procedure entitled "Calculation of t-Statistic for Deterioration Data Outlier Test," dated December 17, 1976, shall be used to test for irregular data from a durability-data set. If any data point is identified by the manufacturer as a statistical outlier, the executive officer shall determine, on the basis of an engineering analysis of the cause of the outlier submitted by the manufacturer, whether the outlier is to be rejected. The outlier shall be rejected only if the execu-

tive officer determines that the outlier does not reflect representative characteristics of the emission control system anomaly, test procedure error, or an extraordinary circumstance not expected to recur. Only the identified outlier shall be eliminated; other data at that test point (i.e., data for other pollutants) shall not be eliminated unless the executive officer determines, based on the engineering analysis, that they also do not reflect representative characteristics of the emission control system. All durability test data, including any outliers and the manufacturer's engineering analysis shall be submitted with the final application.

(4) When a federal service accumulation vehicle does not meet the applicable California engine family standards, a stabilized "worst case" California configuration vehicle may be utilized to demonstrate compliance with the California standards.

Before an emission test is conducted, the vehicle shall accumulate the following applicable minimum test distance:

Class	Distance (Kilometers)
I	2500
II	2500
III	3500

The test shall be conducted at an accumulated distance within 250 kilometers (155 miles) of the nominal test distance.

A deterioration factor (DF) defined as the extrapolated useful life distance emissions divided by the interpolated minimum test distance emissions shall be computed using emissions data from the federal service accumulation vehicle. The DF shall be applied to the stabilized vehicle test data to obtain useful life emissions. The useful life emissions shall be equal to or less than the applicable California standards in order to obtain California Certification.

(5) Beginning with 2010 model-year vehicles or engines, at the time of certification manufacturers shall state, based on good engineering judgment and available information, that the emission control devices on their vehicles or engines are durable and are designed and will be manufactured to operate properly and in compliance with all applicable requirements for the full useful life (or allowable maintenance interval) of the vehicles or engines. Also, vehicles and engines tested for certification shall be, in all material respects, substantially the same as production vehicles and engines. If it is determined pursuant to title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174 that any emission control component or device experiences a systemic failure because valid failures for that component or device meet or exceed four percent or 50 vehicles (whichever is greater) in a California-certified engine family or test group, it constitutes a violation of the foregoing test procedures and the Executive Officer of the Air Resources Board may require that the vehicles or engines be recalled or subjected to corrective action as set forth in title 13 CCR, Division 3, Chapter 2, Article 5, sections 2166 through 2174. Certification applications may not be denied based on the foregoing information provided that the manufacturer commits to correct the violation.

(d) The state board will accept the Environmental Protection Agency's Certificate of Conformity as equivalent to California Certification for model-years 1978 through 1981.

(e) Motorcycle manufacturers shall submit to the executive officer a complete copy of the application for certification submitted to the Environmental Protection Agency together with a copy of the Certificate of Conformity.

The above information shall be submitted for each engine family prior to sale or offering for sale of 1978 through 1981 model-year motorcycles.

The motorcycle manufacturers shall submit directly to the executive officer a complete copy of the application for certification for 1982 and subsequent model years.

(f)(1) Small Volume Manufacturers: Exhaust emission standards for Class III motorcycles and motorcycle engines produced by small volume manufacturers are as follows:

(A) For Model Years through 2007, Class III motorcycles and motorcycle engines shall meet the applicable HC-only and CO emission limits specified in the Table of Standards in subsection 1958(b).

(B) For Model Year 2008 and subsequent, Class III motorcycles and motorcycle engines shall emit no more than 12 grams of CO per kilometer and 1.4 grams per kilometer HC + NO_x, applied as a corporate average, provided that no engine family shall emit greater than 2.5 grams per kilometer HC + NO_x.

(2) To obtain certification as a small volume manufacturer pursuant to this subsection, the manufacturer shall submit product information and estimated sales data with the certification application for each engine family sold in California. As a condition of obtaining certification as a

small volume manufacturer, the manufacturer shall submit annually to the Executive Officer a summary of its efforts and progress toward meeting more stringent HC + NO_x exhaust emission standards. The summary shall include a description of the manufacturer's current HC + NO_x emission control development status, along with supporting test data, and future planned development work.

(3) For purposes of subsection 1958(f)(1), the following provisions apply:

<i>For Model Years (MY)</i>	<i>Small Volume Manufacturer (SVM) definition is</i>	<i>Applicable Exhaust Emissions Requirements</i>
prior to 1984	not applicable	For all manufacturers, Section 1958(f)(1)(A) and 1958(b) apply.
1984 through 1987	one which sells less than 5,000 new Class I, II, and III motorcycles per model year in California	For SVMs, 2.5 grams per kilometer HC-only and 12 grams per kilometer CO apply only to Class III motorcycles. For all other manufacturers and Class I and II motorcycles, Section 1958(f)(1)(A) and 1958(b) apply.
1988 through 2007	not applicable	For all manufacturers, Section 1958(f)(1)(A) and 1958(b) apply.
2008 and subsequent	one which sells no more than 300 (combined) new Class I, II, and III motorcycles per model year in California, starting with the 2004 MY.	For SVMs, Section 1958(f)(1)(B) applies only to Class III motorcycles. For all other manufacturers and Class I and II motorcycles, Section 1958(b) applies.

(g) Early-Compliance Credits

(1) Manufacturers which sell Class III motorcycles or motorcycle engines in California certified as meeting either a 0.8 g/km or 0.4 g/km HC+NO_x level prior to Model Year 2008 can receive credits for use in the Model Year 2008 corporate average upon written approval by the Executive Officer. Each unit of Class III motorcycle or motorcycle engine sold between Model Years 1999 and 2008 and which meets the requirements of this subsection shall be multiplied by whichever X multiplier applies, as shown in the following table:

Table of Multipliers to Encourage Early Compliance with the 0.8 g/km HC + NO_x Standard and Beyond

<i>Model Year Sold</i>	<i>Multiplier (X) for Use in MY 2008 Corporate Averaging</i>	
	<i>Certified at 0.8 g/km HC + NO_x or below</i>	<i>Certified at 0.4 g/km HC+NO_x or below</i>
1999 through 2004	1.5	3.0
2005	1.375	2.5
2006	1.250	2.0
2007	1.125	1.5
2008 and subsequent	1.0	1.0

Note: Each unit of an early compliant certified motorcycle and motorcycle engine is counted cumulatively toward the MY 2008 corporate average.

(2) Applications for early compliance credits pursuant to this subsection shall include in writing all emissions data, test protocols, equipment specifications, operating conditions, and any other technical information requested by the Executive Officer.

(3) The Executive Order approving early compliance credits under this subsection shall specify the exact amount of credits granted, the date of expiration for the credits, and all enforcement provisions applicable to the use of early compliance credits. Each motorcycle and each motorcycle that incorporates an engine for which early compliance credits have been granted pursuant to this subsection shall specify on its "California Motor Vehicle Emission Control And Smog Index Label" (Section 1965, Title 13, California Code of Regulations), in addition to all other existing requirements, the actual HC + NO_x engine family exhaust emissions level for which the vehicle or engine has been granted early compliance credit.

(h) Sunset Review

Within five years from the effective date of adoption or date of implementation, which ever comes later, the Air Resources Board, in consultation with the Secretary for Environmental Protection, shall review the

provisions of this section to determine whether it should be retained, revised, or repealed.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Cal. Stats. 83, Ch. 103.

HISTORY

1. Editorial correction of subsections (c) and (e) (Register 83, No. 17).
2. Amendment filed 11-23-83; effective thirtieth day thereafter (Register 83, No. 48).
3. Amendment of subsection (b) filed 1-24-85; effective thirtieth day thereafter (Register 85, No. 4).
4. Amendment of subsection (f) filed 5-6-86; effective thirtieth day thereafter (Register 86, No. 19).
5. Amendment filed 3-3-88; operative 4-2-88 (Register 88, No. 12).
6. Amendment of section heading and section filed 11-22-99; operative 12-22-99 (Register 99, No. 48).
7. New subsection (c)(5) and amendment of NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 1959. Exhaust Emission Standards and Test Procedures—1978 Model Medium-Duty Vehicles.

(a) The exhaust emissions from new 1978 medium-duty vehicles having an engine displacement of 50 cubic inches or greater subject to registration and sold and registered in this state, shall not exceed:

Exhaust Emission Standards (grams per mile)

<i>Model Year</i>	<i>Hydrocarbons</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i>
1978	0.9	17	2.3

(b) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1975 Through 1978 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the State Board February 19, 1975, as last amended June 8, 1977.

(c) This regulation shall remain in effect until December 31, 1983, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1983, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43100, 43101 and 43104, Health and Safety Code.

§ 1959.5. Exhaust Emission Standards and Test Procedures—1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

(a) The exhaust emissions from new 1979 model-year passenger cars, light-duty trucks, and medium-duty vehicles having an engine displacement of 50 cubic inches or greater, except diesel-fueled passenger cars, subject to registration and sold and registered in this state, shall not exceed:

Exhaust Emission Standards (grams per mile)

<i>Vehicles</i>	<i>Equivalent Inertia Weight (lbs.)</i>	<i>Hydrocarbons</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i>
Passenger Cars	All	0.41	9.0	1.5
Light-Duty Trucks	0-3999	0.41	9.0	1.5*
Light-Duty Trucks	4000-5999	0.50	9.0	2.0
Medium-Duty Vehicles	All	0.9	17	2.3

* 2.0 for four-wheel drive vehicles in this category.

(b) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test

Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the State Board June 8, 1977, as last amended September 6, 1978.

(c) This regulation shall remain in effect until December 31, 1984, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1984, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43100, 43101 and 43104, Health and Safety Code.

§ 1960. Exhaust Emission Standards and Test Procedures—1980 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.

(a) The exhaust emissions from new 1980 model passenger cars, light-duty trucks and medium-duty vehicles, subject to registration and sold and registered in this state, shall not exceed:

**Exhaust Emission Standards
(grams per mile)**

<i>Model Year</i>	<i>Vehicle Type (1)</i>	<i>Equivalent Inertia Weight (lbs.) (2)</i>	<i>Non-Methane Hydrocarbons (3)</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen (4) (5)</i>
1980	PC	All	0.39 (0.41)	9.0	1.0 1.5
	LDT	0-3999	0.39 (0.41)	9.0	1.5*
	LDT	4000-5999	0.50 (0.50)	9.0	
	MDV	All	0.9 (0.9)	17.0	

*2.0 for four-wheel drive vehicles in this category.

**100,000 Mile Exhaustion Emission Standards
(grams per mile)**

<i>Model Year</i>	<i>Vehicle Type (1)</i>	<i>Equivalent Inertia Weight (lbs.) (2)</i>	<i>Non-Methane Hydrocarbons (3) (5)</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen (4)</i>
1980	PC	All	0.39 (0.41)	9.0	1.5
	(Option 1)				
	PC	All	0.46	10.6	1.5
	(Option 2)				

(1) "PC" means passenger cars.

"LDT" means light-duty trucks.

"MDV" means medium-duty vehicles.

(2) Equivalent inertia weights are determined under subparagraph 40 Code of Federal Regulations 86.129-70(a), as it existed on April 15, 1978.

(3) Hydrocarbon standards in parentheses apply to total hydrocarbons, or 1980 models only, to emissions corrected by a methane content correction factor.

(4) In addition, for passenger cars, the maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be no greater than 1.33 times the applicable standard shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

(5) For vehicles from evaporative emission families with projected 50,000 mile evaporative emissions values below 1.0 gm/test, an adjustment to the hydrocarbon exhaust emission standard may be granted by the Executive Officer. The adjusted standard will be calculated using the following formula:

$$HC_{ex} = .75 (.185 - [(Di + 3.3 Hs) - (29.4)] + HC_o$$

Where:

HC_{ex} = adjusted exhaust hydrocarbon standard

HC_o = unadjusted exhaust hydrocarbon standard

Di = diurnal evaporative emissions

Hs = hot soak evaporative emission

[The next page is 205.]

(b) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the State Board on May 24, 1978, as last amended March 5, 1980.

(c) With respect to any new vehicle required to comply with the standards set forth in paragraph (a), the manufacturer's written maintenance instructions for in-use vehicles shall not require scheduled maintenance more frequently than or beyond the scope of maintenance permitted under the test procedures referenced in paragraph (b) above. Any failure to perform scheduled maintenance shall not excuse an emissions violation unless the failure is related to or causative of the violation.

(d) This regulation shall remain in effect until December 31, 1990, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on De-

cember 31, 1990, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43103, 43100, 43104 and 43106, Health and Safety Code.

§ 1960.1. Exhaust Emissions Standards and Test Procedures—1981 through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles.

(a) The exhaust emissions from new 1981 model passenger cars, light-duty trucks, and medium-duty vehicles, subject to registration and sold and registered in this state, shall not exceed¹:

1981 EXHAUST EMISSION STANDARDS (grams per mile)						
<i>Vehicle Type²</i>	<i>Equivalent Inertia Weight (lbs.)³</i>	<i>Durability Vehicle Basis (mi.)</i>	<i>Non-Methane Hydrocarbons⁴</i>		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen⁵</i>
PC	All	50,000		(0.41)	3.4	1.0
PC ⁶	All	50,000	0.39	(0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39		3.4	1.5
PC (Option 2)	All	100,000	0.46		4.0	1.5
LDT, MDV	0-3999	50,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3999	100,000	0.39	(0.41)	9.0	1.5
LDT, MDV (Option 2)	0-3999	100,000	0.46		10.6	1.5
LDT, MDV	4000-5999	50,000	0.50	(0.50)	9.0	1.5
LDT, MDV (Option 1)	4000-5999	100,000	0.50	(0.50)	9.0	2.0
MDV	6000 and larger	50,000	0.60	(0.60)	9.0	2.0
MDV (Option 1)	6000 and larger	100,000	0.60	(0.60)	9.0	2.3

¹ Subsection (a) shall remain in effect until December 31, 1991, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1991, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal of expiration.

² "PC" means passenger cars.

³ Equivalent inertia weights are determined under subparagraph 40 CFR 86.129-79(a).

⁴ Hydrocarbon standards in parentheses apply to total hydrocarbons.

⁵ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

⁶ The second set of 50,000 mile passenger car standards is optional. A manufacturer must select either the primary or optional sets of 50,000 mile standards for its full product line for both 1981 and 1982 model years.

⁷ For vehicles from evaporative emission families with projected 50,000 mile evaporative emissions values below 1.0 gm/test, an adjustment to the hydrocarbon exhaust emission standards may be granted by the Executive Officer. The adjusted standard will be calculated using the following formula:

$$HC_{ex} = .75 (.185 - [(Di + 3.3 Hs) (29.4)]) + HC_0$$

Where:

HC_{ex} = adjusted exhaust hydrocarbon standard

HC_0 = unadjusted exhaust hydrocarbon standard

Di = diurnal evaporative emissions

Hs = hot soak evaporative emissions.

(b) The exhaust emissions from new 1982 model passenger cars, light-duty trucks, and medium-duty vehicles, subject to registration and sold and registered in this state, shall not exceed¹:

1982 EXHAUST EMISSION STANDARDS (grams per mile)						
<i>Vehicle Type</i> ²	<i>Equivalent Inertia Weight (lbs.)</i> ³	<i>Durability Vehicle Basis (mi.)</i>	<i>Non-Methane Hydrocarbons</i> ⁴		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i> ⁵
PC	All	50,000	0.39	(0.41)	7.0	0.4
PC ⁶	All	50,000	0.39	(0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39	(0.41)	7.0	1.5
PC (Option 2)	All	100,000	0.46		8.3	1.5
LDT, MDV	0-3999	50,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3999	100,000	0.39	(0.41)	9.0	1.5
LDT, MDV (Option 2)	0-3999	100,000	0.46		10.6	1.5
LDT, MDV	4000-5999	50,000	0.50	(0.50)	9.0	1.5
LDT, MDV (Option 1)	4000-5999	100,000	0.50	(0.50)	9.0	2.0
MDV	6000 and larger	50,000	0.60	(0.60)	9.0	2.0
MDV (Option 1)	6000 and larger	100,000	0.60	(0.60)	9.0	2.3

¹ Subsection (b) shall remain in effect until December 31, 1992, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1992, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

² "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

³ Equivalent inertia weights are determined under subparagraph 40 CFR 86.129-79(a).

⁴ Hydrocarbon standards in parentheses apply to total hydrocarbons.

⁵ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

⁶ The second set of 50,000 mile passenger car standards is optional. A manufacturer must select either the primary or optional sets of 50,000 mile standards for its full product line for both 1981 and 1982 model years.

(c) The exhaust emissions from new 1983 model passenger cars, light-duty trucks, and medium-duty vehicles, subject to registration and sold and registered in this state, shall not exceed¹:

1983 EXHAUST EMISSION STANDARDS (grams per mile)						
<i>Vehicle Type</i> ²	<i>Equivalent Inertia Weight (lbs.)</i> ³	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons</i> ⁴		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i> ⁵
PC	All	50,000	0.39	(0.41)	7.0	0.4
PC ⁶	All	50,000	0.39	(0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39	(0.41)	7.0	1.5
PC (Option 2)	All	100,000	0.46		8.3	1.5
LDT, MDV	0-3999	50,000	0.39	(0.41)	9.0	0.4
LDT, MDV ⁶	0-3999	50,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3999	100,000	0.39	(0.41)	9.0	1.5
LDT, MDV (Option 2)	0-3999	100,000	0.46		10.6	1.5
LDT, MDV	4000-5999	50,000	0.50	(0.50)	9.0	1.0
LDT, MDV (Option 1)	4000-5999	100,000	0.50	(0.50)	9.0	2.0
MDV	6000 and larger	50,000	0.60	(0.60)	9.0	1.5
MDV (Option 1)	6000 and larger	100,000	0.60	(0.60)	9.0	2.0

¹ Subsection (C) shall remain in effect until December 31, 1993, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1993, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

² "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

³ Equivalent inertia weights are determined under subparagraph 40 CFR 86.129-79(a).

⁴ Hydrocarbon standards in parentheses apply to total hydrocarbons.

⁵ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

⁶ This set of standards for 1983 model vehicles is optional. A manufacturer may choose to certify these optional standards pursuant to the conditions set forth in Section 1960.15.

(d)(1) The exhaust emissions from new 1984 through 1987 model passenger cars, light-duty trucks, and medium-duty vehicles subject to registration and sold and registered in this state, shall not exceed:

1984 THROUGH 1987 EXHAUST EMISSION STANDARDS⁶
(grams per mile)

<i>Vehicle Type¹</i>	<i>Equivalent Inertia Weight (lbs.)²</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons³</i>		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen⁴</i>
PC	All	50,000	0.39	(0.41)	7.0	0.4
PC ⁵	All	50,000	0.39	(0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39	(0.41)	7.0	1.0
PC (Option 2)	All	100,000	0.46		8.3	1.0
LDT, MDV	0-3999	50,000	0.39	(0.41)	9.0	0.4
LDT, MDV ⁵	0-3999	50,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3999	100,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 2)	0-3999	100,000	0.46		10.6	1.0
LDT, MDV	4000-5999	50,000	0.50	(0.50)	9.0	1.0
LDT, MDV (Option 1)	4000-5999	100,000	0.50	(0.50)	9.0	1.5
MDV	6000 and larger	50,000	0.60	(0.60)	9.0	1.5
MDV (Option 1)	6000 and larger	100,000	0.60	(0.60)	9.0	2.0

¹ "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

² Equivalent inertia weights are determined under subparagraph 40 CFR 86.129-79(a).

³ Hydrocarbon standards in parentheses apply to total hydrocarbons.

⁴ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

⁵ This set of standards for 1984 through 1987 model vehicles is optional. A manufacturer may choose to certify these optional standards pursuant to the conditions set forth in Section 1960.15.

⁶ Diesel-powered passenger cars, light-duty trucks, and medium-duty vehicles are subject to the following particulate exhaust emission standards: 0.4/g.mi for the 1985 model year and 0.2 g/mi for the 1986 and 1987 model years. The particulate compliance shall be determined on a 50,000 mile durability vehicle basis.

(2) The exhaust emissions from new 1988 model passenger cars, light-duty trucks, and medium-duty vehicles and new 1988 through 1990 model passenger cars, light-duty trucks and medium-duty vehicles produced by a small volume manufacturer, subject to registration and sold and registered in this state, shall not exceed:

1988 EXHAUST EMISSION STANDARDS ⁵						
(grams per mile)						
<i>Vehicle Type</i> ¹	<i>Equivalent Inertia Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons</i> ²		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen</i> ³
PC	All	50,000	0.39	(0.41)	7.0	0.4
PC ⁴	All	50,000	0.39	(0.41)	7.0	0.7
PC (Option 1)	All	100,000	0.39	(0.41)	7.0	1.0
PC (Option 2)	All	100,000	0.46		8.3	1.0
LDT, MDV	0-3750	50,000	0.39	(0.41)	9.0	0.4
LDT, MDV ⁴	0-3750	50,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 1)	0-3750	100,000	0.39	(0.41)	9.0	1.0
LDT, MDV (Option 2)	0-3750	100,000	0.46		10.6	1.0
LDT, MDV	3751-5750	50,000	0.50	(0.50)	9.0	1.0
LDT, MDV (Option 1)	3751-5750	100,000	0.50	(0.50)	9.0	1.5
MDV	5751 and larger	50,000	0.60	(0.60)	9.0	1.5
MDV (Option 1)	5751 and larger	100,000	0.60	(0.60)	9.0	2.0

¹ "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

² Hydrocarbon standards in parentheses apply to total hydrocarbons.

³ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty trucks and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29-67 to the nearest 0.1 g/mi before being compared.

⁴ This set of standards is optional. A manufacturer may choose to certify to these optional standards pursuant to the conditions set forth in Section 1950.1.5.

⁵ Diesel-powered passenger cars, light-duty trucks, and medium-duty vehicles are subject to a particulate exhaust emission standard of 0.2 g/mi for the 1988 model year. The particulate compliance shall be determined on a 50,000 mile durability vehicle basis.

(e)(1) The exhaust emissions from (A) new 1989 through 1992 model passenger cars and light-duty trucks, except those produced by a small volume manufacturer, (B) new 1991 through 1994 model passenger cars and light-duty trucks produced by a small volume manufacturer, (C) new

1989 through 1994 model medium-duty vehicles, except those produced by a small volume manufacturer, and (D) new 1991 through 1994 model medium-duty vehicles produced by a small volume manufacturer, shall not exceed:

1989 THROUGH 1994 MODEL-YEAR EXHAUST EMISSION STANDARDS⁵
(grams per mile)

<i>Vehicle Type¹</i>	<i>Loaded Vehicle Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons²</i>		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen^{3,4}</i>
PC	All	50,000	0.39	(0.41)	7.0	0.4
PC ⁶	All	50,000	0.39	(0.41)	7.0	0.7
Diesel PC (Option 2)	All	100,000 ⁸	0.46		8.3	1.0
LDT, MDV	0-3750	50,000	0.39	(0.41)	9.0	0.4
LDT, MDV ⁶	0-3750	50,000	0.39	(0.41)	9.0	0.7 ⁷
Diesel LDT, MDV (Option 2)	0-3750	100,000 ⁸	0.46		10.6	1.0
LDT, MDV	3751-5750	50,000	0.50	(0.50)	9.0	1.0
LDT, MDV (Option 1)	3751-5750	100,000 ⁸	0.50	(0.50)	9.0	1.5
MDV	5751 and larger	50,000	0.60	(0.60)	9.0	1.5
MDV (Option 1)	5751 and larger	100,000 ⁸	0.60	(0.60)	9.0	2.0

¹ "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

² Hydrocarbon standards in parentheses apply to total hydrocarbons. For 1993 through 1994 model methanol-fueled vehicles certifying to these standards, including flexible-fueled vehicles, "Non-Methane Hydrocarbons" shall mean "Organic Material Hydrocarbon Equivalent" (or "OMHCE").

³ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29-67 to the nearest 0.1 g/mi before being compared.

⁴ The standard for in-use compliance for passenger cars, light-duty trucks and medium-duty vehicles certifying to the 0.4 g/mi NOx standard shall be 0.55 g/mi NOx for 50,000 miles. If the in-use compliance level is above 0.4 g/mi NOx but does not exceed 0.55 g/mi NOx, and based on a review of information derived from a statistically valid and representative sample of vehicles, the Executive Officer determines that a substantial percentage of any class or category of such vehicles exhibits, prior to 50,000 miles or 5 years, whichever occurs first, an identifiable, systematic defect in a component listed in section 1960.1.5(c)(2) which causes a significant increase in emissions above those exhibited by vehicles free of such defects and of the same class or category and having the same period of use and mileage, then the Executive Officer may invoke the enforcement authority under subchapter 2.5, Title 13, California Code of Regulations, commencing with section 2111, to require remedial action by the vehicle manufacturer. Such remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term "defect" shall not include failures which are the result of abuse, neglect, or improper maintenance. This provision is applicable for the 1989 through 1992 model years only. For small volume manufacturers, this provision is applicable for the 1991 through 1994 model years only.

⁵ Diesel passenger cars, light-duty trucks, and medium-duty vehicles certifying to these standards are subject to a particulate exhaust emission standard of 0.08 g/mi for the 1989 and subsequent model years. The particulate compliance shall be determined on a 50,000 mile durability vehicle basis.

⁶ This set of standards is optional. A manufacturer may choose to certify to these standards pursuant to the conditions set forth in section 1960.1.5.

⁷ Pursuant to section 1960.1.5(a)(1)(B), the optional standard for 1989 model-year light-duty trucks and medium-duty vehicles only is 1.0 g/mi NOx.

⁸ The optional 100,000 mile certification standards and provisions are not applicable to methanol vehicles.

(e)(2) The exhaust emissions from new 1993 through 2003 model methanol-fueled vehicles, including fuel-flexible vehicles, shall meet all the applicable requirements in (e)(1), (f)(1) and (f)(2) with the following modifications and additions:

1993 THROUGH 2003 METHANOL-SPECIFIC EXHAUST EMISSION STANDARDS				
Vehicle Type ¹	Loaded Vehicle Weight (lbs.) ³	Durability Vehicle Basis (mi)	Formaldehyde (mg/mi)	
			Certification	In-Use Compliance ²
PC	All	50,000	15	23 (1993–1995) 15 (1996–2003)
LDT, MDV	0–3750	50,000	15	23 (1993–1995) 15 (1996–2003)
LDT, MDV	3751–5750	50,000	18	27 (1993–1995) 18 (1996–2003)
MDV	5751–8500	50,000	22	33 (1993–1995) 22 (1996–2003)
MDV	8501–10,000	50,000	28	36 (1995) 28 (1996–2003)
MDV	10,001–14,000	50,000	36	45 (1995) 36 (1996–2003)

¹ “PC” means passenger cars.

“LDT” means light-duty trucks.

“MDV” means medium-duty vehicles.

² If the formaldehyde in-use compliance level is above the respective certification level but does not exceed the in-use compliance level, and based on a review of information derived from statistically valid and representative sample of vehicles, the Executive Officer determines that a substantial percentage of any class or category of such vehicle exhibits, prior to 50,000 miles or 5 years, whichever occurs first, an identifiable, systematic defect in a component listed in section 1960.1.5(c)(2), Title 13, California Code of Regulations, which causes a significant increase in emissions above those exhibited by vehicles free of such defects and of the same class or category and having the same period of use and mileage, the Executive Officer may invoke the enforcement authority under subchapter 2.5, Title 13, California Code of Regulations, commencing with section 2111, to require remedial action by the vehicle manufacturer. Such remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term “defect” shall not include failures which are the result of abuse, neglect, or improper maintenance.

³ For 1995–2003 model-year medium-duty vehicles certifying to the standards specified in section 1960.1 (h)(1), “Loaded Vehicle Weight” shall mean “Test Weight,” which is the average of the vehicle’s curb weight and gross vehicle weight.

(e)(3) The exhaust emissions from new 1992 through 2006 model-year “LEV I” transitional low-emission vehicles, low-emission vehicles, ultra-low emission vehicles, and super ultra-low-emission vehicles, including fuel-flexible and dual-fuel vehicles, shall meet all the requirements of (g)(1) and (h)(2) with the following additions:

**FORMALDEHYDE EXHAUST EMISSION STANDARDS
IN THE LIGHT-DUTY AND MEDIUM-DUTY VEHICLE WEIGHT CLASSES^{5,6,7}**
[“milligrams per mile” (or “mg/mi”)]

<i>Vehicle Type¹</i>	<i>Vehicle Weight (lbs.)²</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Vehicle Emission Category³</i>	<i>Formaldehyde (mg/mi)^{4,5}</i>
PC and LDT	All 0–3750	50,000	TLEV	15 (23)
			LEV	15 (15)
			ULEV	8 (12)
		100,000	TLEV	18
			LEV	18
			ULEV	11
LDT	3751–5750	50,000	TLEV	18 (27)
			LEV	18 (18)
			ULEV	9 (14)
		100,000	TLEV	23
			LEV	23
			ULEV	13
MDV	0–3750	50,000	LEV	15 (15)
			ULEV	8 (12)
		120,000	LEV	22
			ULEV	12
MDV	3751–5750	50,000	LEV	18 (18)
			ULEV	9 (14)
			SULEV	4 (7)
		120,000	LEV	27
			ULEV	13
			SULEV	6
MDV	5751–8500	50,000	LEV	22 (22)
			ULEV	11 (17)
			SULEV	6 (8)
		120,000	LEV	32
			ULEV	16
			SULEV	8
MDV	8501–10,000	50,000	LEV	28 (28)
			ULEV	14 (21)
			SULEV	7 (10)
		120,000	LEV	40
			ULEV	21
			SULEV	10
MDV	10,001–14,000	50,000	LEV	36 (36)
			ULEV	18 (27)
			SULEV	9 (14)
		120,000	LEV	52
			ULEV	26
			SULEV	13

¹ “PC” means passenger cars. “LDT” means light-duty trucks. “MDV” means medium-duty vehicles.

² For light-duty or medium-duty vehicles, Vehicle Weight shall mean “Loaded Vehicle Weight” (or “LVW”) or “Test Weight” (or “TW”), respectively.

³ “TLEV” means transitional low-emission vehicle. “LEV” means low-emission vehicle. “ULEV” means ultra-low-emissions vehicle. “SULEV” means super ultra-low-emission vehicle.

⁴ Formaldehyde exhaust emission standards apply to vehicles certified to operate on any available fuel, including fuel-flexible and dual-fuel vehicles.

⁵ The standards in parentheses are intermediate in-use compliance standards for 50,000 miles.

a. For PCs and LDTs from 0–5750 lbs. LVW, including fuel-flexible and dual-fuel vehicles, intermediate in-use compliance standards shall apply to TLEVs through the 1995 model year, and LEVs and ULEVs through the 1998 model year. In-use compliance with standards beyond 50,000 miles shall be waived through the 1995 model year for TLEVs, and through the 1998 model year for LEVs and ULEVs.

b. For MDVs from 0–14,000 lbs. TW, including fuel-flexible and dual-fuel vehicles, intermediate in-use compliance standards shall apply to LEVs, ULEVs and SULEVs through the 1999 model year. In-use compliance with standards beyond 50,000 miles shall be waived through the 1999 model year for LEVs, ULEVs, and SULEVs.

⁶ Manufacturers shall demonstrate compliance with the above standards for formaldehyde at 50° F according to the procedures specified in section 11k of the “California Exhaust Emission Standards and Test Procedures for 1988 through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as incorporated by reference in section 1960.1(k) or section E.1.4 of the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” as incorporated by reference in section 1961(d). Hybrid electric, natural gas, and diesel-fueled vehicles shall be exempt from 50° F test requirements.

⁷ In-use compliance testing shall be limited to PCs and LDTs with fewer than 75,000 miles and MDVs with fewer than 90,000 miles.

(f)(1) The exhaust emissions from new 1993 and 1994 model passenger cars and light-duty trucks, except those produced by a small volume manufacturer, shall not exceed:

1993 AND 1994 MODEL YEAR PASSENGER CAR AND LIGHT-DUTY TRUCK EXHAUST EMISSIONS STANDARDS^{5,8,9}
(grams per mile)

<i>Vehicle Type¹</i>	<i>Loaded Vehicle Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons^{2,7}</i>	<i>Carbon Monoxide⁷</i>	<i>Oxides of Nitrogen^{1,3,4}</i>
PC	All	50,000	0.39 (0.25)	7.0 (3.4)	0.4
PC ⁶	All	50,000	0.39 (0.25)	7.0 (3.4)	0.7
PC	All	100,000	(0.31)	(4.2)	n/a
Diesel PC (Option 2)	All	100,000	0.46 (0.31)	8.3 (4.2)	1.0
LDT	0-3750	50,000	0.39 (0.25)	9.0 (3.4)	0.4
LDT ⁶	0-3750	50,000	0.39 (0.25)	9.0 (3.4)	0.7
LDT	0-3750	100,000	(0.31)	(4.2)	n/a
Diesel LDT (Option 2)	0-3750	100,000	0.46 (0.31)	10.6 (4.2)	1.0
LDT	3751-5750	50,000	0.50 (0.32)	9.0 (4.4)	1.0
LDT	3751-5750	100,000	(0.40)	(5.5)	n/a
Diesel LDT (Option 1)	3751-5750	100,000	0.50 (0.40)	9.0 (5.5)	1.5

¹ "PC" means passenger cars. "LDT" means light-duty trucks. "n/a" means not applicable.

² For methanol-fueled vehicles certifying to these standards, including fuel-flexible vehicles, when certifying on methanol, "Non-Methane Hydrocarbons" shall mean "Organic Material Hydrocarbon Equivalent" (or "OMHCE"). For methanol- or ethanol-fueled vehicles certifying to the phase-in standards in parenthesis, including fuel-flexible vehicles when certifying on methanol or ethanol, "Non-Methane Hydrocarbons" shall mean "Organic Material Non-Methane Hydrocarbon Equivalent" (or "OMNMHCE").

³ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600 Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29-67 to the nearest 0.1 g/mi before being compared.

⁴ The standard for in-use compliance for passenger cars and light-duty trucks certifying to the 0.4 g/mi NOx standard shall be 0.55 g/mi NOx for 50,000 miles. If the in-use compliance level is above 0.4 g/mi NOx but does not exceed 0.55 g/mi NOx, and based on a review of information derived from a statistically valid and representative sample of vehicles, the Executive Officer determines that a substantial percentage of any class or category of such vehicles exhibits, prior to 50,000 miles or 5 years, whichever occurs first, an identifiable, systematic defect in a component listed in section 1960.1.5(c)(2), Title 13, California Code of Regulations, which causes a significant increase in emissions above those exhibited by vehicles free of such defects and of the same class or category and having the same period of use and mileage, then the Executive Officer may invoke the enforcement authority under subchapter 2.5, Title 13, California Code of Regulations commencing with section 2111, to require remedial action by the vehicle manufacturer. Such remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term "defect" shall not include failures which are the result of abuse, neglect, or improper maintenance. This provision is applicable for the 1993 model year only.

⁵ Diesel passenger cars and light-duty trucks certifying to these standards are subject to a particulate exhaust emission standard of 0.08 g/mi, determined on a 50,000 mile durability vehicle basis.

⁶ This set of standards is optional. A manufacturer may choose to certify to these standards pursuant to the conditions set forth in section 1960.1.5.

⁷ The emission standards in parenthesis are phase-in standards. For the 1993 model-year, each manufacturer must certify a minimum of 40% of their vehicles to the phase-in standards or the more stringent standards in section 1960.1 (g)(1). The percentage shall be applied to the manufacturer's total projected sales of California-certified passenger cars and light-duty trucks for the 1993 model year. For 1994 and subsequent model years, each manufacturer shall comply with the fleet average requirements specified in section 1960.1(g)(2).

⁸ The following conditions shall apply to the in-use compliance standards for 1993 and 1994 model-year passenger cars and light-duty trucks only.

- The in-use compliance standards for those passenger cars and light-duty trucks certifying to the 0.25 g/mi non-methane hydrocarbon and 3.4 g/mi carbon monoxide standards shall be 0.32 g/mi non-methane hydrocarbon and 5.2 g/mi carbon monoxide for 50,000 miles.
- The in-use compliance standards for those light-duty trucks certifying to the 0.32 g/mi non-methane hydrocarbon and 4.4 g/mi carbon monoxide standards shall be 0.41 g/mi non-methane hydrocarbon and 6.7 g/mi carbon monoxide for 50,000 miles.
- In-use compliance standards shall be waived beyond 50,000 miles.

⁹ All passenger cars and light-duty trucks, except those diesel vehicles certifying to optional 100,000 mile standards, are subject to non-methane hydrocarbon, carbon monoxide, and oxides of nitrogen standards determined on a 50,000 mile durability basis and non-methane hydrocarbon and carbon monoxide standards determined on a 100,000 mile basis.

(f)(2) "Tier 1" Exhaust Emission Standards for PCs and LDTs. The exhaust emissions from new 1995 through 2003 model Tier 1 passenger cars and light-duty trucks shall not exceed:

1995-2003 MODEL-YEAR TIER 1PASSENGER CAR AND LIGHT-DUTY TRUCK EXHAUST EMISSIONS STANDARDS^{5,6,8,10}
(grams per mile)

Vehicle Type ¹	Loaded Vehicle Weight (lbs.)	Durability Vehicle Basis (mi)	Non-Methane Hydrocarbons ^{2,7}	Carbon Monoxide ⁷	Oxides of Nitrogen ^{1,3}
PC	All	50,000	0.25	3.4	0.4 ⁴
PC	All	100,000	0.31	4.2	0.6 ⁹
Diesel PC (Option 2)	All	100,000	0.31	4.2	1.0
LDT	0-3750	50,000	0.25	3.4	0.4 ⁴
LDT	0-3750	100,000	0.31	4.2	0.6 ⁹
Diesel LDT (Option 2)	0-3750	100,000	0.31	4.2	1.0
LDT	3751-5750	50,000	0.32	4.4	0.7
LDT	3751-5750	100,000	0.40	5.5	0.97 ⁹
Diesel LDT (Option 1)	3751-5750	100,000	0.40	5.5	1.5

¹ "PC" means passenger cars. "LDT" means light-duty trucks.

² For methanol- or ethanol-fueled vehicles certifying to these standards, including fuel-flexible vehicles when certifying on methanol or ethanol, "Non-Methane Hydrocarbons" shall mean "Organic Material Non-Methane Hydrocarbon Equivalent" (or "OMNMHCE").

³ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600 Subpart B) shall be not greater than 1.33 times the applicable passenger car standards and 2.00 times the applicable light-duty truck standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29-67 to the nearest 0.1 g/mi before being compared.

⁴ Small volume manufacturers may choose to certify to an optional 0.7 g/mi NOx standard for the 1995 model-year only, pursuant to the conditions set forth in sections 1960.1 (f)(1) and 1960.1.5.

⁵ Diesel passenger cars and light-duty trucks certifying to these standards, are subject to a particulate exhaust emission standard of 0.08 g/mi, determined on a 50,000 mile durability vehicle basis.

⁶ For all vehicles, except those certifying to optional diesel standards, in-use compliance with the exhaust emission standards shall be limited to vehicles with less than 75,000 miles.

⁷ For the 1995 and 1996 model years, all manufacturers, except those certifying to optional diesel standards, are permitted alternative in-use compliance. Alternative in-use compliance is permitted for 60% of a manufacturer's vehicles in the 1995 model year and 20% of a manufacturer's vehicles in the 1996 model year. For the 1995 and 1996 model years, small volume manufacturers only are permitted alternative in-use compliance for 100% of the fleet. The percentages shall be applied to the manufacturer's total projected sales of California-certified passenger cars and light-duty trucks for the model year. "Alternative in-use compliance" shall consist of the following:

- For all passenger cars and those light-duty trucks from 0-3750 lbs. loaded vehicle weight, except those diesel vehicles certifying to optional 100,000 mile standards, in-use compliance standards shall be 0.32 g/mi non-methane hydrocarbon and 5.2 g/mi carbon monoxide for 50,000 miles.
- For light-duty trucks from 3751-5750 lbs., loaded vehicle weight, except those diesel light-duty trucks certifying to optional 100,000 mile standards, in-use compliance standards shall be 0.41 g/mi non-methane hydrocarbon and 6.7 g/mi carbon monoxide for 50,000 miles.
- In-use compliance standards shall be waived beyond 50,000 miles.

⁸ All passenger cars and light-duty trucks, except those diesel vehicles certifying to optional standards, are subject to non-methane hydrocarbon, carbon monoxide, and oxides of nitrogen standards determined on a 50,000 mile durability basis and non-methane hydrocarbon and carbon monoxide standards determined on a 100,000 mile durability basis.

⁹ 100,000 mile NOx standards are applicable for 1996 and subsequent model-year vehicles.

¹⁰ Each manufacturer shall also comply with the requirements specified in section 1960.1(g)(2).

(g)(1) "LEV I" Exhaust Emission Standards for PCs and LDTs. The exhaust emissions from new 1992 through 2003 model-year "LEV I" transitional low-emission vehicles, and new 1992 through 2006 model-

year "LEV I" low-emission vehicles and ultra-low-emission vehicles, in the passenger car and light-duty truck classes shall not exceed:

LEV I EXHAUST EMISSION STANDARDS FOR TRANSITIONAL LOW-EMISSION VEHICLES,
LOW-EMISSION VEHICLES, ULTRA-LOW-EMISSION
VEHICLES AND ZERO-EMISSION VEHICLES
IN PASSENGER CAR AND LIGHT-DUTY TRUCK VEHICLE CLASSES^{6,7,8,9,10}
[grams per mile (or "g/mi")]

Vehicle Type ¹	Loaded Vehicle Weight (lbs.)	Durability Vehicle Basis (mi)	Vehicle Emission Category ²	Non-Methane Organic Gases ^{3,4}	Carbon Monoxide	Oxides of Nitrogen ⁵
PC and LDT	All 0-3750	50,000	TLEV	0.125	3.4	0.4
			LEV	0.075	3.4	0.2
			ULEV	0.040	1.7	0.2
		100,000	TLEV	0.156	4.2	0.6
			LEV	0.090	4.2	0.3
			ULEV	0.055	2.1	0.3
LDT	3751-5750	50,000	TLEV	0.160	4.4	0.7
			LEV	0.100	4.4	0.4
			ULEV	0.050	2.2	0.4
		100,000	TLEV	0.200	5.5	0.9
			LEV	0.130	5.5	0.5
			ULEV	0.070	2.8	0.5

¹ "PC" means passenger cars.

"LDT" means light-duty trucks.

"LVW" means loaded vehicle weight.

"Non-Methane Organic Gases" or "NMOG" means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

² "TLEV" means transitional low-emission vehicle.

"LEV" means low-emission vehicle.

"ULEV" means ultra-low-emissions vehicle.

³ *Compliance with NMOG Standard.* To demonstrate compliance with an NMOG standard, NMOG emissions shall be measured in accordance with the "California Non-Methane Organic Gas Test Procedures" as adopted July 12, 1991 and last amended August 5, 1999, which is incorporated herein by reference.

a. *Reactivity Adjustment.* For TLEVs, LEVs, and ULEVs certified to operate exclusively on any fuel other than conventional gasoline, and for fuel-flexible and dual-fuel TLEVs, LEVs, and ULEVs when certifying on a fuel other than gasoline, manufacturers shall multiply NMOG exhaust certification levels by the applicable reactivity adjustment factor set forth in section 13 of the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in sections I.E.5. of the "California Exhaust Emission Standards and Text Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), or established by the Executive Officer pursuant to Appendix VIII or section II.D. respectively of the foregoing test procedures. In addition, natural gas vehicles certifying to TLEV, LEV, or ULEV standards shall calculate a reactivity-adjusted methane exhaust emission value by multiplying the methane exhaust certification level by the applicable methane reactivity adjustment factor set forth in section 13 or in section I.E.5. of the above referenced test procedures as applicable. The product of the NMOG exhaust certification levels and the reactivity adjustment factor shall be compared to the exhaust NMOG mass emission standards established for the particular vehicle emission category to determine compliance. For natural gas vehicles, the reactivity-adjusted NMOG value shall be added to the reactivity-adjusted methane value and then compared to the exhaust NMOG mass emission standards established for the particular vehicle emission category to determine compliance.

b. *Fleet Average Requirement.* Each manufacturer shall certify PCs or LDTs to meet the exhaust mass emission standards for TLEVs, LEVs, ULEVs, or the exhaust emission standards of sections 1960.1 (e)(1), 1960.1 (f)(1), or 1960.1 (f)(2), Title 13, California Code of Regulations, or as Zero-Emission Vehicles such that the manufacturer's fleet average NMOG values for California-certified PCs and LDTs from 0-3750 lbs. LVW, and LDTs from 3751-5750 lbs. LVW produced and delivered for sale in California are less than or equal to the requirement for the corresponding Model Year, Vehicle Type, and LVW Class in section 1960.1 (g)(2), Title 13, California Code of Regulations.

⁴ *NMOG Standards for Fuel-Flexible and Dual-Fuel Vehicles.* Fuel-flexible and dual-fuel PCs and LDTs from 0-5750 lbs. LVW shall be certified to exhaust mass emission standards for NMOG established for the operation of the vehicle on any available fuel other than gasoline, and gasoline.

a. *Reactivity Adjustment.* For TLEVs, LEVs, and ULEVs, when certifying for operation on a fuel other than gasoline, manufacturers shall multiply exhaust NMOG certification levels by the applicable reactivity adjustment factor. In addition to multiplying the exhaust NMOG certification levels by the applicable reactivity adjustment factor, exhaust methane certification levels for natural gas vehicles shall be multiplied by the applicable methane reactivity adjustment factor and the resulting value shall be added to the reactivity-adjusted NMOG value. The exhaust NMOG certification levels for fuel-flexible or dual-fuel vehicles when certifying on gasoline shall not be multiplied by a reactivity adjustment factor.

b. *Standards for Fuel-Flexible and Dual-Fuel Vehicles Operating on Gasoline.* For PCs and LDTs from 0-5750 lbs. LVW, the applicable exhaust mass emission standard for NMOG when certifying the vehicle for operation on gasoline shall be:

Vehicle Type	Loaded Vehicle Weight (LVW)	Emission Category	Durability Vehicle Basis (g/mi)	
			50,000 Mile	100,000 Mile
PCS, LDT	All, 0–3750	TLEV	0.25	0.31
		LEV	0.125	0.156
		ULEV	0.075	0.090
LDT	3751–5750	TLEV	0.32	0.40
		LEV	0.160	0.200
		ULEV	0.100	0.130

⁵ *Highway NOx.* The maximum projected emissions of “Oxides of Nitrogen” (or “NOx”) measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR 600 Subpart B) shall be not greater than 1.33 times the applicable light-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29–67 to the nearest 0.1 g/mi before being compared.

⁶ *Intermediate In-Use Compliance Standards.* The following standards are intermediate in-use compliance standards for 50,000 and 100,000 miles for PCs and LDTs from 0–5750 lbs. LVW, including fuel-flexible and dual-fuel vehicles when operating on any available fuel other than gasoline. Intermediate in-use compliance standards shall apply to TLEVs through the 1995 model year as follows:

	NMOG (g/mi)
PCS and LDTs 0–3750 lbs. LVW	0.188
LDTs 3751–5750 lbs. LVW	0.238

In-use compliance with standards beyond 50,000 miles shall be waived through the 1995 model year for TLEVs, and through the 1998 model year for LEVs and ULEVs. For LEVs and ULEVs, the following intermediate in-use standards shall apply:

Vehicle Type	Durability Vehicle Basis	LEV (g/mi)			ULEV (g/mi)			
		Model Year	NMOG	NOx	Model Year	NMOG	CO	NOx
PCS, 0–3750 lb. LVW LDTs	50,000	through 1998	0.100	0.3	through 1998	0.058	2.6	0.3
	50,000	1999	0.100	0.3	1999–2002	0.055	2.1	0.3
	100,000	1999	0.125	0.4	1999–2002	0.075	3.4	0.4
3751–5750 lb. LVW LDTs	50,000	through 1998	0.128	0.5	through 1998	0.075	3.3	0.5
	50,000	1999	0.130	0.5	1999–2002	0.070	2.8	0.5
	100,000	1999	0.160	0.7	1999–2002	0.100	4.4	0.7

a. *Reactivity Adjustment.* For TLEVs, LEVs, and ULEVs designed to operate on any fuel other than conventional gasoline, including fuel-flexible and dual-fuel vehicles when operating on any fuel other than gasoline, exhaust NMOG mass emission results shall be multiplied by the applicable reactivity adjustment factor to determine compliance with intermediate in-use compliance standards for NMOG. In addition to multiplying the exhaust NMOG emission results by the applicable reactivity adjustment factor, the exhaust methane emission results for natural gas vehicles shall be multiplied by the applicable methane reactivity adjustment factor and the resulting value shall be added to the reactivity-adjusted NMOG value. Exhaust NMOG mass emissions from fuel-flexible or dual-fuel vehicles when operating on gasoline shall not be multiplied by a reactivity adjustment factor.

b. *Intermediate In-Use Standards for Fuel-Flexible and Dual-Fuel Vehicles Operating on Gasoline.* For fuel-flexible and dual-fuel PCs and LDTs from 0–5750 lbs. LVW intermediate in-use compliance standards for NMOG emissions at 50,000 miles, when the vehicle is operated on gasoline, shall be:

Vehicle Type	Loaded Vehicle Weight (LVW)	Emission Category	Durability Vehicle Basis (g/mi) 50,000 mi
PCS, LDT	All, 0–3750	TLEV	0.32
		LEV	0.188
		ULEV	0.100
LDT	3751–5750	TLEV	0.41
		LEV	0.238
		ULEV	0.128

Intermediate in-use compliance standards shall apply to TLEVs through the 1995 model year, and to LEVs and ULEVs through the 1998 model year. In-use compliance with standards beyond 50,000 miles shall be waived through the 1995 model year for TLEVs and through the 1998 model year for LEVs and ULEVs.

⁷ *Diesel Standards.* Manufacturers of diesel vehicles shall also certify to particulate standards at 100,000 miles. For all PCs and LDTs from 0–3750 lbs. LVW, the particulate standard is 0.08 g/mi, 0.08 g/mi, and 0.04 g/mi for TLEVs, LEVs, and ULEVs, respectively. For LDTs from 3751–5750 lbs. LVW, the particulate standard is 0.10 g/mi, 0.10 g/mi, and 0.05 g/mi for TLEVs, LEVs and ULEVs, respectively. For diesel vehicles certifying to the standards set forth in Title 13, section 1960.1(g)(1), “NMOG” shall mean non-methane hydrocarbons.

⁸ *50°F Requirement.* Manufacturers shall demonstrate compliance with the above standards for NMOG, CO, and NOx at 50 degrees F according to the procedure specified in section 11k of the “California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as incorporated by reference in section 1960.1(k), or according to the procedure specified in section II.C. of the “California Exhaust Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles” as incorporated by reference in section 1961(d), as applicable. Hybrid electric, natural gas, and diesel-fueled vehicles shall be exempt from 50 degrees F test requirements.

⁹ *Limit on In-Use Testing.* In-use compliance testing shall be limited to vehicles with fewer than 75,000 miles.

¹⁰ *HEV Requirements.* Deterioration factors for hybrid electric vehicles shall be based on the emissions and mileage accumulation of the auxiliary power unit. For certification purposes only, Type A hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors), and demonstrating compliance with 100,000 mile emission standards shall not be required. For certification purposes only, Type B hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors) and 100,000 mile emission standards (using 75,000 mile deterioration factors). For certification purposes only, Type C hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors) and 100,000 mile emission standards (using 100,000 mile deterioration factors).

¹¹ *NMOG Credit for Direct Ozone Reduction Technology.* A manufacturer that certifies vehicles equipped with direct ozone reduction technologies shall be eligible to receive NMOG credits that can be applied to the NMOG exhaust emissions of the vehicle when determining compliance with the standard. In order to receive credit, the manufacturer must submit the following information for each vehicle model, including, but not limited to:

- (a) a demonstration of the airflow rate through the direct ozone reduction device and the ozone-reducing efficiency of the device over the range of speeds encountered in the SFTP test cycle;
- (b) an evaluation of the durability of the device for the full useful life of the vehicle; and
- (c) a description of the on-board diagnostic strategy for monitoring the performance of the device in-use.

Using the above information, the Executive Officer shall determine the value of the NMOG credit based on the calculated change in the one-hour peak ozone level using an approved airshed model.

(g)(2) The fleet average non-methane organic gas exhaust emission values from passenger cars and light-duty trucks produced and delivered for sale in California by a manufacturer each model year from 1994 through 2000 shall not exceed:

**FLEET AVERAGE NON-METHANE ORGANIC GAS EXHAUST EMISSION REQUIREMENTS
FOR LIGHT-DUTY VEHICLE WEIGHT CLASSES^{7,8,9}**

[grams per mile (or "g/mi")]

<i>Vehicle Type¹</i>	<i>Loaded Vehicle Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)⁷</i>	<i>Model Year</i>	<i>Fleet Average Non-Methane Organic Gases^{2,3,4,5,6}</i>
PC and LDT	All 0-3750	50,000	1994	0.250
			1995	0.231
			1996	0.225
			1997	0.202
			1998	0.157
			1999	0.113
			2000	0.073
LDT	3751-5750	50,000	1994	0.320
			1995	0.295
			1996	0.287
			1997	0.260
			1998	0.205
			1999	0.150
			2000	0.099

- ¹ "PC" means passenger cars.
 "LDT" means light-duty trucks.
 "TLEV" means transitional low-emission vehicle.
 "LEV" means low-emission vehicle.
 "ULEV" means ultra-low-emission vehicle.
 "LVW" means loaded vehicle weight.
- ² "Non-Methane Organic Gases" (or "NMOG") means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.
- ³ *HEV Categories.* For the purpose of calculating fleet average NMOG values, a manufacturer may adjust the certification levels of hybrid electric vehicles (or "HEVs") based on the range of the HEV without the use of the engine. For the purpose of calculating the adjusted NMOG emissions, the following definitions shall apply:
- "Type A HEV" shall mean an HEV which achieves a minimum range of 60 miles over the All-Electric Range Test as defined in "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable.
- "Type B HEV" shall mean an HEV which achieves a range of 40–59 miles over the All-Electric Range Test as defined in "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable.
- "Type C HEV" shall mean an HEV which achieves a range of 0–39 miles over the All-Electric Range Test as defined in "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable, and all other HEVs excluding "Type A" and "Type B" HEVs.
- a. For the purpose of calculating fleet average NMOG values, vehicles which have no tailpipe emissions but use fuel-fired heaters and which are not certified as ZEVs shall be treated as "Type A HEV ULEVs."
- ⁴ *Calculation of Fleet Average NMOG Value (PCS and LDTs 0–3750 lbs. LVW).* Each manufacturer's fleet average NMOG value for the total number of PCs and LDTs from 0–3750 lbs. LVW produced and delivered for sale in California shall be calculated in units of g/mi NMOG according to the following equation, where the term "Produced" means produced and delivered for sale in California:
- $$\begin{aligned} & \{[(\text{No. of Vehicles Certified to the Exhaust Emission Standards in section 1960.1(e)(1) and Produced}) \times (0.39)] + \\ & [\text{No. of Vehicles Certified to the Phase-In Exhaust Emission Standards in section 1960.1(f)(1) and Produced} \times (0.25)] + \\ & [\text{No. of Vehicles Certified to the Phase-Out Exhaust Emission Standards in section 1960.1(f)(1) and Produced} \times (0.39)] + \\ & [(\text{No. of Vehicles Certified to the Exhaust Emission Standards in section 1960.1(f)(2) and Produced}) \times (0.25)] + \\ & [(\text{No. of TLEVs excluding HEVs and Produced}) \times (0.125)] + \\ & [(\text{No. of LEVs excluding HEVs and Produced}) \times (0.075)] + \\ & [(\text{No. of ULEVs excluding HEVs and Produced}) \times (0.040)] + \\ & (\text{HEV contribution factor}) \} \div \\ & (\text{Total No. of Vehicles Produced, Including Zero-Emission Vehicles and HEVs}): \end{aligned}$$
- a. "HEV contribution factor" shall mean the NMOG emission contribution of HEVs to the fleet average NMOG value. The HEV contribution factor shall be calculated in units of g/mi as follows, where the term "Produced" means produced and delivered for sale in California:
- $$\begin{aligned} \text{HEV contribution factor} = & \{[\text{No. of "Type A HEV" TLEVs Produced}] \times (0.100) + \\ & [\text{No. of "Type B HEV" TLEVs Produced}] \times (0.113) + \\ & [\text{No. of "Type C HEV" TLEVs Produced}] \times (0.125) \} + \\ & \{[\text{No. of "Type A HEV" LEVs Produced}] \times (0.057) + \\ & [\text{No. of "Type B HEV" LEVs Produced}] \times (0.066) + \\ & [\text{No. of "Type C HEV" LEVs Produced}] \times (0.075) \} + \\ & \{[\text{No. of "Type A HEV" ULEVs Produced}] \times (0.020) + \\ & [\text{No. of "Type B HEV" ULEVs Produced}] \times (0.030) + \\ & [\text{No. of "Type C HEV" ULEVs Produced}] \times (0.040) \} \end{aligned}$$
- b. "Zero-Emission Vehicles" (or "ZEVs") classified as LDTs 3751–5750 lbs. LVW which have been counted toward the ZEV requirements for PCs and LDTs 0–3750 lbs. LVW as specified in note (9) shall be included in the equation of note (4).
- c. Beginning with the 1996 model year, manufacturers that produce and deliver for sale in California PCs and LDTs 0–3750 lbs. LVW that are certified to federal Tier I exhaust emission standards in 40 CFR 86.094–8 and 86.094–9 shall add the following term to the numerator of the fleet average NMOG equation in note (4) and calculate their fleet average NMOG values accordingly:
- $$[(\text{No. of Vehicles Certified to federal Tier I exhaust emission standards and Produced}) \times (0.25)]$$
- ⁵ *Calculation of Fleet Average NMOG Value (LDTs 3751–5750 lbs. LVW).* Manufacturers that certify LDTs from 3751–5750 lbs. LVW, shall calculate a fleet average NMOG value in units of g/mi NMOG according to the following equation, where the term "Produced" means produced and delivered for sale in California:
- $$\begin{aligned} & \{[(\text{No. of Vehicles Certified to the Exhaust Emission Standards in section 1960.1(e)(1), and Produced}) \times (0.50)] + \\ & [(\text{No. of Vehicles Certified to the Phase-In Exhaust Emission Standards in section 1960.1(f)(1), and Produced}) \times (0.32)] + \\ & [\text{No. of Vehicles Certified to the Phase-Out Exhaust Standards in section 1960.1(f)(1), and Produced} \times (0.50)] + \\ & [(\text{No. of Vehicles Certified to the Exhaust Emission Standards in section 1960.1(f)(2), and Produced}) \times (0.32)] + \\ & [(\text{No. of TLEVs Produced excluding HEVs}) \times (0.160)] + \\ & [(\text{No. of LEVs Produced excluding HEVs}) \times (0.100)] + \\ & [(\text{No. of ULEVs Produced excluding HEVs}) \times (0.050)] + (\text{HEV contribution factor}) \} \div \\ & (\text{Total No. of Vehicles Produced, Including ZEVs and HEVs}). \end{aligned}$$
- a. "HEV contribution factor" shall mean the NMOG emission contribution of HEVs to the fleet average NMOG. The HEV contribution factor shall be calculated in units of g/mi as follows, where the term "Produced" means produced and delivered for sale in California:
- $$\begin{aligned} \text{HEV contribution factor} = & \{[\text{No. of "Type A HEV" TLEVs Produced}] \times (0.130) + \\ & [\text{No. of "Type B HEV" TLEVs Produced}] \times (0.145) + \\ & [\text{No. of "Type C HEV" TLEVs Produced}] \times (0.160) \} + \\ & \{[\text{No. of "Type A HEV" LEVs Produced}] \times (0.075) + \\ & [\text{No. of "Type B HEV" LEVs Produced}] \times (0.087) + \\ & [\text{No. of "Type C HEV" LEVs Produced}] \times (0.100) \} + \\ & \{[\text{No. of "Type A HEV" ULEVs Produced}] \times (0.025) + \\ & [\text{No. of "Type B HEV" ULEVs Produced}] \times (0.037) + \\ & [\text{No. of "Type C HEV" ULEVs Produced}] \times (0.050) \} \end{aligned}$$
- b. Only ZEVs which have been certified as LDTs 3751–5750 lbs. LVW and which have not been counted toward the ZEV requirements for PCs and LDTs 0–3750 lbs. LVW as specified in note (9) shall be included in the equation of note (5).

- c. Beginning with the 1996 model year, manufacturers that produce and deliver for sale in California LDTs 3751–5750 lbs. LVW that are certified to the Tier I exhaust emission standards in 40 CFR 86.094–9 shall add the following term to the numerator of the fleet average NMOG equation in note (5) and calculate their fleet average NMOG values accordingly:

$$[(\text{No. of Vehicles Certified to federal Tier I exhaust emission standards and Produced and Delivered for Sale in California}) \times (0.32)]$$
- ⁶ *Requirements for Small Volume Manufacturers.* As used in this subsection, the term “small volume manufacturer” shall mean any vehicle manufacturer with California sales less than or equal to 3000 new PCs, LDTs and MDVs per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1991, except as noted below. For manufacturers certifying for the first time in California, model-year sales shall be based on projected California sales. In 2000 and subsequent model years, small volume manufacturers shall comply with the fleet average NMOG requirements set forth below.
- Prior to the model year 2000, compliance with the specified fleet average NMOG requirements shall be waived.
 - In the 2000 model year, small volume manufacturers shall not exceed a fleet average NMOG value of 0.075 g/mi for PCs and LDTs from 0–3750 lbs. LVW calculated in accordance with note (4).
 - In the 2000 model year, small volume manufacturers shall not exceed a fleet average NMOG value of 0.100 g/mi for LDTs from 3751–5750 lbs. LVW calculated in accordance with note (5).
 - If a manufacturer’s average California sales exceeds 3000 units of new PCs, LDTs, and MDVs based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall no longer be treated as a small volume manufacturer and shall comply with the fleet average requirements applicable for larger manufacturers as specified in section 1960.1(g)(2) beginning with the fourth model year after the last of the three consecutive model years.
 - If a manufacturer’s average California sales falls below 3000 units of new PCs, LDTs, and MDVs based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall be treated as a small volume manufacturer and shall be subject to requirements for small volume manufacturers as specified in section 1960.1(g)(2) beginning with the next model year.
- ⁷ *Calculation of NMOG Credits/Debits and Procedures for Offsetting Debits.*
- In 1992 through 2000 model years, manufacturers that achieve fleet average NMOG values lower than the fleet average NMOG requirement for the corresponding model year shall receive credits in units of g/mi NMOG determined as: $\{[(\text{Fleet Average NMOG Requirement}) - (\text{Manufacturer's Fleet Average NMOG Value})] \times (\text{Total No. of Vehicles Produced and Delivered for Sale in California, Including ZEVs and HEVs})\}$.
Manufacturers with fleet average NMOG values greater than the fleet average requirement for the corresponding model year shall receive debits in units of g/mi NMOG equal to the amount of negative credits determined by the aforementioned equation. For any given model year, the total g/mi NMOG credits or debits earned for PCs and LDTs 0–3750 lbs. LVW and for LDTs 3751–5750 lbs. LVW shall be summed together. The resulting amount shall constitute the g/mi NMOG credits or debits accrued by the manufacturer for the model year.
 - For the 1994 through 1997 model years, manufacturers shall equalize emission debits within three model years and prior to the end of the 1998 model year by earning g/mi NMOG emission credits in an amount equal to their g/mi NMOG debits, or by submitting a commensurate amount of g/mi NMOG credits to the Executive Officer that were earned previously or acquired from another manufacturer. For 1998 through 2000 model years, manufacturers shall equalize emission debits by the end of the following model year. If emission debits are not equalized within the specified time period, the manufacturer shall be subject to the Health and Safety Code section 43211 civil penalty applicable to a manufacturer which sells a new motor vehicle that does not meet the applicable emission standards adopted by the state board. The cause of action shall be deemed to accrue when the emission debits are not equalized by the end of the specified time period. For the purposes of Health and Safety Code section 43211, the number of vehicles not meeting the state board’s emission standards shall be determined by dividing the total amount of g/mi NMOG emission debits for the model year by the g/mi NMOG fleet average requirement for PCs and LDTs 0–3750 lbs. LVW applicable for the model year in which the debits were first incurred.
 - The g/mi NMOG emission credits earned in any given model year shall retain full value through the subsequent model year. The g/mi NMOG value of any credits not used to equalize the previous model-year’s debit, shall be discounted by 50% at the beginning of the second model year after being earned, discounted to 25% of its original value if not used by the beginning of the third model year after being earned, and will have no value if not used by the beginning of the fourth model year after being earned.
 - In order to verify the status of a manufacturer’s compliance with the fleet average requirements for a given model year, and in order to confirm the accrual of NMOG credits or debits, each manufacturer shall submit an annual report to the Executive Office which sets forth the production data used to establish compliance, by no later than March 1 of the calendar year following the close of the completed model year.
- ⁸ *Credits for Pre-1994 Model Year Vehicles.* Manufacturers that produce and deliver for sale in California vehicles certified to the phase-in exhaust emission standards in section 1960.1(f)(1), or vehicles certified to the exhaust emission standards in sections 1960.1(f)(2) or 1960.1(g)(1) and/or ZEVs, in the 1992 and 1993 model years, shall receive emission credits as determined by the equations in footnotes (4), (5), and (7).
- For PCs and LDTs from 0–3750 lbs. LVW, the fleet average NMOG requirement for calculating a manufacturer’s emission credits shall be 0.390 and 0.334 g/mi NMOG for vehicles certified for the 1992 and 1993 model years, respectively.
 - For LDTs from 3751–5750 lbs. LVW, the fleet average NMOG requirement for calculating a manufacturer’s emission credits shall be 0.500 and 0.428 g/mi NMOG for vehicles certified for the 1992 and 1993 model years, respectively.
 - Emission credits earned prior to the 1994 model year shall be considered as earned in the 1994 model year and discounted in accordance with the schedule specified in footnote (7).

(h)(1) “Tier 1” Exhaust Emission Standards for MDVs. The exhaust emissions from new 1995 through 2003 model Tier 1 medium-duty vehicles shall not exceed:

1995–2003 MODEL-YEAR TIER 1
MEDIUM-DUTY VEHICLE EXHAUST EMISSIONS STANDARDS^{1,2,3,7,8}
(grams per mile)

Test Weight (lbs.)	Durability Vehicle Basis (mi)	Non-Methane Hydrocarbons ⁴	Carbon Monoxide	Oxides of Nitrogen ⁵	Particulates ⁶
0–3,750	50,000	0.25	3.4	0.4	n/a
0–3,750	120,000	0.36	5.0	0.55	0.08
3,751–5,750	50,000	0.32	4.4	0.7	n/a
3,751–5,750	120,000	0.46	6.4	0.98	0.10
5,751–8,500	50,000	0.39	5.0	1.1	n/a
5,751–8,500	120,000	0.56	7.3	1.53	0.12
8,501–10,000	50,000	0.46	5.5	1.3	n/a
8,501–10,000	120,000	0.66	8.1	1.81	0.12
10,001–14,000	50,000	0.60	7.0	2.0	n/a
10,001–14,000	120,000	0.86	10.3	2.77	0.12

¹ “n/a” means not applicable.

“Test Weight” shall mean the average of the vehicle’s curb weight and gross vehicle weight.

² Manufacturers have the option of certifying engines used in incomplete and diesel medium-duty vehicles from 8501–14,000 pounds, gross vehicle weight to the heavy-duty engine standards and test procedures set forth in section 1956.8(e), Title 13, California Code of Regulations. Manufacturers certifying incomplete or diesel medium-duty vehicles to the heavy-duty engine standards and test procedures shall specify, in the application for certification, an in-use compliance test procedure, as provided in section 2139(c), Title 13, California Code of Regulations.

³ For the 1995 model-year only, manufacturers of medium-duty vehicles may certify a maximum of 50 percent of their vehicles to the applicable 1994 model-year standards and test procedures. For the 1995 model year only, small volume manufacturers may certify 100 percent of their vehicles to the applicable 1994 model-year standards and test procedures. The percentage shall be based upon each manufacturer’s projected sales of California-certified medium-duty vehicles.

⁴ For methanol- and ethanol-fueled vehicles certifying to these standards, including flexible-fueled vehicles when certifying on methanol or ethanol, “Non-Methane Hydrocarbons” shall mean “Organic Material Non-Methane Hydrocarbon Equivalent” (or “OMNMHCE”).

⁵ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600 Subpart B) shall be not greater than 2.00 times the applicable medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standards shall be rounded in accordance with ASTM E29–67 to the nearest 0.1 g/mi before being compared.

⁶ Particulate standards are only applicable for diesel vehicles and shall be determined on a 120,000 mile basis.

⁷ In-use compliance testing shall be limited to vehicles with less than 90,000 miles. For the 1995 through 1997 models, alternative in-use compliance is available for medium-duty vehicle manufacturers. A manufacturer may use alternative in-use compliance for up to 100 percent of its fleet in the 1995 and 1996 model years and up to 50 percent of its fleet in the 1997 model year. Small volume manufacturers may use alternative in-use compliance for up to 100 percent of their fleets in the 1995 through 1997 model years. The percentages shall be determined from the manufacturers’ projected California sales of medium-duty vehicles. For vehicles certified to the standards and test procedures of this subsection, “alternative in-use compliance” shall consist of an in-use allowance of 25 percent over the applicable 1995 model-year non-methane hydrocarbon, carbon monoxide, and oxides of nitrogen 50,000 mile emission standards and a waiver of the emission standards beyond 50,000 miles.

⁸ All medium-duty vehicles, except diesel-fueled vehicles and those incomplete and diesel vehicles certifying to heavy-duty engine test procedures, are subject to 50,000 mile and 120,000 mile non-methane hydrocarbon, carbon monoxide, and oxides of nitrogen standards. Diesel-fueled vehicles shall be subject to 120,000 mile non-methane hydrocarbon, carbon monoxide, oxides of nitrogen, and particulate standards only.

(h)(2) "LEV I" Exhaust Emission Standards for MDVs. The exhaust emissions from new 1992 through 2006 model-year medium-duty LEV

I low-emission vehicles, ultra-low-emission vehicles and super-ultra-low-emission vehicles shall not exceed:

LEV I EXHAUST EMISSION STANDARDS FOR LOW-EMISSION VEHICLES,
ULTRA-LOW-EMISSION VEHICLES AND SUPER-ULTRA-LOW-EMISSION
VEHICLES IN THE MEDIUM-DUTY VEHICLE
WEIGHT CLASS^{8,9,10,11,12,13,14,15,16}
[grams per mile (or "g/mi")]

<i>Test Weight (lbs.)¹</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Vehicle Emission Category²</i>	<i>Non-Methane Organic Gases^{3,4}</i>	<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen⁵</i>	<i>Particulates^{6,7}</i>
0-3750	50,000	LEV	0.125	3.4	0.4	n/a
		ULEV	0.075	1.7	0.2	n/a
	120,000	LEV	0.180	5.0	0.6	0.08
		ULEV	0.107	2.5	0.3	0.04
3751-5750	50,000	LEV	0.160	4.4	0.4	n/a
		ULEV	0.100	4.4	0.4	n/a
		SULEV	0.050	2.2	0.2	n/a
	120,000	LEV	0.230	6.4	0.6	0.10
		ULEV	0.143	6.4	0.6	0.05
		SULEV	0.072	3.2	0.3	0.05
5751-8500	50,000	LEV	0.195	5.0	0.6	n/a
		ULEV	0.117	5.0	0.6	n/a
		SULEV	0.059	2.5	0.3	n/a
	120,000	LEV	0.280	7.3	0.9	0.12
		ULEV	0.167	7.3	0.9	0.06
		SULEV	0.084	3.7	0.45	0.06
8501-10,000	50,000	LEV	0.230	5.5	0.7	n/a
		ULEV	0.138	5.5	0.7	n/a
		SULEV	0.069	2.8	0.35	n/a
	120,000	LEV	0.330	8.1	1.0	0.12
		ULEV	0.197	8.1	1.0	0.06
		SULEV	0.100	4.1	0.5	0.06
10,001-14,000	50,000	LEV	0.300	7.0	1.0	n/a
		ULEV	0.180	7.0	1.0	n/a
		SULEV	0.09	3.5	0.5	n/a
	120,000	LEV	0.430	10.3	1.5	0.12
		ULEV	0.257	10.3	1.5	0.06
		SULEV	0.130	5.2	0.7	0.06

¹ "Test Weight" (or "TW") shall mean the average of the vehicle's curb weight and gross vehicle weight.

"Non-Methane Organic Gases" (or "NMOG") means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

² "LEV" means low-emission vehicle.

"ULEV" means ultra-low-emission vehicle.

"SULEV" means super-ultra-low-emission vehicle.

³ *Compliance with NMOG Standards.* To determine compliance with an NMOG standard, NMOG emissions shall be measured in accordance with the "California Non-Methane Organic Gas Test Procedures" adopted July 12, 1991 and last amended July 30, 2002, which is incorporated herein by reference.

a. *Reactivity Adjustment.* For LEVs and ULEVs certified to operate on an available fuel other than conventional gasoline, including fuel-flexible or dual-fuel vehicles when certifying on a fuel other than gasoline, manufacturers shall multiply the exhaust NMOG certification levels by the applicable reactivity adjustment factor set forth in section 1.3 of the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in section I.E.5. of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), or established by the Executive Officer pursuant to Appendix VIII or section II.D. respectively of the foregoing test procedures. In addition, natural gas vehicles certifying to LEV or ULEV standards shall calculate a reactivity-adjusted methane exhaust emission value by multiplying the methane exhaust certification level by the applicable methane reactivity adjustment factor set forth in section 1.3 or in section I.E.5. of the above-referenced test procedures as applicable. The product of the exhaust NMOG certification levels and the reactivity adjustment factor shall be compared to the exhaust NMOG mass emission standard established for the particular vehicle emission category to determine compliance. For natural gas vehicles, the reactivity-adjusted NMOG value shall be added to the reactivity-adjusted methane value and then compared to the exhaust NMOG mass emission standards established for the particular vehicle emission category to determine compliance.

b. *Pre-1998 NOx standards.* Prior to the 1998 model year, the 50,000 mile and 120,000 mile LEV exhaust mass emission standards for NOx shall be: 0.7 and 1.0 g/mi for MDVs from 3751–5750 lbs. TW, 1.1 and 1.5 g/mi MDVs from 5751–8500 lbs. TW, 1.3 and 1.8 g/mi for MDVs from 8501–10,000 lbs. TW, and 2.0 and 2.8 g/mi for MDVs from 10,001–14,000 lbs. TW, respectively.

⁴ *NMOG Standards for Fuel-Flexible and Dual-Fuel Vehicles.* Fuel-flexible and dual-fuel medium-duty vehicles (or "MDVs") from 0–14,000 lbs. TW shall be certified to exhaust mass emission standards for NMOG established for the operation of the vehicle on a fuel other than gasoline, and gasoline.

a. *Reactivity Adjustment.* For LEVs and ULEVs when certifying on the fuel other than gasoline, manufacturers shall multiply the exhaust NMOG certification levels by the applicable reactivity adjustment factor. In addition to multiplying the exhaust NMOG certification levels by the applicable reactivity adjustment factor, the exhaust methane certification level for natural gas vehicles shall be multiplied by the applicable methane reactivity adjustment factor and the resulting value shall be added to the reactivity-adjusted NMOG value. When certifying on gasoline, the exhaust NMOG certification levels of fuel-flexible and dual-fuel vehicles shall not be multiplied by a reactivity adjustment factor.

b. *Standards for Fuel-Flexible and Dual-Fuel Vehicles Operating on Gasoline.* For MDVs from 14,000 lbs. TW, the applicable exhaust mass emission standard for NMOG when certifying the vehicle for operation on gasoline shall be:

Test Weight (lbs.)	Vehicle Emission Category	50,000 (g/mi)	120,000 (g/mi)
0–3750	LEV	0.25	0.36
	ULEV	0.125	0.180
3751–5750	LEV	0.32	0.46
	ULEV	0.160	0.230
	SULEV	0.100	0.143
5751–8500	LEV	0.39	0.56
	ULEV	0.195	0.280
	SULEV	0.117	0.167
8501–10,000	LEV	0.46	0.66
	ULEV	0.230	0.330
	SULEV	0.138	0.197
10,001–14,000	LEV	0.60	0.86
	ULEV	0.300	0.430
	SULEV	0.180	0.257

⁵ *Highway NOx.* The maximum projected emissions of "Oxides of Nitrogen" (or "NOx") measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600 Subpart B) shall be not greater than 2.00 times the applicable MDV standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29-67 to the nearest 0.1 g/mi before being compared.

⁶ Particulate standards are only applicable for diesel vehicles and shall be determined on a 120,000 mile basis.

⁷ "n/a" means not applicable.

⁸ *Certification of Incomplete and Diesel Vehicles.* Manufacturers have the option of certifying engines used in incomplete and diesel MDVs to the heavy-duty engine standards and test procedures set forth in section 1956.8(g) or (h), Title 13, California Code of Regulations. Manufacturers certifying incomplete or diesel MDVs to the heavy-duty engine standards and test procedures shall specify in the application for certification an in-use compliance procedure as provided in section 2139(c), Title 13, California Code of Regulations. For diesel vehicles certifying to the standards set forth in Title 13, section 1960.1(h)(2), "NMOG" shall mean non-methane hydrocarbons.

⁹ *Intermediate In-Use Compliance Standards.* The following intermediate in-use compliance standards for 50,000 miles and 120,000 miles for MDVs from 3751-14,000 lbs. TW, including fuel-flexible and dual-fuel vehicles when operating on an available fuel other than gasoline, shall apply for the specified model years only:

<i>Intermediate In-Use Compliance Standards*</i> (in grams per mile)										
<i>Emission Category</i>	<i>Model Year</i>	<i>Durability Vehicle Basis (mi)</i>	<i>3751-5750 lbs.</i>		<i>5751-8500 lbs.</i>		<i>8501-10,000 lbs.</i>		<i>10,001-14,000 lbs.</i>	
			<i>NMOG</i>	<i>NOx</i>	<i>NMOG</i>	<i>NOx</i>	<i>NMOG</i>	<i>NOx</i>	<i>NMOG</i>	<i>NOx</i>
LEV	through 1997	50,000	0.238	0.7	0.293	1.1	0.345	1.3	0.450	2.0
	1998-1999	50,000	0.238	0.6	0.293	0.9	0.345	1.0	0.450	1.5
	2000	50,000	—	0.6	—	0.9	—	1.0	—	1.5
	2000	120,000	—	0.8	—	1.2	—	1.3	—	2.0
ULEV	through 1999	50,000	0.128	0.6	0.156	0.9	0.184	1.0	0.240	1.5
	2000	50,000	0.128	0.6	0.156	0.9	0.184	1.0	0.240	1.5
	2000	120,000	0.160	0.8	0.195	1.2	0.230	1.3	0.300	2.0
	2001-2002	50,000	0.128	—	0.156	—	0.184	—	0.240	—
	2001-2002	120,000	0.160	—	0.195	—	0.230	—	0.300	—
SULEV	through 2002	50,000	0.072	0.3	0.084	0.45	0.100	0.5	0.130	0.7
	2002	120,000	0.100	0.4	0.117	0.6	0.138	0.65	0.180	1.0

In-use compliance with standards beyond 50,000 miles shall be waived through the 1999 model year for LEVs and ULEVs and through the 2001 model year for SULEVs. Dashes mean that the standard in the section (h)(92) table applies.

*Dashes mean that the standard in the section (h)(2) table applies.

- a. *Reactivity Adjustment.* For LEVs and ULEVs designed to operate on any available fuel other than conventional gasoline, including fuel-flexible and dual-fuel vehicles when operating on any available fuel other than gasoline, NMOG exhaust mass emission results shall be multiplied by the applicable reactivity adjustment factor to determine compliance with intermediate in-use compliance standards for NMOG. In addition to multiplying the exhaust NMOG mass emission results by the applicable reactivity adjustment factor, natural gas vehicles shall multiply the exhaust methane mass emission results by the applicable methane reactivity adjustment factor and add that value to the reactivity-adjusted NMOG value. For fuel-flexible and dual-fuel vehicles when operating on gasoline, NMOG emission results shall not be multiplied by a reactivity adjustment factor.
- b. *Gasoline Standards for Fuel-Flexible and Dual-Fuel Vehicles.* For fuel-flexible and dual-fuel MDVs from 0–14,000 lbs. TW, intermediate in-use compliance standards for NMOG emissions at 50,000 miles when the vehicle is operated on gasoline, shall be:

<i>Fuel-Flexible and Dual-Fuel MDVs Intermediate In-Use Compliance Standards</i>		
<i>Test Weight (lbs.)</i>	<i>Vehicle Emission Category</i>	<i>50,000 (g/mi)</i>
0–3750	LEV	0.32
	ULEV	0.188
3751–5750	LEV	0.41
	ULEV	0.238
	SULEV	0.128
5751–8500	LEV	0.49
	ULEV	0.293
	SULEV	0.156
8501–10,000	LEV	0.58
	ULEV	0.345
	SULEV	0.184
10,000–14,000	LEV	0.75
	ULEV	0.450
	SULEV	0.240

Intermediate in-use compliance standards shall apply to LEVs and ULEVs through the 1999 model year and to SULEVs through the 2001 model year. Compliance with the standards beyond 50,000 miles shall be waived through the 1999 model year for LEVs and ULEVs and through the 2001 model year for SULEVs.

- ¹⁰ *Medium-Duty Vehicle Phase-In Requirements.* Each manufacturer's MDV fleet shall be defined as the total number of MDVs from 0–14,000 lbs. TW certified and produced and delivered for sale in California.

- a. Manufacturers of MDVs shall certify an equivalent percentage of their MDV fleet according to the following phase-in schedule:

<i>Model Year</i>	<i>Vehicles Certified to Title 13 CCR Section 1960.1(h)(1) or (h)(2) (%)</i>			<i>Vehicles Certified to Title 13 CCR Section 1956.8(g) or (h) (%)</i>		
	<i>Tier 1</i>	<i>LEV</i>	<i>ULEV</i>	<i>Tier 1</i>	<i>LEV</i>	<i>ULEV</i>
1998	73	25	2	100	0	0
1999	48	50	2	100	0	0
2000	23	75	2	100	0	0

- c. The percentages shall be applied to the manufacturer's total production of California-certified medium-duty vehicles delivered for sale in California.

- d. These requirements shall not apply to small volume manufacturers. Small volume manufacturers shall comply with the requirements of note (16) below.

- ¹¹ *Definition of HEV.* For the purpose of calculating "Vehicle Equivalent Credits" (or "VECs"), the contribution of hybrid electric vehicles (or "HEVs") will be calculated based on the range of the HEV without the use of the engine. For the purpose of calculating the contribution of HEVs to the VECs, the following definitions shall apply:

"Type A HEV" shall mean an HEV which achieves a minimum range of 60 miles over the All-Electric Range Test as defined in the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable.

"Type B HEV" shall mean an HEV which achieves a range of 40–59 miles over the All-Electric Range Test as defined in the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable.

"Type C HEV" shall mean an HEV which achieves a range of 0–39 miles over the All-Electric Range Test as defined in the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable, and all other HEVs excluding "Type A" and "Type B" HEVs.

- a. For the purpose of calculating VECs, electric vehicles which utilize fuel fired heaters and which are not otherwise certified as ZEVs shall be treated as "Type A HEV ULEVs."

- ¹² *Calculation of Vehicle Equivalent Credits.* In 1992 through 2000 model years, manufacturers that produce and deliver for sale in California MDVs in excess of the equivalent requirements for LEVs and/or ULEVs certified to the exhaust emission standards set forth in this section (h)(2) or Title 13, CCR Section 1956.8(h), shall receive VECs calculated in accordance with the following equation, where the term "Produced" means produced and delivered for sale in California:

$$\begin{aligned}
 & \{[(\text{No. of LEVs Produced excluding HEVs}) + (\text{No. of "Type C HEV" LEVs Produced})] + \\
 & [(\text{No. of "Type A HEV" LEVs Produced}) \times (1.2)] + \\
 & [(\text{No. of "Type B HEV" LEVs Produced}) \times (1.1)] - \\
 & (\text{Equivalent No. of LEVs Required to be Produced})\} + \\
 & \{(1.4) \times [(\text{No. of ULEVs Produced excluding HEVs}) + (\text{No. of "Type C HEV" ULEVs Produced})] + \\
 & [(1.7) \times (\text{No. of "Type A HEV" ULEVs Produced})] + \\
 & [(1.5) \times (\text{No. of "Type B HEV" ULEVs Produced})] - \\
 & [(1.4) \times (\text{Equivalent No. of ULEVs Required to be Produced})]\} + \\
 & \{[(1.7) \times [(\text{No. of SULEVs Produced excluding HEVs}) + (\text{No. of "Type C HEV" SULEVs Produced})] + \\
 & [(\text{No. of "Type A HEV" SULEVs Produced}) \times (1.7)] + \\
 & [(\text{No. of "Type B HEV" SULEVs Produced}) \times (1.5)] - \\
 & [(1.7) \times [(\text{Equivalent No. of SULEVs Required to be Produced})]\} + \\
 & [(2.0) \times (\text{No. of ZEVs Certified and Produced as MDVs})].
 \end{aligned}$$

- a. Manufacturers that fail to produce and deliver for sale in California the equivalent quantity of MDVs certified to LEV and/or ULEV exhaust emission standards, shall receive "Vehicle-Equivalent Debits" (or "VEDs") equal to the amount of negative VECs determined by the aforementioned equation.

- b. Manufacturers shall equalize emission debits within one model year by earning VECs in an amount equal to their previous model-year's total of VEDs, or by submitting a commensurate amount of VECs to the Executive Officer that were earned previously or acquired from another manufacturer. Any manufacturer which fails to equalize emission debits within the specified time period shall be subject to the Health and Safety Code civil penalty applicable to a manufacturer which sells a new motor vehicle that does not meet the applicable emission standards adopted by the state board. The cause of action shall be deemed to accrue when the emission debits are not equalized by the end of the specified time period, for the purposes of Health and Safety Code section 43211, the number of vehicles not meeting the state board's emission standards shall be equal to the amount of VEDs incurred.
 - c. The VECs earned in any given model year shall retain full value through the subsequent model year.
 - d. The value of any VECs not used to equalize the previous model-year's debit, shall be discounted by 50% at the beginning of second model year after being earned, discounted to 25% of its original value if not depleted by the beginning of the third model year after being earned, and will have no value if not used by the beginning of the fourth model year after being earned.
 - e. Any VECs earned prior to the 1998 model year shall be treated as earned in the 1998 model year and discounted in accordance with the schedule specified in note (12)d.
 - f. Only ZEVs certified as MDVs shall be included in the calculation of VECs.
 - g. In order to verify the status of a manufacturer's compliance with the phase-in requirements of this section and in order to confirm the accrual of VECs or VEDs, each manufacturer shall submit an annual report to the Executive Officer which sets forth the production data used to establish compliance by no later than March 1 of the calendar year following the close of the model year.
- ¹³ *50°F Requirement.* Manufacturers shall demonstrate compliance with the above standards for NMOG, carbon monoxide, and oxides of nitrogen at 50 degrees F according to the procedures specified in section 11k of the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), or according to the procedure specified in section II.C. of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1961(d), as applicable. Hybrid electric, natural gas, and diesel-fuel vehicles shall be exempt from 50 degrees F test requirements.
- ¹⁴ *In-use compliance testing* shall be limited to vehicles with fewer than 90,000 miles.
- ¹⁵ *HEV Requirements.* Deterioration factors for hybrid electric vehicles shall be based on the emissions and mileage accumulation of the auxiliary power unit. For certification purposes only, Type A hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors), and demonstrating compliance with 120,000 mile emission standards shall not be required. For certification purposes only, Type B hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors). For certification purposes only, Type C hybrid electric vehicles shall demonstrate compliance with 50,000 mile emission standards (using 50,000 mile deterioration factors) and 120,000 mile emission standards (using 120,000 mile deterioration factors).
- ¹⁶ *Requirements for Small Volume Manufacturers.* As used in Section 1960.1(h)(2), the term "small volume manufacturer" shall mean any vehicle manufacturer with California sales less than or equal to 3000 new PCs, LDTs, and MDVs per model year based on the average number of vehicles sold by the manufacturer each model year from 1992 to 1994, except as otherwise noted below. For manufacturers certifying for the first time in California, model-year sales shall be based on projected California sales.
- a. Prior to the model year 2001, small volume manufacturers shall not be required to certify, produce, or deliver LEVs and ULEVs for sale in California.
 - b. If a manufacturer's average California sales exceeds 3000 units of new PCs, LDTs, and MDVs based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall no longer be treated as a small volume manufacturer and shall comply with the LEV and ULEV requirements applicable for larger manufacturers as specified in 1960.1(h)(2) beginning with the fourth model year after the last of the three consecutive model years.
 - c. If a manufacturer's average California sales falls below 3000 units of new PCs, LDTs, and MDVs based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall be treated as a small volume manufacturer and shall be subject to requirements for small volume manufacturers as specified in 1960.1(h)(2) beginning with the next model year.
-

(i) The exhaust emissions from new 1981 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles certified to special standards authorized by sections 1960.2, 1960.3, and 1960.4, subchapter 1, Chapter 3, Title 13, California Code of Regulations, shall not exceed¹:

SPECIAL EXHAUST ¹⁰ EMISSION STANDARDS (grams per mile)							
<i>Year</i>	<i>Vehicle Type²</i>	<i>Equivalent Inertia Weight (lbs.)³</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Non-Methane Hydrocarbons⁴</i>		<i>Carbon Monoxide</i>	<i>Oxides of Nitrogen⁵</i>
1981	PC ⁶ LDT, MDV ⁷	All 0-3999	50,000 50,000	0.39	(0.41)	7.0 9.0	1.5 1.5
1982 ⁸	PC	All	50,000	0.39	(0.41)	7.0	1.0
1983 ⁸	PC LDT, MDV	All 0-3999	50,000 50,000	0.39 0.39	(0.41) (0.41)	7.0 9.0	0.7 ₉ 1.0
1984 ⁸	PC LDT, MDV	All 0-3999	50,000 50,000	0.39 0.39	(0.41) (0.41)	7.0 9.0	0.7 0.7 ₉
1985 ⁸	LDT, MDV	0-3999	50,000	0.39	(0.41)	9.0	0.7

¹ Subsection (i) shall remain in effect until December 31, 1990, and as of that date is repealed unless a later regulation deletes or extends that date. Notwithstanding the repeal or expiration of this regulation on December 31, 1990, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

² "PC" means passenger cars. "LDT" means light-duty trucks. "MDV" means medium-duty vehicles.

³ Equivalent inertia weights are determined under subparagraph 40 CFR 86.129-79(a).

⁴ Hydrocarbon standards in parentheses apply to total hydrocarbons.

⁵ The maximum projected emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR Part 600, Subpart B) shall be no greater than 1.33 times the applicable passenger car standards and 2.0 times the applicable light-duty truck and medium-duty vehicle standards shown in the table. Both the projected emissions and the HWFET standard shall be rounded to the nearest 0.1 gm/mi before being compared.

⁶ For vehicles certified to special standards authorized by section 1960.2, Article 2, Subchapter 1, Chapter 3, Title 13, California Administrative Code.

⁷ For vehicles certified to special standards authorized by section 1960.3, Article 2, Subchapter 1, Chapter 3, Title 13, California Administrative Code.

⁸ For vehicles certified to special standards authorized by section 1960.4, Article 2, Subchapter 1, Chapter 3, Title 13, California Administrative Code. Special standards revert to "1983 and subsequent" standards for 1985 and subsequent passenger cars and 1986 and subsequent LDTs and MDVs.

⁹ The Executive Officer may grant limited relief from the 1983 passenger car and 1984 LDT and MDV special NO_x standard to a manufacturer who exceeds the standard because of unforeseen technical problems.

¹⁰ Diesel passenger cars, light-duty trucks, and medium-duty vehicles are subject to the following particulate exhaust emission standards: 0.4 g/mi for the 1985 model year, 0.2 g/mi for the 1986 through 1988 model years, and 0.08 g/mi for the 1989 and subsequent model years. The particulate compliance shall be determined on a 50,000 mile durability vehicle basis.

(j) For Option 1 in the tables in sections (f)(1) and (f)(2), the hydrocarbon and carbon monoxide compliance shall be determined on a 50,000-mile durability vehicle basis. For Option 2 in the table in section (f)(2), the hydrocarbon and carbon monoxide compliance shall be determined on a 100,000-mile durability basis.

(k) The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Standards and Test Procedures for 1981 through 1987 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the state board on November 23, 1976, as last amended May 20, 1987, and in "California Exhaust Emission Standards and Test Procedures for 1988 through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted by the state board on May 20, 1987, as last amended August 5, 1999, both of which are incorporated herein by reference, and in "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as incorporated by reference in section 1961(d). The test procedures for determining the compliance of 2001 through 2006 model-year hybrid electric vehicles with the standards set forth in this section are set forth in "California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck, and Medium-Duty Vehicle Classes, as incorporated by reference in section 1962(h).

(l) With respect to any new vehicle required to comply with the standards set forth in paragraphs (a) through (h), the manufacturer's written maintenance instructions for in-use vehicles shall not require scheduled maintenance more frequently than or beyond the scope of maintenance permitted under the test procedures referenced in paragraph (k) above. Any failure to perform scheduled maintenance shall not excuse an emissions violation unless the failure is related to or causative of the violation.

(m) Any 1982, 1983, and 1984 model year vehicle required to comply with the standards set forth in paragraphs (b), (c), (d), and (f) which is subject to a standard set by federal law or regulation controlling emissions of particulate matter must conform to such standard.

(n) For purposes of section 1960.1(a) through (f), section 1960.1(h)(1), and section 1960.1.5, "small volume manufacturer" for the 2000 and earlier model years is any vehicle manufacturer which was subject to "in lieu" standards pursuant to section 202(b)(1)(B) of the Federal Clean Air Act (42 U.S.C. section 7521(b)(1)(B)), as amended November 16, 1977) or a vehicle manufacturer with California sales not exceeding 3,000 new motor vehicles per model year based on previous model-year sales; however, for manufacturers certifying for the first time in California model year sales shall be based on projected California sales.

(o) [Reserved]

(p) The cold temperature exhaust carbon monoxide emission levels from new 1996 through 2000 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles shall not exceed:

**1996 AND SUBSEQUENT MODEL-YEAR COLD TEMPERATURE CARBON
MONOXIDE EXHAUST EMISSIONS STANDARDS FOR PASSENGER
CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES^{1,2}**
(grams per mile)

<i>Vehicle Type</i>	<i>Loaded Vehicle Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Carbon Monoxide</i>
Passenger Car	All	50,000	10.0
Light-Duty Truck	0-3750	50,000	10.0
Light-Duty Truck	3751-5750	50,000	12.5
Medium-Duty Vehicle	0-3750	50,000	10.0
Medium-Duty Vehicle	3750-8500 ³	50,000	12.5

(1) These standards are applicable to vehicles tested in accordance with 40 CFR Part 86 Subpart C, at a nominal temperature of 20°F (-7°C).

(2) Natural gas vehicles, diesel-fueled vehicles, hybrid electric vehicles, and zero-emission vehicles are exempt from these standards.

(3) Medium-duty vehicles with a gross vehicle weight rating greater than 8,500 lbs. are exempt from this standard.

(q) The Supplemental Federal Test Procedure (SFTP) exhaust emission levels from new 2001 and subsequent model passenger cars and light-duty trucks, other than low-emission vehicles, ultra-low-emission vehicles, and zero-emission vehicles, shall not exceed:

**SFTP EXHAUST EMISSION STANDARDS FOR 2001 AND SUBSEQUENT
MODEL-YEAR PASSENGER CARS AND LIGHT-DUTY TRUCKS
OTHER THAN LOW-EMISSION VEHICLES, ULTRA-LOW-EMISSION
VEHICLES, AND ZERO-EMISSION VEHICLES**
(grams per mile)^{4,5,6,7,8,9,10}

<i>Vehicle Type¹</i>	<i>Loaded Vehicle Weight (lbs.)</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Fuel Type</i>	<i>NMHC² + NOx¹ Composite³</i>	<i>A/C¹ Test</i>	<i>CO¹ US06¹ Test</i>	<i>Composite Option³</i>
PC	All	50,000	Gasoline	0.65	3.0	9.0	3.4
			Diesel	1.48	NA	9.0	3.4
		100,000	Gasoline	0.91	3.7	11.1	4.2
LDT	0-3750	50,000	Diesel	2.07	NA	11.1	4.2
			Gasoline	0.65	3.0	9.0	3.4
		100,000	Diesel	1.48	NA	9.0	3.4
LDT	3751-5750	50,000	Gasoline	0.91	3.7	11.1	4.2
			Diesel	2.07	NA	11.1	4.2
		100,000	Gasoline	1.02	3.9	11.6	4.4
			Diesel	NA	NA	NA	NA
			Gasoline	1.37	4.9	14.6	5.5
			Diesel	NA	NA	NA	NA

¹ Abbreviations.

“PC” means passenger car.

“LDT” means light-duty truck.

“NMHC+NOx” means non-methane hydrocarbon plus oxides of nitrogen emissions.

“CO” means carbon monoxide emissions.

“A/C” means air-conditioning.

“US06” means the test cycle designed to evaluate emissions during aggressive and microtransient driving.

² *Non-Methane Hydrocarbon Emissions.* For PCs and LDTs certified to the FTP exhaust standards in section 1960.1(f)(2), hydrocarbon emissions shall be measured in accordance with the “California Non-Methane Hydrocarbon Test Procedures” as last amended May 15, 1990, which is incorporated herein by reference. For PCs and LDTs certified as transitional low-emission vehicles, hydrocarbon emissions shall be measured in accordance with Part B (Determination of Non-Methane Hydrocarbon Mass Emissions by Flame Ionization Detection) of the “California Non-Methane Organic Gas Test Procedures” as incorporated by reference in section 1960.1(g)(1), note (3). For alcohol-fueled vehicles certifying to these standards, including flexible-fuel vehicles when certifying on methanol or ethanol, “Non-Methane Hydrocarbons” shall mean “Organic Material Non-Methane Hydrocarbon Equivalent.”

³ *Composite Standards.* Compliance with the composite standards shall be demonstrated using the calculations set forth in the section 86.164-00, Title 40, Code of Federal Regulations, as adopted October 22, 1996, which is incorporated herein by reference.

⁴ *SFTP.* SFTP means the additional test procedure designed to measure emissions during aggressive and microtransient driving, as described in section 86.159-00, Title 40, Code of Federal Regulations, as adopted October 22, 1996, over the US06 cycle, and also the test procedure designed to measure urban driving emissions while the vehicle’s air conditioning system is operating, as described in section 86.160-00, Title 40, Code of Federal Regulations, as adopted October 22, 1996, over the SC03 cycle. These sections of the Code of Federal Regulations are incorporated herein by reference.

⁵ *Applicability to Alternative Fuel Vehicles.* These SFTP standards do not apply to vehicles certified on fuels other than gasoline and diesel fuel, but the standards do apply to the gasoline and diesel fuel operation of flexible-fuel vehicles and dual-fuel vehicles.

⁶ *Air to Fuel Ratio Requirement.* With the exception of cold-start conditions, warm-up conditions and rapid-throttle motion conditions (“tip-in” or “tip-out” conditions), the air to fuel ratio shall not be richer at any time than, for a given engine operating condition (e.g., engine speed, manifold pressure, coolant temperature, air charge temperature, and any other parameters), the leanest air to fuel mixture required to obtain maximum torque (lean best torque), with a tolerance of six percent of the fuel consumption. The Executive Officer may approve a manufacturer’s request for approval to use addi-

tional enrichment in subsequent testing if the manufacturer demonstrates that additional enrichment is needed to protect the vehicle, occupants, engine, or emission control hardware.

⁷ *A/C-on Specific Calibrations.* A/C-on specific calibrations (e.g. air to fuel ratio, spark timing, and exhaust gas recirculation), may be used which differ from A/C-off calibrations for given engine operating conditions (e.g., engine speed, manifold pressure, coolant temperature, air charge temperature, and any other parameters). Such calibrations must not unnecessarily reduce the NMHC+NOx emission control effectiveness during A/C-on operation when the vehicle is operated under conditions which may reasonably be expected to be encountered during normal operation and use. If reductions in control system NMHC+NOx effectiveness do occur as a result of such calibrations, the manufacturer shall, in the Application for Certification, specify the circumstances under which such reductions do occur, and the reason for the use of such calibrations resulting in such reductions in control system effectiveness.

A/C-on specific "open-loop" or "commanded enrichment" air-fuel enrichment strategies (as defined below), which differ from A/C-off "open-loop" or "commanded enrichment" air-fuel enrichment strategies, may not be used, with the following exceptions: cold-start and warm-up conditions, or, subject to Executive Officer approval, conditions requiring the protection of the vehicle, occupants, engine, or emission control hardware. Other than these exceptions, such strategies which are invoked based on manifold pressure, engine speed, throttle position, or other engine parameters shall use the same engine parameter criteria for the invoking of this air-fuel enrichment strategy and the same degree of enrichment regardless of whether the A/C is on or off.

"Open-loop" or "commanded" air-fuel enrichment strategy is defined as enrichment of the air to fuel ratio beyond stoichiometry for the purposes of increasing engine power output and the protection of engine or emissions control hardware. However, "closed-loop biasing," defined as small changes in the air-fuel ratio for the purposes of optimizing vehicle emissions or driveability, shall not be considered an "open-loop" or "commanded" air-fuel enrichment strategy. In addition, "transient" air-fuel enrichment strategy (or "tip-in" and "tip-out" enrichment), defined as the temporary use of an air-fuel ratio rich of stoichiometry at the beginning or duration of rapid throttle motion, shall not be considered an "open-loop" or "commanded" air-fuel enrichment strategy.

⁸ *"Lean-On-Cruise" Calibration Strategies.* In the Application for Certification, the manufacturer shall state whether any "lean-on-cruise" strategies are incorporated into the vehicle design. A "lean-on-cruise" air-fuel calibration strategy is defined as the use of an air-fuel ratio significantly greater than stoichiometry, during non-deceleration conditions at speeds above 40 mph. "Lean-on-cruise" air-fuel calibration strategies shall not be employed during vehicle operation in normal driving conditions, including A/C-usage, unless at least one of the following conditions is met:

1. Such strategies are substantially employed during the FTP or SFTP, or
2. Such strategies are demonstrated not to significantly reduce vehicle NMHC+NOx emission control effectiveness over the operating conditions in which they are employed, or
3. Such strategies are demonstrated to be necessary to protect the vehicle, occupants, engine, or emission control hardware.

If the manufacturer proposes to use a "lean-on-cruise" calibration strategy, the manufacturer shall specify the circumstances under which such a calibration would be used, and the reason or reasons for the proposed use of such a calibration.

The above provisions shall not apply to vehicles powered by "lean-burn" engines or Diesel-cycle engines. A "lean-burn" engine is defined as an Otto-cycle engine designed to run at an air-fuel ratio significantly greater than stoichiometry during the large majority of its operation.

⁹ *Phase-In Requirements.* For the purposes of this section 1960.1(q) only, each manufacturer's PC and LDT fleet shall be defined as the total projected number of PCs and LDTs from 0-5750 pounds loaded vehicle weight certified to the FTP exhaust standards of section 1960.1(f)(2) and certified as transitional low-emission vehicles sold in California. As an option, a manufacturer may elect to have its total PC and LDT fleet defined, for the purposes of this section 1960.1(q) only, as the total projected number of the manufacturer's PCs and LDTs, other than zero-emission vehicles, certified and sold in California.

- a. Manufacturers of PCs and of LDTs, except small volume manufacturers, shall certify a minimum percentage of their PC and LDT fleet according to the following phase-in schedule.

<i>Model Year</i>	<i>Percentage of PC and LDT Fleet</i>
2001	25
2002	50
2003	85
2004 and subsequent	100

- b. Small volume manufacturers of PCs and LDTs shall certify 100% of their PC and LDT fleet in the 2004 and subsequent model years.

¹⁰ *Single-Roll Electric Dynamometer Requirement.* For all vehicles certified to the SFTP standards, a single-roll electric dynamometer or a dynamometer which produces equivalent results, as set forth in the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), must be used for all types of emission testing to determine compliance with the associated emission standards.

(r) The Supplemental Federal Test Procedure (SFTP) standards in this section represent the maximum SFTP exhaust emissions at 4,000 miles + 250 miles or at the mileage determined by the manufacturer for emission-data vehicles in accordance with the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), and with the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model

Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as incorporated by reference in section 1961(d). The SFTP exhaust emission levels from new 2001 and subsequent model low-emission vehicles, ultra-low-emission vehicles and super-ultra-low-emission vehicles in the passenger car and light-duty truck class, and new 2003 and subsequent low-emission vehicles, ultra-low-emission vehicles, and super-ultra-low-emission vehicles in the medium-duty class, shall not exceed:

SFTP EXHAUST EMISSION STANDARDS
FOR LOW-EMISSION VEHICLES, ULTRA-LOW-EMISSION VEHICLES, AND
SUPER-ULTRA-LOW-EMISSION VEHICLES IN THE PASSENGER CAR, LIGHT-DUTY
TRUCK, AND MEDIUM-DUTY VEHICLE CLASSES
 (grams per mile)^{6,7,8,9,10,11}

Vehicle Type ¹	Loaded Vehicle Weight (lbs.) ²	US06 Test ¹		A/C Test ^{1,5}	
		NMHC ⁴ + NOx ¹	CO ¹	NMHC ⁴ + NOx ¹	CO ¹
PC	All	0.14	8.0	0.20	2.7
LDT	0-3750	0.14	8.0	0.20	2.7
LDT	3751-5750	0.25	10.5	0.27	3.5
MDV	3751-5750	0.40	10.5	0.31	3.5
MDV	5751-8500 ³	0.60	11.8	0.44	4.0

¹ *Abbreviations and Definitions.* For the purposes of this SFTP standards table only, the following abbreviations and definitions apply:

"PC" means passenger car.

"LDT" means light-duty truck, defined as any motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for purposes of transportation of property or is a derivative of such a vehicle, or is available with special features enabling off-street or off-highway operation and use.

"MDV" means medium-duty truck, defined as any motor vehicle having a manufacturer's gross vehicle weight rating of greater than 6,000 pounds and less than 14,001 pounds, except passenger cars.

"NMHC+NOx" means non-methane hydrocarbon plus oxides of nitrogen emissions.

"CO" means carbon monoxide emissions.

"US06" means the test cycle designed to evaluate emissions during aggressive and microtransient driving.

"A/C" means air-conditioning.

² For MDVs, "Loaded Vehicle Weight" shall mean "Test Weight," which is the average of the vehicle's curb weight and gross vehicle weight.

³ Vehicles with a gross vehicle weight rating over 8,500 pounds are exempted from the requirements of this subsection.

⁴ *Non-Methane Hydrocarbon Emissions.* Hydrocarbon emissions shall be measured in accordance with Part B (Determination of Non-Methane Hydrocarbon Mass Emissions by Flame Ionization Detection) of the "California Non-Methane Organic Gas Test Procedures" as incorporated by reference in section 1960.1(g)(1), note (3). For alcohol-fueled vehicles certifying to these standards, including flexible-fuel vehicles when certifying on methanol or ethanol, "Non-Methane Hydrocarbons" shall mean "Organic Material Non-Methane Hydrocarbon Equivalent."

⁵ *A/C-on Specific Calibrations.* A/C-on specific calibrations (e.g., air to fuel ratio, spark timing, and exhaust gas recirculation), may be used which differ from A/C-off calibrations for given engine operating conditions (e.g., engine speed, manifold pressure, coolant temperature, air charge temperature, and any other parameters). Such calibrations must not unnecessarily reduce the NMHC+NOx emission control effectiveness during A/C-on operation when the vehicle is operated under conditions which may reasonably be expected to be encountered during normal operation and use. If reductions in control system NMHC+NOx effectiveness do occur as a result of such calibrations, the manufacturer shall, in the Application for Certification, specify the circumstances under which such reductions do occur, and the reason for the use of such calibrations resulting in such reductions in control system effectiveness.

A/C-on specific "open-loop" or "commanded enrichment" air-fuel enrichment strategies (as defined below), which differ from A/C-off "open-loop" or "commanded enrichment" air-fuel enrichment strategies, may not be used, with the following exceptions: cold-start and warm-up conditions, or, subject to Executive Officer approval, conditions requiring the protection of the vehicle, occupants, engine, or emission control hardware. Other than these exceptions, such strategies which are invoked based on manifold pressure, engine speed, throttle position, or other engine parameters shall use the same engine parameter criteria for the invoking of this air-fuel enrichment strategy and the same degree of enrichment regardless of whether the A/C is on or off.

"Open-loop" or "commanded" air-fuel enrichment strategy is defined as enrichment of the air to fuel ratio beyond stoichiometry for the purposes of increasing engine power output and the protection of engine or emissions control hardware. However, "closed-loop biasing," defined as small changes in the air-fuel ratio for the purposes of optimizing vehicle emissions or driveability, shall not be considered an "open-loop" or "commanded" air-fuel enrichment strategy. In addition, "transient" air-fuel enrichment strategy (or "tip-in" and "tip-out" enrichment), defined as the temporary use of an air-fuel ratio rich of stoichiometry at the beginning or duration of rapid throttle motion, shall not be considered an "open-loop" or "commanded" air-fuel enrichment strategy.

⁶ *SFTP.* SFTP means the additional test procedure designed to measure emissions during aggressive and microtransient driving, as described in section 86.159-00, Title 40, Code of Federal Regulations, as adopted October 22, 1996, over the US06 cycle, and also the test procedure designed to measure urban driving emissions while the vehicle's air conditioning system is operating, as described in section 86.160-00, Title 40, Code of Federal Regulations, as adopted October 22, 1996, over the SC03 cycle. These sections of the Code of Federal Regulations are incorporated herein by reference.

⁷ *Applicability to Alternative Fuel Vehicles.* These SFTP standards do not apply to vehicles certified on fuels other than gasoline and diesel fuel, but the standards do apply to the gasoline and diesel fuel operation of flexible-fuel vehicles and dual-fuel vehicles.

⁸ *Air to Fuel Ratio Requirement.* With the exception of cold-start conditions, warm-up conditions and rapid-throttle motion conditions ("tip-in" or "tip-out" conditions), the air to fuel ratio shall not be richer at any time than, for a given engine operating condition (e.g., engine speed, manifold pressure, coolant temperature, air charge temperature, and any other parameters), the leanest air to fuel mixture required to obtain maximum torque (lean best torque), with a tolerance of six percent of the fuel consumption. The Executive Officer may approve a manufacturer's request for approval to use additional enrichment in subsequent testing if the manufacturer demonstrates that additional enrichment is needed to protect the vehicle, occupants, engine, or emission control hardware.

⁹ *"Lean-On-Cruise" Calibration Strategies.* In the Application for Certification, the manufacturer shall state whether any "lean-on-cruise" strategies are incorporated into the vehicle design. A "lean-on-cruise" air-fuel calibration strategy is defined as the use of an air-fuel ratio significantly greater than stoichiometry, during non-deceleration conditions at speeds above 40 mph. "Lean-on-cruise" air-fuel calibration strategies shall not be employed during vehicle operation in normal driving conditions, including A/C-usage, unless at least one of the following conditions is met:

1. Such strategies are substantially employed during the FTP or SFTP, or
2. Such strategies are demonstrated not to significantly reduce vehicle NMHC+NOx emission control effectiveness over the operating conditions in which they are employed, or
3. Such strategies are demonstrated to be necessary to protect the vehicle, occupants, engine, or emission control hardware.

If the manufacturer proposes to use a "lean-on-cruise" calibration strategy, the manufacturer shall specify the circumstances under which such a calibration would be used, and the reason or reasons for the proposed use of such a calibration.

The above provisions shall not apply to vehicles powered by "lean-burn" engines or Diesel-cycle engines. A "lean-burn" engine is defined as an Otto-cycle engine designed to run at an air-fuel ratio significantly greater than stoichiometry during the large majority of its operation.

¹⁰ *Phase-In Requirements.* For the purposes of this 1960.1(r) section only, each manufacturer's PC and LDT fleet shall be defined as the total projected number of low-emission and ultra-low-emission PCs and LDTs from 0–5750 pounds loaded vehicle weight sold in California. Each manufacturer's MDV fleet shall be defined as the total projected number of low-emission, ultra-low-emission, and super-ultra-low-emission MDVs less than 8501 pounds gross vehicle weight rating sold in California.

a. Manufacturers of PCs, LDTs, and MDVs, except small volume manufacturers, shall certify a minimum percentage of their PC and LDT fleet, and a minimum percentage of their MDV fleet, according to the following phase-in schedule.

Model Year	PC, LDT	Percentage	MDV
2001	25		NA
2002	50		NA
2003	85		25
2004	100		50
2005 and subsequent	100		100

b. Manufacturers may use an "Alternative or Equivalent Phase-in Schedule" to comply with the phase-in requirements. An "Alternative Phase-in" is one that achieves at least equivalent emission reductions by the end of the last model year of the scheduled phase-in. Model-year emission reductions shall be calculated by multiplying the percent of vehicles (based on the manufacturer's projected California sales volume of the applicable vehicle fleet) meeting the new requirements per model year by the number of model years implemented prior to and including the last model year of the scheduled phase-in. The "cumulative total" is the summation of the model-year emission reductions (e.g., a four model-year 25/50/85/100 percent phase-in schedule would be calculated as: (25%*4 years) + (50%*3 years) + (85%*2 years) + (100%*1 year) = 520). Any alternative phase-in that results in an equal or larger cumulative total than the required cumulative total by the end of the last model year of the scheduled phase-in shall be considered acceptable by the Executive Officer under the following conditions: 1) all vehicles subject to the phase-in shall comply with the respective requirements in the last model year of the required phase-in schedule and 2) if a manufacturer uses the optional phase-in percentage determination in section 1960.1(q) note (9), the cumulative total of model-year emission reductions as determined only for PCs and LDTs certified to this section 1960.1(r) must also be equal to or larger than the required cumulative total by end of the 2004 model year. Manufacturers shall be allowed to include vehicles introduced before the first model year of the scheduled phase-in (e.g., in the previous example, 10 percent introduced one year before the scheduled phase-in begins would be calculated as: (10%*5 years) and added to the cumulative total).

c. Small volume manufacturers of PCs, LDTs, and MDVs shall certify 100% of their PC and LDT fleet in 2004 and subsequent model years, and 100% of their MDV fleet in 2005 and subsequent model years.

¹¹ *Single-Roll Electric Dynamometer Requirement.* For all vehicles certified to the SFTP standards, a single-roll electric dynamometer or a dynamometer which produces equivalent results, as set forth in the "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" as incorporated by reference in section 1960.1(k), must be used for all types of emission testing to determine compliance with the associated emission standards.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43103, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Amendment filed 1–14–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Amendment of subsection (h) filed 4–20–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 17).
3. Amendment of subsection (h) filed 2–17–84; effective thirtieth day thereafter (Register 84, No. 7).
4. Editorial correction of subsection (i) filed 5–8–84; effective thirtieth day thereafter (Register 84, No. 19).
5. Amendment of subsection (h) filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).
6. Amendment of subsections (d)–(k) filed 4–21–87; operative 5–21–87 (Register 87, No. 17).
7. Amendment of subsections (d), (e) and (h) filed 7–1–87; operative 7–31–87 (Register 87, No. 28).
8. Amendment filed 2–21–90; operative 3–23–90 (Register 90, No. 8).
9. Amendment of subsections (e) and (i), new subsections (f)(1) and (f)(2) and renumbering of subsections (f)–(k) to subsections (g)–(l) filed 5–22–90; operative 6–21–90 (Register 90, No. 28).
10. Amendment of subsections (e), (f), (g), (h), (i), (j), (k), (l) and (m) filed 8–2–91; operative 9–2–91 (Register 91, No. 49).
11. New subsection (g) and subsection renumbering filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
12. New subsections (e)(3), (h)(2) and (o) filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
13. New subsections (e)(1), (e)(2), (f)(1), (f)(2) and (h)(1) filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
14. Editorial correction of printing error restoring inadvertently omitted subsections (g)(2) and (h)(1)(4) (Register 92, No. 25).
15. Amendment of footnotes 4 and 6 in subsection (e)(3)'s Table, footnotes 3, 4 and 8 in subsection (g)(1)'s Table, footnotes 3, 4a, 9a, and 13 in subsection (h)(2)'s Table, and subsection (k) filed 11–9–92; operative 12–9–92 (Register 92, No. 46).
16. Amendment of subsection (k) filed 12–9–92; operative 1–1–93 (Register 92, No. 50).
17. Amendment of subsection (k) and NOTE filed 7–20–93; operative 8–19–93 (Register 93, No. 30).
18. Amendment of subsection (k) filed 11–2–93; operative 12–2–93 (Register 93, No. 45).
19. Amendment of subsection (e)(3) table (6), (f)(1) table (2) and (7), (f)(2) table, (g)(1) table, (g)(2) table, (h)(1) table and (h)(2) table filed 11–8–93; operative 12–8–93 (Register 93, No. 46).

20. Editorial correction of printing errors in subsections (e)(3), (f)(2) table (3), (g)(1) table (1), (3) and (6), (g)(2) table (4), (5) and (9), (h)(1) table (2), (3) and (5), and (h)(2) table (2)–(5), (8)–(10) and (12)–(13) (Register 93, No. 46).

21. Editorial correction of printing errors in subsection (g)(1), table 1 and subsection (h)(1), table 2 (Register 94, No. 2).

22. Change without regulatory effect amending subsection (h)(2) filed 3–30–94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 13).

23. Amendment of subsection (k) filed 4–13–95; operative 4–13–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 15).

24. Editorial correction of subsection (l) (Register 95, No. 38).

25. Change without regulatory effect amending subsection (l) filed 9–20–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 38).

26. Amendment of section and NOTE filed 9–23–96; operative 10–23–96 (Register 96, No. 39).

27. Amendment of subsections (g)(1), (g)(2), (h)(2) and (k) filed 1–3–97; operative 1–3–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 1).

28. Amendment of subsection (k) filed 7–25–97; operative 8–24–97 (Register 97, No. 30).

29. Amendment of subsection (k) and new subsections (q)–(r)(11) filed 7–17–98; operative 8–16–98 (Register 98, No. 29).

30. Editorial correction of subsections (d)(2), (e)(1), (g)(1), (g)(2), (h)(2) and reformatting of subsections (q) and (r) (Register 99, No. 26).

31. Amendment of section heading and subsections (e)(2), (e)(3), (f)(2), (g)(1), (g)(2), (h)(1), (h)(2), (j), (k), (n), (p) and (r) and repealer of subsection (o) filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

32. Amendment of subsection (k) filed 5–24–2002; operative 6–23–2002 (Register 2002, No. 21).

33. Amendment of subsections (e)(3) and (h)(2) filed 9–16–2002; operative 10–16–2002 (Register 2002, No. 38).

34. Amendment of subsection (k) filed 2–25–2004; operative 3–26–2004 (Register 2004, No. 9).

§ 1960.1.5. Optional NOx Standards for 1983 and Later Model Passenger Cars, and Light-Duty Trucks and Medium-Duty Vehicles Less Than 4000 Lbs. Equivalent Inertia Weight (EIW) or 3751 Lbs. Loaded Vehicle Weight (LVW).

(a)(1) Notwithstanding any other provision of this chapter, a vehicle manufacturer may certify 1983 and later model vehicles to optional NOx standards except for vehicles certifying to TLEV, LEV, or ULEV standards as follows:

(A) Passenger cars—0.7 g/mi—1983 through 1988 model years.

LDT, MDV 0–3999 pounds EIW—1.0 g/mi—1983 through 1987 model years.

LDT, MDV 0–3750 lbs. LVW—1.0 g/mi—1988 model year.

(B) For the 1989 model year, each manufacturer may certify no more than 50 percent of its projected California model-year sales of passenger cars, light-duty trucks (0–3750 lbs. LVW), and medium-duty vehicles (0–3750 lbs. LVW) to the optional NOx standard as follows:

Passenger cars—0.7 g/mi

LDT, MDV 0–3750 lbs. LVW—1.0 g/mi

(C) 1989 through 1993 model-year passenger cars weighing more than 5250 lbs. LVW may be certified to the 0.7 g/mi NOx standard.

(D) For the 1990 through 1993 model years, a vehicle manufacturer may certify passenger cars, light-duty trucks (0–3750 lbs. LVW), and medium-duty vehicles (0–3750 lbs. LVW) to the optional 0.7 g/mi NOx standard subject to the following limitations:

For each model year, the total number of passenger cars (0–5250 lbs. LVW) each manufacturer may certify at 0.7 g/mi NOx shall be limited to a maximum of 10 percent of the total previous California model-year sales of these vehicles.

For each model year, the total number of light-duty trucks (0–3750 lbs. LVW) and medium-duty vehicles (0–3750 lbs. LVW) each manufacturer may certify at 0.7 g/mi NOx shall be limited to a maximum of 15 percent of the combined total previous California model-year sales of these vehicles.

For manufacturers certifying for the first time in California, “previous California model-year sales” shall mean projected California model-year sales.

(2) Notwithstanding any other provisions of this chapter, a small volume manufacturer may certify 1989 and later model vehicles to optional NOx standards except for vehicles certifying to TLEV, LEV, or ULEV standards as follows:

(A) Passenger cars—0.7 g/mi—1989 and 1990 model years.

LDT, MDV 0–3750 lbs. LVW—1.0 g/mi—1989 and 1990 model years.

(B) For the 1991 model year, each small volume manufacturer may certify no more than 50 percent of its projected California model-year sales of passenger cars, light-duty trucks (0–3750 lbs. LVW), and medium-duty vehicles (0–3750 lbs. LVW) to the optional NOx standards as follows:

Passenger cars—0.7 g/mi

LDT, MDV 0–3750 lbs. LVW—1.0 g/mi

(C) For the 1992 through 1995 model years, each small volume manufacturer may certify passenger cars, light-duty trucks (0–3750 lbs. LVW), and medium-duty vehicles (0–3750 lbs. LVW) to the optional 0.7 g/mi NOx standard subject to the following limitations:

For each model year, the total number of passenger cars (0–5250 lbs. LVW) each manufacturer may certify at 0.7 g/mi NOx shall be limited to a maximum of 10 percent of the total previous California model-year sales of these vehicles.

For each model year, the total number of light-duty trucks (0–3750 lbs. LVW) and medium-duty vehicles (0–3750 lbs. LVW) each manufacturer may certify at 0.7 g/mi NOx shall be limited to a maximum of 15 percent of the combined total previous California model-year sales of these vehicles.

For manufacturers certifying for the first time in California, “previous California model-year sales” shall mean projected California model-year sales.

(b) Testing of vehicles certified under this section shall be conducted in accordance with the California Exhaust Emission Test Procedures applicable to either 1981 through 1987 or 1988 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles certified to the primary California standards for 50,000 miles.

(c)(1) If, based on a review of information derived from a statistically valid and representative sample of vehicles, the Executive Officer determines that a substantial percentage of any class or category of vehicles

certified under this section exhibits, prior to 75,000 miles or 7 years, whichever occurs first, an identifiable, systematic defect in a component listed in subsection (2) which causes a significant increase in emissions above those exhibited by vehicles free of such defects and of the same class or category and having the same period of use and mileage, then the Executive Officer may invoke the enforcement authority under Section 2109 to require remedial action by the vehicle manufacturer. Such remedial action shall be limited to owner notification and repair or replacement of the defective component. As used in this section, the term “defect” shall not include failures which are the result of abuse, neglect, or improper maintenance.

(2) Subsection (c)(1) shall apply to the following components unless subject to allowable scheduled maintenance prior to 75,000 miles or 7 years, whichever occurs first:

I. Air and Fuel Metering System

A. Cold start enrichment

B. Heat riser valve and assembly

C. Controlled hot air intake

II. Exhaust Gas Recirculation (EGR) System

A. EGR valve and control components, and carburetor spacer if applicable

III. Air Injection System

A. Air pump

B. Valves affecting distribution of flow

C. Distribution manifold including connection to exhaust manifold

IV. Catalyst or Thermal Reactor System

A. Catalytic converter and associated mounting hardware and constricted fuel filler neck

B. Thermal reactor and lined or coated exhaust manifolds

C. Exhaust portliner and/or double walled exhaust pipe

V. Evaporative Emission Control System

A. Vapor storage canister

B. Vapor-liquid separator

VI. Miscellaneous Items Used in Above Systems

A. Vacuum, temperature, and time sensitive valves and switches

B. Electronic controls including computer or microprocessor and all input sensors except for the exhaust gas oxygen sensor

(d) Nothing in this section shall be construed as affecting in any way the manufacturer's 5 year/50,000 mile emission control systems defect warranty obligations existing under present statutes and regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43101, Health and Safety Code. Reference: Sections 39002, 39003, 43000(d), 43013, 43100, 43101, 43101.5, 43104 and 43106, Health and Safety Code.

HISTORY

1. Editorial correction of section number only filed 5–8–84; effective thirtieth day thereafter (Register 84, No. 19).
2. Editorial correction of section number only filed 5–18–84; designated effective 6–7–84 (Register 84, No. 19).
3. Amendment of subsection (a) filed 4–21–87; operative 5–21–87 (Register 87, No. 17).
4. Amendment of section heading and subsections (a) and (b) filed 7–1–87; operative 7–31–87 (Register 87, No. 28).
5. Amendment of subsection (a) filed 8–30–91; operative 9–30–91 (Register 92, No. 14).

§ 1960.2. Special Standards for 1980 and 1981 Model Passenger Cars.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101, 43104 and 43106, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1960.3. Special Standards for 1981 and 1982 Model Light-Duty Trucks and Medium-Duty Vehicles, 0–3999 Pound Equivalent Inertia Weight.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43101, 43104 and 43106, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1960.4. Special Standards for 1982 and Subsequent Model Passenger Cars, and 1983 and Subsequent Model Light-Duty Trucks and Medium-Duty Vehicles, 0-3999 Pound Equivalent Inertia Weight.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43101, 43104 and 43106, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1960.5. Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California.

(a) The exhaust emissions from new 1983 and subsequent model year federally certified passenger cars and light-duty trucks, subject to registration and sold and registered in this state pursuant to section 43102(b) of the California Health and Safety Code, shall not exceed the applicable federal emission standards as determined under applicable federal test procedures.

(b) With respect to any new vehicle required to comply with the standards set forth in paragraph (a), the manufacturer's written maintenance instructions for in-use vehicles shall not require scheduled maintenance more frequently than or beyond the scope of maintenance permitted under the test procedures referenced in paragraph (a). Any failure to perform scheduled maintenance shall not excuse an emissions violation unless the failure is related to or causes the violation.

(c) The standards and procedures for certifying in California 1983 through 2002 model-year federally-certified light-duty motor vehicles are set forth in "Guidelines for Certification of 1983 through 2002 Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California," adopted July 20, 1982, as last amended July 30, 2002, which is incorporated herein by reference. The standards and procedures for certifying in California 2003 and subsequent model-year federally-certified light-duty motor vehicles are set forth in "Guidelines for Certification of 2003 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California," adopted July 30, 2002, which is incorporated herein by reference.

NOTE: Authority cited: Sections 39601, 43100 and 43102, Health and Safety Code. Reference: Section 43102, Health and Safety Code.

HISTORY

1. New section filed 9-17-82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 39).
2. Editorial correction of section which was inadvertently deleted in Register 83, No. 3 (Register 83, No. 23).

3. Amendment filed 11-29-83; effective thirtieth day thereafter (Register 83, No. 49).
4. Amendment filed 9-28-84; effective thirtieth day thereafter (Register 84, No. 39).
5. Amendment of subsection (c) filed 10-23-85; effective thirtieth day thereafter (Register 85, No. 43).
6. Amendment of section heading and subsections (a) and (c) filed 8-12-87; operative 9-11-87 (Register 87, No. 33).
7. Amendment of subsection (c) filed 5-22-90; operative 6-21-90 (Register 90, No. 28).
8. Amendment of subsection (c) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
9. Amendment filed 9-16-2002; operative 10-16-2002 (Register 2002, No. 38).

§ 1960.15. Reference to Section 1960.1.5.

Any reference in any statute or regulation to this section shall be considered as a reference to Section 1960.1.5.

HISTORY

1. Editorial correction adding new section filed 5-18-84; designated effective 6-7-84 (Register 84, No. 19).

§ 1961. Exhaust Emission Standards and Test Procedures — 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

Introduction. This section 1961 contains the California "LEV II" exhaust emission standards for 2004 and subsequent model passenger cars, light-duty trucks and medium-duty vehicles. A manufacturer must demonstrate compliance with the exhaust standards in section 1961(a) applicable to specific test groups, and with the composite phase-in requirements in section 1961(b) applicable to the manufacturer's entire fleet. Section 1961(b) also includes the manufacturer's fleet-wide composite phase-in requirements for the 2001 - 2003 model years.

Prior to the 2004 model year, a manufacturer that produces vehicles that meet the standards in section 1961(a) has the option of certifying the vehicles to those standards, in which case the vehicles will be treated as LEV II vehicles for purposes of the fleet-wide phase-in requirements. Similarly, 2004 - 2006 model-year vehicles may be certified to the "LEV I" exhaust emission standards in section 1960.1(g)(1) and (h)(2), in which case the vehicles will be treated as LEV I vehicles for purposes of the fleet-wide phase-in requirements.

A manufacturer has the option of certifying engines used in incomplete and diesel medium-duty vehicles with a gross vehicle weight rating of greater than 8,500 lbs. to the heavy-duty engine standards and test procedures set forth in title 13, CCR, sections 1956.8(c), (g) and (h).

(a) *Exhaust Emission Standards.*

(1) *"LEV II" Exhaust Standards.* The following standards represent the maximum exhaust emissions for the intermediate and full useful life from new 2004 and subsequent model-year "LEV II" LEVs, ULEVs, and SULEVs, including fuel-flexible, bi-fuel and dual fuel vehicles when operating on the gaseous or alcohol fuel they are designed to use:

**LEV II Exhaust Mass Emission Standards for New 2004 and Subsequent Model
LEVs, ULEVs, and SULEVs
in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes**

<i>Vehicle Type</i>	<i>Durability Vehicle Basis (mi)</i>	<i>Vehicle Emission Category</i>	<i>NMOG (g/mi)</i>	<i>Carbon Monoxide (g/mi)</i>	<i>Oxides of Nitrogen (g/mi)</i>	<i>Formaldehyde (mg/mi)</i>	<i>Particulates (g/mi)</i>
All PCs; LDTs 8500 lbs. GVW or less	50,000	LEV	0.075	3.4	0.05	15	n/a
		LEV, Option 1	0.075	3.4	0.07	15	n/a
Vehicles in this category are tested at their loaded vehicle weight	120,000	ULEV	0.040	1.7	0.05	8	n/a
		LEV	0.090	4.2	0.07	18	0.01
		LEV, Option 1	0.090	4.2	0.10	18	0.01
		ULEV	0.055	2.1	0.07	11	0.01
		SULEV	0.010	1.0	0.02	4	0.01
	150,000 (Optional)	LEV	0.090	4.2	0.07	18	0.01
		LEV, Option 1	0.090	4.2	0.10	18	0.01
		ULEV	0.055	2.1	0.07	11	0.01
		SULEV	0.010	1.0	0.02	4	0.01
MDVs 8501 – 10,000 lbs. GVW	120,000	LEV	0.195	6.4	0.2	32	0.12
		ULEV	0.143	6.4	0.2	16	0.06
Vehicles in this category are tested at their adjusted loaded vehicle weight	150,000 (Optional)	SULEV	0.100	3.2	0.1	8	0.06
		LEV	0.195	6.4	0.2	32	0.12
		ULEV	0.143	6.4	0.2	16	0.06
		SULEV	0.100	3.2	0.1	8	0.06
MDVs 10,001–14,000 lbs. GVW	120,000	LEV	0.230	7.3	0.4	40	0.12
		ULEV	0.167	7.3	0.4	21	0.06
		SULEV	0.117	3.7	0.2	10	0.06
Vehicles in this category are tested at their adjusted loaded vehicle weight	150,000 (Optional)	LEV	0.230	7.3	0.4	40	0.12
		ULEV	0.167	7.3	0.4	21	0.06
		SULEV	0.117	3.7	0.2	10	0.06

(2) Reactivity Adjustment in Determining Compliance with the NMOG Standard

(A) The NMOG emission results from all TLEVs, LEVs, ULEVs and SULEVs certifying on a fuel other than conventional gasoline shall be numerically adjusted to establish an NMOG exhaust mass emission value equivalent. The manufacturer shall multiply measured NMOG exhaust emission results by the appropriate reactivity adjustment factor set forth in section 1961(a)(2)(B) or established in accordance with the test

procedures incorporated by reference in section 1961(d). The reactivity adjustment factor represents the ratio of the NMOG specific reactivity of a low-emission vehicle designed to operate on a fuel other than conventional gasoline compared to the NMOG baseline specific reactivity of vehicles in the same vehicle emission category operated on conventional gasoline.

(B) The following reactivity adjustment factors apply:

<i>Fuel</i>	<i>Light-Duty Vehicles 0–6000 lbs. GVW</i>			<i>Medium-Duty Vehicles 6001 lbs. – 14,000 lbs. GVW</i>	
	<i>TLEV</i>	<i>LEV</i>	<i>ULEV</i>	<i>LEV</i>	<i>ULEV</i>
Conventional Gasoline	3.42	3.13	3.13	3.13	3.13
RFG	0.98	0.94	0.94	0.94	0.94
(through the 2003 model year)					
M85	0.41	0.41	0.41	0.41	0.41
Natural Gas	1.0	0.43	0.43	0.43	0.43
LPG	1.0	0.50	0.50	0.50	0.50
Natural Gas	0.0043	0.0047	0.0047	0.0047	0.0047

(3) **NMOG Standards for Bi-Fuel, Fuel-Flexible and Dual-Fuel Vehicles Operating on Gasoline.** For fuel-flexible, bi-fuel, and dual-fuel PCs, LDTs and MDVs, compliance with the NMOG exhaust mass emission standards shall be based on exhaust emission tests both when the vehicle is operated on the gaseous or alcohol fuel it is designed to use, and when the vehicle is operated on gasoline. A manufacturer must demonstrate compliance with the applicable exhaust mass emission standards for NMOG, CO, NO_x and formaldehyde set forth in the table in section

1961(a)(1) when certifying the vehicle for operation on the gaseous or alcohol fuel.

The following standards represent the maximum NMOG emissions when the vehicle is operating on gasoline. A manufacturer shall not apply a reactivity adjustment factor to the exhaust NMOG mass emission result when operating on gasoline. A manufacturer may measure NMHC in lieu of NMOG when fuel-flexible, bi-fuel and dual-fuel vehicles are operated on gasoline, in accordance with the test procedures incorporated by

reference in section 1961(d). Testing at 50°F is not required for fuel-flexible, bi-fuel and dual-fuel vehicles when operating on gasoline. The applicable CO, NOx and formaldehyde standards are set forth in section 1961(a)(1).

LEV II NMOG Standards for Bi-Fuel, Fuel-Flexible and Dual-Fuel Vehicles Operating on Gasoline (g/mi)

Vehicle Type	Vehicle Emission Category	Durability Vehicle Basis	
		50,000 mi	120,000 mi
All PCs; LDTs, 0–8500 lbs. GVW	LEV	0.125	0.156
	ULEV	0.075	0.090
	SULEV	0.010	0.040
MDVs, 8501–10,000 lbs. GVW	LEV	n/a	0.230
	ULEV	n/a	0.167
	SULEV	n/a	0.117
MDVs, 10,001–14,000 lbs. GVW	LEV	n/a	0.280
	ULEV	n/a	0.195
	SULEV	n/a	0.143

(4) *50°F Exhaust Emission Standards.* All light- and medium-duty LEVs, ULEVs and SULEVs must demonstrate compliance with the following exhaust emission standards for NMOG and formaldehyde (HCHO) measured on the FTP (40 CFR, Part 86, Subpart B) conducted at a nominal test temperature of 50°F, as modified by Part II, Section C of the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” incorporated by reference in section 1961(d). The NMOG mass emission result shall be multiplied by the applicable reactivity adjustment factor, if any, prior to comparing to the applicable adjusted 50,000 mile certification standards set forth below. A manufacturer may demonstrate compliance with the NMOG and HCHO certification standards contained in this subparagraph by measuring NMHC exhaust emissions or issuing a statement of compliance for HCHO in accordance with Section D.1, subparagraph (p) and Section G.3.1.2, respectively, of the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” incorporated by reference in section 1961(d). Emissions of CO and NOx measured at 50°F shall not exceed the standards set forth in §1961(a)(1) applicable to vehicles of the same emission category and vehicle type subject to a cold soak and emission test at 68° to 86°F. Natural gas and diesel-fueled vehicles are exempt from the 50° F test requirements.

Vehicle Weight Class	Vehicle Emission Category (g/mi)					
	LEV NMOG	LEV HCHO	ULEV NMOG	ULEV HCHO	SULEV NMOG	SULEV HCHO
PCs; LDTs 0–8500 lbs. GVW	0.150	0.030	0.080	0.016	0.020	0.008
MDVs 8501–10,000 lbs. GVW	0.390	0.064	0.286	0.032	0.200	0.016
MDVs 10,001–14,000 lbs. GVW	0.460	0.080	0.334	0.042	0.234	0.020

(5) *Cold CO Standard.* The following standards represent the 50,000 mile cold temperature exhaust carbon monoxide emission levels from new 2001 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles:

2001 AND SUBSEQUENT MODEL-YEAR COLD TEMPERATURE CARBON MONOXIDE EXHAUST EMISSIONS STANDARDS FOR PASSENGER CARS, LIGHT-DUTY TRUCKS, AND MEDIUM-DUTY VEHICLES
(grams per mile)

Vehicle Type	Carbon Monoxide
All PCs, LDTs 0–3750 lbs. LVW	10.0
LDTs, 3751 lbs. LVW – 8500 lbs. GVW; LEV I and Tier 1 MDVs 8500 lbs. GVW and less	12.5

These standards are applicable to vehicles tested at a nominal temperature of 20°F (–7°C) in accordance with 40 CFR Part 86 Subpart C, as amended by the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” incorporated by reference in section 1961(d). Natural gas, diesel-fueled and zero-emission vehicles are exempt from these standards.

(6) *Highway NOx Standard.* The maximum emissions of oxides of nitrogen measured on the federal Highway Fuel Economy Test (HWFET; 40 CFR 600 Subpart B, which is incorporated herein by reference) shall not be greater than 1.33 times the applicable PC and LDT standards or 2.0 times the applicable MDV standards set forth in section 1961(a)(1). Both the projected emissions and the HWFET standard shall be rounded in accordance with ASTM E29–67 to the nearest 0.1 g/mi (or 0.01 g/mi for vehicles certified to the 0.05 or 0.02 g/mi NOx standards) before being compared.

(7) *Supplemental Federal Test Procedure (SFTP) Off-Cycle Emission Standards.* The SFTP exhaust emission levels from new 2004 and subsequent model LEVs, ULEVs, and SULEVs shall not exceed the standards set forth in section 1960.1(r).

(8) *Requirements for Vehicles Certified to the Optional 150,000 Mile Standards.*

(A) *Requirement to Generate Additional Fleet Average NMOG Credit.* A vehicle that is certified to the 150,000 mile standards in section 1961(a) shall generate additional NMOG fleet average credit as set forth in 1961(b)(1) or additional vehicle equivalent credits as set forth in 1961(b)(2) provided that the manufacturer extends the warranty on high cost parts to 8 years or 100,000 miles, whichever occurs first, and agrees to extend the limit on high mileage in-use testing to 112,500 miles.

(B) *Requirement to Generate a Partial ZEV Allowance.* A vehicle that is certified to the 150,000 mile SULEV standards shall also generate a partial ZEV allocation according to the criteria set forth in section C.3 of the “California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” incorporated by reference in section 1962.

(9) *Optional LEV II NOx Standard.* A manufacturer may certify up to 4% of its light-duty truck fleet from 3751 lbs. LVW – 8500 lbs. GVW with a maximum base payload of 2500 lbs. or more to the LEV, option 1, standard set forth in 1961(a)(1) based on projected sales of trucks in the LDT2 category. Passenger cars and light-duty trucks 0–3750 lbs. LVW are not eligible for this option.

(10) *Intermediate In-Use Compliance Standards.* For test groups certified prior to the 2007 model year, the following intermediate in-use compliance standards shall apply for the first two model years the test group is certified to the new standard. For SULEVs certified prior to the 2004 model year, the following intermediate in-use compliance SULEV standards shall apply through the 2006 model year.

Emission Category	Durability Vehicle Basis	LEV II PCs and LDTs		LEV II MDVs 8500 – 10,000 lbs. GVW
		NMOG	NOx	NOx
LEV/ULEV	50,000	n/a	0.07	n/a
	120,000	n/a	0.10	0.3
	150,000	n/a	0.10	0.3
LEV, Option 1	50,000	n/a	0.10	n/a
	120,000	n/a	0.14	n/a
	150,000	n/a	0.14	n/a
SULEV	120,000	0.020	0.03	0.15
	150,000	0.020	0.03	0.15

(11) *NMOG Credit for Vehicles with Zero-Evaporative Emissions.* In determining compliance of a vehicle with the applicable exhaust NMOG standard, a gram per mile NMOG factor, to be determined by the Executive Officer based on available data, shall be subtracted from the reactiv-

ity-adjusted NMOG exhaust emission results for any vehicle that has been certified to the "zero" evaporative emission standard set forth in title 13, CCR, section 1976(b)(1)(E). This credit shall not apply to a SULEV that generates a partial ZEV allowance.

(12) *NMOG Credit for Direct Ozone Reduction Technology.* A manufacturer that certifies vehicles equipped with direct ozone reduction technologies shall be eligible to receive NMOG credits that can be applied to the NMOG exhaust emissions of the vehicle when determining compliance with the standard. In order to receive credit, the manufacturer must submit the following information for each vehicle model, including, but not limited to:

(A) a demonstration of the airflow rate through the direct ozone reduction device and the ozone-reducing efficiency of the device over the range of speeds encountered in the Unified Cycle Driving Schedule.

(B) an evaluation of the durability of the device for the full useful life of the vehicle; and

(C) a description of the on-board diagnostic strategy for monitoring the performance of the device in-use.

Using the above information, the Executive Officer shall determine the value of the NMOG credit based on the calculated change in the one-hour peak ozone level using an approved airshed model.

(13) *NOx Credits for Pre-2004 MDVs Certified to the LEV I LEV or ULEV Standards.* Prior to the 2004 model year, a manufacturer may earn a 0.02 g/mi per vehicle NOx credit for MDVs between 6,000–8500 lbs. GVW certified to the LEV I LEV or ULEV standards for PCs and LDTs set forth in section 1960.1(g)(1). The manufacturer may apply the credit on a per vehicle basis to the NOx emissions of LDTs between 6,000–8500 lbs. GVW certified to the PC/LDT LEV or ULEV standards in section 1961(a)(1) for the 2004 through 2008 model years.

(14) *When a Federally-Certified Vehicle Model is Required in California.*

(A) *General Requirement.* Whenever a manufacturer federally-certifies a 2004 or subsequent model-year passenger car, light-duty truck or medium-duty vehicle model to the standards for a particular emissions bin that are more stringent than the standards for an applicable California emission category, the equivalent California model may only be certified to (i) the California standards for a vehicle emissions category that are at least as stringent as the standards for the corresponding federal emissions bin, or (ii) the exhaust emission standards to which the federal model is certified. However, where the federal exhaust emission standards for the particular emissions bin and the California standards for a vehicle emissions category are equally stringent, the California model may only be certified to either the California standards for that vehicle emissions category or more stringent California standards. The federal emission bins are those contained in Tables S04-1 and S04-2 of 40 CFR § 86.1811-04(c) as adopted February 10, 2000. The criteria for applying this requirement are set forth in Part I. Section H.1 of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," as incorporated by reference in section 1961(d).

(B) *Exception for clean fuel fleet vehicles.* Section 1961(a)(14)(A) does not apply in the case of a federally-certified vehicle model that is only marketed to fleet operators for applications that are subject to clean fuel fleet requirements established pursuant to section 246 of the federal Clean Air Act (42 U.S.C. sec. 7586). In addition, the Executive Officer shall exclude from the requirement a federally-certified vehicle model where the manufacturer demonstrates to the Executive Officer's reason-

able satisfaction that the model will primarily be sold or leased to clean fuel fleet operators for such applications, and that other sales or leases of the model will be incidental to marketing to those clean fuel fleet operators.

(C) *Opt-in for 2003 or prior model year vehicles.* A manufacturer may certify a passenger car, light-duty truck or medium-duty vehicle to federal exhaust emission standards pursuant to section 1961(a)(14)(A) prior to the 2004 model year.

(15) *Emission Standard for a Fuel-Fired Heater.* Whenever a manufacturer elects to utilize an on-board fuel-fired heater on any passenger car, light-duty truck or medium-duty vehicle, the fuel-fired heater must meet LEV II ULEV standards for passenger cars and light-duty trucks less than 8,500 pounds GVW as set forth in section 1961(a)(1). On-board fuel-fired heaters may not be operable at ambient temperatures above 40°F.

(b) *Emission Standards Phase-In Requirements for Manufacturers.*

(1) *Fleet Average NMOG Requirements for Passenger Cars and Light-Duty Trucks.*

(A) The fleet average non-methane organic gas exhaust mass emission values from the passenger cars and light-duty trucks certified to the Tier 1, LEV I and LEV II standards that are produced and delivered for sale in California each model year by a manufacturer other than a small volume manufacturer or an independent low volume manufacturer shall not exceed:

**FLEET AVERAGE NON-METHANE ORGANIC GAS
EXHAUST MASS EMISSION REQUIREMENTS FOR
LIGHT-DUTY VEHICLE WEIGHT CLASSES**
(50,000 mile Durability Vehicle Basis)

Model Year	Fleet Average NMOG (grams per mile)	
	All PCs; LDTs 0–3750 lbs.	LDTs 3751 lbs. LVW – 8500 lbs.
	LVW	GVW
2001	0.070	0.098
2002	0.068	0.095
2003	0.062	0.093
2004	0.053	0.085
2005	0.049	0.076
2006	0.046	0.062
2007	0.043	0.055
2008	0.040	0.050
2009	0.038	0.047
2010+	0.035	0.043

(B) *Calculation of Fleet Average NMOG Value.*

1. *Basic Calculation.*

a. Each manufacturer's PC and LDT1 fleet average NMOG value for the total number of PCs and LDT1s produced and delivered for sale in California shall be calculated as follows:

$$\frac{(\sum [\text{Number of vehicles in a test group} \times \text{applicable emission standard}] + \sum [\text{Number of hybrid electric vehicles in a test group} \times \text{HEV NMOG factor}])}{\text{Total Number of Vehicles Produced, Including ZEVs and HEVs}}$$

b. Each manufacturer's LDT2 fleet average NMOG value for the total number of LDT2s produced and delivered for sale in California shall be calculated as follows:

$$\frac{(\sum [\text{Number of vehicles in a test group} \times \text{applicable emission standard}] + \sum [\text{Number of hybrid electric vehicles in a test group} \times \text{HEV NMOG factor}])}{\text{Total Number of Vehicles Produced, Including ZEVs and HEVs}}$$

c. The applicable emission standards to be used in the above equations are as follows:

Model Year	Emission Category	Emission Standard Value	
		All PCs: LDTs 0–3750 lbs. LVW	LDTs 3751–5750 lbs. LVW
2001 and subsequent (§1960.5 “AB 965” vehicles only)	All	Federal Emission Standard to which Vehicle is Certified	Federal Emission Standard to which Vehicle is Certified
2001 – 2003 (§1960.1(f)(2))	Tier 1	0.25	0.32
2001 – 2006 model year vehicles certified to the “LEV I” standards in §1960.1(g)(1) (For TLEVs, 2001 – 2003 model years only)	TLEVs	0.125	0.160
	LEVs	0.075	0.100
	ULEVs	0.040	0.050
Model Year	Emission Category	All PCs: LDTs 0–3750 lbs. LVW	LDTs 3751 lbs. LVW–8500 lbs. GVW
2004 and subsequent model year vehicles certified to the “LEV II” standards in §1961(a)(1)	LEVs	0.075	0.075
	ULEVs	0.040	0.040
	SULEVs	0.01	0.01
2004 and subsequent model year vehicles certified to the optional 150,000 mile “LEV II” standards for PCs and LDTs in 1961(a)(1)	LEVs	0.06	0.06
	ULEVs	0.03	0.03
	SULEVs	0.0085	0.0085

2. *HEV NMOG Factor.* The HEV NMOG factor for light-duty vehicles is calculated as follows:

LEV HEV Contribution Factor = $0.075 - [(Zero\text{-}emission\ VMT\ Factor) \times 0.035]$

ULEV HEV Contribution Factor = $0.040 - [(Zero\text{-}emission\ VMT\ Factor) \times 0.030]$

where Zero-emission VMT Factor for HEVs is determined in accordance with section 1962.

3. *Federally-Certified Vehicles.* A vehicle certified to the federal standards for a federal exhaust emissions bin in accordance with Section H.1 of the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” as incorporated by reference in section 1961(d), shall use the corresponding intermediate useful life NMOG standard to which the vehicle is deemed certified in the fleet average calculation.

(C) *Requirements for Small Volume Manufacturers.*

1. In 2001 through 2006 model years, a small volume manufacturer shall not exceed a fleet average NMOG value of 0.075 g/mi for PCs and LDTs from 0–3750 lbs. LVW or 0.100 g/mi for LDTs from 3751–5750 lbs. LVW calculated in accordance with section 1961(b)(1)(B). In 2007 and subsequent model years, a small volume manufacturer shall not exceed a fleet average NMOG value of 0.075 for PCs and LDTs from 0–3750 lbs. LVW or 0.075 for LDTs from 3751 lbs. LVW – 8500 lbs. GVW calculated in accordance with section 1961(b)(1)(B).

2. If a manufacturer’s average California sales exceed 4500 units of new PCs, LDTs, MDVs and heavy duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall no longer be treated as a small volume manufacturer and shall comply with the fleet average requirements applicable to larger manufacturers as specified in section 1961(b)(1) beginning with the fourth model year after the last of the three consecutive model years.

3. If a manufacturer’s average California sales fall below 4500 units of new PCs, LDTs, MDVs and heavy duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall be treated as a small volume manufacturer and shall be subject to the requirements for small volume manufacturers beginning with the next model year.

(D) *Phase-in Requirements for Independent Low Volume Manufacturers.* In 2001 through 2006 model years, an independent low volume manufacturer shall not exceed a fleet average NMOG value of 0.075 g/mi for PCs and LDTs from 0–3750 lbs. LVW or 0.100 g/mi for LDTs from 3751–5750 lbs. LVW calculated in accordance with section 1961(b)(1)(B). In 2007 and subsequent model years, an independent low

volume manufacturer shall not exceed a fleet average NMOG value of 0.060 for PCs and LDTs from 0–3750 lbs. LVW or 0.065 g/mi for LDTs from 3751 lbs. LVW – 8500 lbs. GVW calculated in accordance with section 1961(b)(1)(B).

(E) *Treatment of ZEVs.* ZEVs classified as LDTs (>3750 lbs. LVW) that have been counted toward the ZEV requirement for PCs and LDTs (0–3750 lbs. LVW) as specified in section 1962 shall be included as LDTs in the calculation of a fleet average NMOG value.

(2) *LEV II Phase-In Requirement for PCs and LDTs.* Beginning in the 2004 model year, a manufacturer, except a small volume manufacturer or an independent low volume manufacturer, shall certify a percentage of its PC and LDT fleet to the LEV II standards in section 1961(a) according to the following phase in schedule:

Model Year	PC/LDT1 (%)	LDT2 (%)
2004	25	25
2005	50	50
2006	75	75
2007	100	100

In determining compliance with the phase-in schedule, the fleet shall consist of LEV I and LEV II PCs and LDTs for the PC/LDT1 calculation, and LEV I and LEV II LDTs for the LDT2 calculation. LEV I MDVs are not counted in the calculation until they are certified as LEV II LDTs.

A manufacturer may use an alternative phase-in schedule to comply with these phase-in requirements as long as equivalent NOx emission reductions are achieved by the 2007 model year from each of the two categories — PC/LDT1 and LDT2. Model year emission reductions shall be calculated by multiplying the percent of either PC/LDT1 or LDT2 vehicles meeting the LEV II standards in a given model year (based on a manufacturer’s projected sales volume of vehicles in each category) by 4 for the 2004 model year, 3 for the 2005 model year, 2 for the 2006 model year and 1 for the 2007 model year. The yearly results for PCs/LDT1s shall be summed together to determine a separate cumulative total for PCs/LDT1s and the yearly results for LDT2s shall be summed together to determine a cumulative total for LDT2s. The cumulative total for each category must be equal to or exceed 500 to be considered equivalent. A manufacturer may add vehicles introduced before the 2004 model year (e.g., the percent of vehicles introduced in 2003 would be multiplied by 5) to the cumulative total.

(3) *Medium-Duty Vehicle Phase-In Requirements.*

(A) A manufacturer of MDVs, other than a small volume manufacturer, shall certify an equivalent percentage of its MDV fleet according to the following phase-in schedule:

Model Year	Vehicles Certified to §1960.1(h)(1), (h)(2), and §1961(a)(1) (%)		Vehicles Certified to §1956.8(g) or (h) (%)		
	LEV	ULEV	Tier 1	LEV	ULEV
2001	80	20	100	0	0
2002	70	30	0	100	0
2003	60	40	0	100	0
2004 +	40	60	0	0	100

(B) *Phase-In Requirements for LEV II MDVs.* For the 2004 through 2006 model years, a manufacturer, other than a small volume manufacturer must phase-in at least one test group per model year to the MDV LEV II standards. All 2007 and subsequent model year MDVs, including those produced by a small volume manufacturer, are subject to the LEV II MDV standards. Beginning in the 2005 model year, all medium-duty engines certified to the optional medium-duty engine standards in title 13, CCR §1956.8(c) or (h), including those produced by a small volume manufacturer, must meet the standards set forth in title 13, CCR §1956.8(c) or (h), as applicable. A manufacturer that elects to certify to the Option 1 or Option 2 federal standards as set forth in 40 CFR §86.005–10(f) is not subject to these phase-in requirements.

(C) *Identifying a Manufacturer's MDV Fleet.* For the 2001 and subsequent model years, each manufacturer's MDV fleet shall be defined as the total number of California-certified MDVs produced and delivered for sale in California. The percentages shall be applied to the manufacturers' total production of California-certified medium-duty vehicles delivered for sale in California. For the 2005 and subsequent model years, a manufacturer that elects to the optional medium-duty engine standards in title 13, CCR, §1956.8(c) or (h) shall not count those engines in the manufacturer's total production of California-certified medium-duty vehicles for purposes of this subsection.

(D) *Requirements for Small Volume Manufacturers.* In 2001 through 2003 model years, a small volume manufacturer shall certify, produce, and deliver for sale in California vehicles or engines certified to the MDV Tier 1 standards in a quantity equivalent to 100% of its MDV fleet. In 2004 through 2006 model years, a small volume manufacturer shall certify, produce, and deliver for sale in California vehicles or engines certified to the MDV LEV I standard in a quantity equivalent to 100% of its MDV fleet. Engines certified to these MDV LEV I standards are not be eligible for emissions averaging.

(E) For a manufacturer that elects to certify to the optional medium-duty engine standards in title 13, CCR §1956.8(c) or (h), all such 2005 and subsequent model year MDVs, including those produced by a small volume manufacturer, shall be subject to the emissions averaging provisions applicable to heavy-duty diesel or Otto-cycle engines as set forth in the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," or the "California Exhaust Emissions Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines, incorporated by reference in §1956.8(b) or (d), as applicable.

(c) *Calculation of NMOG Credits/Debits*

(1) *Calculation of NMOG Credits for Passenger Cars and Light-Duty Trucks.* In 2001 and subsequent model years, a manufacturer that achieves fleet average NMOG values lower than the fleet average NMOG requirement for the corresponding model year shall receive credits in units of g/mi NMOG determined as:

$$[(\text{Fleet Average NMOG Requirement}) - (\text{Manufacturer's Fleet Average NMOG Value})] \times (\text{Total No. of Vehicles Produced and Delivered for Sale in California, Including ZEVs and HEVs}).$$

A manufacturer with 2001 and subsequent model year fleet average NMOG values greater than the fleet average requirement for the corresponding model year shall receive debits in units of g/mi NMOG equal to the amount of negative credits determined by the aforementioned equation. For the 2001 and subsequent model years, the total g/mi NMOG credits or debits earned for PCs and LDTs 0–3750 lbs. LVW, for LDTs 3751–5750 lbs. LVW and for LDTs 3751 lbs. LVW – 8500 lbs.

GVW shall be summed together. The resulting amount shall constitute the g/mi NMOG credits or debits accrued by the manufacturer for the model year.

(2) *Calculation of Vehicle Equivalent NMOG Credits for Medium-Duty Vehicles.*

(A) In 2001 and subsequent model years, a manufacturer that produces and delivers for sale in California MDVs in excess of the equivalent requirements for LEVs, ULEVs and/or SULEVs certified to the exhaust emission standards set forth in section 1961(a)(1) or to the exhaust emission standards set forth in Title 13, CCR, Section 1956.8(h) shall receive "Vehicle-Equivalent Credits" (or "VECs") calculated in accordance with the following equation, where the term "produced" means produced and delivered for sale in California:

$$\begin{aligned} &[(\text{No. of LEVs Produced excluding HEVs}) + \\ &(\text{No. of LEV HEVs} \times \text{HEV VEC factor for LEVs})] + \\ &[(1.20 \times \text{No. of LEVs certified to the 150,000 mile standards})] - \\ &(\text{Equivalent No. of LEVs Required to be Produced}) + \end{aligned}$$

$$\begin{aligned} &[(1.4) \times (\text{No. of ULEVs Produced excluding HEVs}) + \\ &(\text{No. of ULEV HEVs} \times \text{HEV VEC factor for ULEVs})] + \\ &[(1.50 \times \text{No. of ULEVs certified to the 150,000 mile standards})] - \\ &[(1.4) \times (\text{Equivalent No. of ULEVs Required to be Produced})] + \end{aligned}$$

$$\begin{aligned} &[(1.7) \times (\text{No. of SULEVs Produced excluding HEVs}) + \\ &(\text{No. of SULEV HEVs} \times \text{HEV VEC factor for SULEVs})] + \\ &[(1.75 \times \text{No. of SULEVs certified to the 150,000 mile standards})] - \\ &[(1.7) \times (\text{Equivalent No. of SULEVs Required to be Produced})] + \end{aligned}$$

$$[(2.0) \times (\text{No. of ZEVs Certified and Produced as MDVs})].$$

MDVs certified prior to the 2004 model year to the LEV I LEV or ULEV standards for PCs and LDTs 0–3750 lbs. LVW set forth in section E.1 of these test procedures shall receive VECs calculated in accordance with the following equation, where the term "produced" means produced and delivered for sale in California:

$$\begin{aligned} &[(1.6) \times (\text{No. of MDVs meeting the LEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW excluding HEVs}) + \\ &(\text{No. of HEVs meeting the LEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW} \times \text{HEV VEC factor for MDVs meeting the LEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW})] + \\ &[(1.65 \times \text{No. of MDVs certified to the 150,000 mile LEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW})] + \\ &[(1.8) \times (\text{No. of MDVs meeting the LEV I ULEV standards for PCs and LDTs 0–3750 lbs. LVW excluding HEVs}) + \\ &(\text{No. of HEVs meeting the LEV I ULEV standards for PCs and LDTs 0–3750 lbs. LVW} \times \text{HEV VEC factor for MDVs meeting the LEV I ULEV standards for PCs and LDTs 0–3750 lbs. LVW})] + \\ &[(1.85 \times \text{No. of MDVs certified to the 150,000 mile LEV I ULEV standards for PCs and LDTs 0–3750 lbs. LVW})]. \end{aligned}$$

(B) *MDV HEV VEC factor.* The MDV HEV VEC factor is calculated as follows:

$$\begin{aligned} &1 + [(\text{LEV standard} - \text{ULEV standard}) \times (\text{Zero-emission VMT Factor}) \div \text{LEV standard}] \text{ for LEVs;} \\ &1 + [(\text{ULEV standard} - \text{SULEV standard}) \times (\text{Zero-emission VMT Factor}) \div \text{ULEV standard}] \text{ for ULEVs;} \\ &1 + [(\text{SULEV standard} - \text{ZEV standard}) \times (\text{Zero-emission VMT Factor}) \div \text{SULEV standard}] \text{ for SULEVs;} \end{aligned}$$

where "Zero-emission VMT Factor" for an HEV is determined in accordance with section 1962.

The HEV VEC factor for MDVs prior to model year 2004 meeting the LEV I LEV and ULEV standards for PCs and LDTs 0–3750 lbs. LVW is calculated as follows:

$1 + [(MDV \text{ SULEV standard} - PC \text{ LEV I LEV standard}) \times (\text{Zero-emission VMT Factor}) \div PC \text{ LEV I LEV standard}]$ for MDVs meeting the LEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW;

$1 + [(MDV \text{ SULEV standard} - PC \text{ ULEV standard}) \times (\text{Zero-emission VMT Factor}) \div PC \text{ LEV I ULEV standard}]$ for MDVs meeting the ULEV I LEV standards for PCs and LDTs 0–3750 lbs. LVW.

(C) A manufacturer that fails to produce and deliver for sale in California the equivalent quantity of MDVs certified to LEV, ULEV and/or SULEV exhaust emission standards, shall receive “Vehicle-Equivalent Debits” (or “VEDs”) equal to the amount of negative VECs determined by the equation in section 1961(c)(2)(A).

(D) Only ZEVs certified as MDVs and not used to meet the ZEV requirement shall be included in the calculation of VECs.

(3) *Procedure for Offsetting Debits.*

(A) A manufacturer shall equalize emission debits by earning g/mi NMOG emission credits or VECs in an amount equal to the g/mi NMOG debits or VEDs, or by submitting a commensurate amount of g/mi NMOG credits or VECs to the Executive Officer that were earned previously or acquired from another manufacturer. For 2001 through 2003 and for 2007 and subsequent model years, manufacturers shall equalize emission debits by the end of the following model year. For 2004 through 2006 model years, a manufacturer shall equalize NMOG debits for PCs and LDTs and LEV II MDVs within three model years and prior to the end of the 2007 model year. If emission debits are not equalized within the specified time period, the manufacturer shall be subject to the Health and Safety Code section 43211 civil penalty applicable to a manufacturer which sells a new motor vehicle that does not meet the applicable emission standards adopted by the state board. The cause of action shall be deemed to accrue when the emission debits are not equalized by the end of the specified time period. For the purposes of Health and Safety Code section 43211, the number of passenger cars and light-duty trucks not meeting the state board’s emission standards shall be determined by dividing the total amount of g/mi NMOG emission debits for the model year by the g/mi NMOG fleet average requirement for PCs and LDTs 0–3750 lbs. LVW applicable for the model year in which the debits were first incurred and the number of medium-duty vehicles not meeting the state board’s emission standards shall be equal to the amount of VEDs incurred.

(B) The emission credits earned in any given model year shall retain full value through the subsequent model year. The value of any credits not used to equalize the previous model-year’s debit shall be discounted by 50% at the beginning of second model year after being earned, shall be discounted to 25% of its original value if not used by the beginning of the third model year after being earned, and will have no value if not used by the beginning of the fourth model year after being earned.

(d) *Test Procedures.* The certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” as amended May 2, 2008 and the “California Non-Methane Organic Gas Test Procedures,” as amended July 30, 2002, which are incorporated herein by reference. In the case of hybrid electric vehicles and on-board fuel-fired heaters, the certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” incorporated by reference in section 1962.

(e) *Abbreviations.* The following abbreviations are used in this section 1961:

- “ALVW” means adjusted loaded vehicle weight.
- “ASTM” means American Society of Testing and Materials.
- “CO” means carbon monoxide.
- “FTP” means Federal Test Procedure.
- “g/mi” means grams per mile.

“GVW” means gross vehicle weight.

“GVWR” means gross vehicle weight rating.

“HEV” means hybrid-electric vehicle.

“LDT” means light-duty truck.

“LDT1” means a light-duty truck with a loaded vehicle weight of 0–3750 pounds.

“LDT2” means a “LEV II” light-duty truck with a loaded vehicle weight of 3751 pounds to a gross vehicle weight of 8500 pounds or a “LEV I” light-duty truck with a loaded vehicle weight of 3751–5750 pounds.

“LEV” means low-emission vehicle.

“LPG” means liquefied petroleum gas.

“LVW” means loaded vehicle weight.

“MDV” means medium-duty vehicle.

“mg/mi” means milligrams per mile.

“NMHC” means non-methane hydrocarbons.

“Non-Methane Organic Gases” or “NMOG” means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

“NOx” means oxides of nitrogen.

“PC” means passenger car.

“SULEV” means super-ultra-low-emission vehicle.

“TLEV” means transitional low-emission vehicle.

“ULEV” means ultra-low-emission vehicle.

“VEC” means vehicle-equivalent credits.

“VED” means vehicle-equivalent debits.

“VMT” means vehicle miles traveled.

“ZEV” means zero-emission vehicle.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204 and 43205, Health and Safety Code.

HISTORY

1. New section filed 10–28–99; operative 11–27–99 (Register 99, No. 44).
2. Amendment filed 4–30–2001; operative 5–30–2001 (Register 2001, No. 18).
3. Amendment of subsections (a)(8)(B) and (d) filed 5–24–2002; operative 6–23–2002 (Register 2002, No. 21).
4. Amendment filed 9–16–2002; operative 10–16–2002 (Register 2002, No. 38).
5. Amendment of third paragraph, subsections (a)(4), (a)(8)(A) and (a)(12)(A), new subsection (a)(15), amendment of subsections (b)(3)(B)–(D), new subsection (b)(3)(E) and amendment of subsections (d) and (e) filed 11–4–2003; operative 12–4–2003 (Register 2003, No. 45).
6. Amendment of subsections (a)(8)(B) and (d) filed 2–25–2004; operative 3–26–2004 (Register 2004, No. 9).
7. Amendment of subsection (d) filed 7–15–2004; operative 8–14–2004 (Register 2004, No. 29).
8. Amendment of subsection (d) and NOTE filed 9–15–2005; operative 1–1–2006 (Register 2005, No. 37).
9. Change without regulatory effect amending incorporated document *California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles* filed 9–15–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 37).
10. Amendment of incorporated document *California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles* and amendment of subsection (d) filed 1–18–2007; operative 2–17–2007 (Register 2007, No. 3).
11. Amendment of subsection (d) and amendment of NOTE filed 12–5–2007; operative 1–4–2008 (Register 2007, No. 49).
12. Amendment of incorporated document *California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles* and amendment of subsection (d) filed 6–16–2008; operative 6–16–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 1961.1. Greenhouse Gas Exhaust Emission Standards and Test Procedures — 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

(a) *Greenhouse Gas Emission Requirements.* The greenhouse gas emission levels from new 2009 and subsequent model year passenger cars, light-duty trucks, and medium-duty passenger vehicles shall not exceed the following requirements. Light-duty trucks from 3751 lbs. LVW — 8500 lbs. GVW that are certified to the Option 1 LEV II NOx

Standard in section 1961(a)(1) are exempt from these greenhouse gas emission requirements, however, passenger cars, light-duty trucks 0–3750 lbs. LVW, and medium-duty passenger vehicles are not eligible for this exemption.

(1) *Fleet Average Greenhouse Gas Requirements for Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles.*

(A) The fleet average greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks, and medium-duty passenger vehicles that are produced and delivered for sale in California each model year by a large volume manufacturer shall not exceed:

FLEET AVERAGE GREENHOUSE GAS EXHAUST MASS EMISSION REQUIREMENTS FOR PASSENGER CAR, LIGHT-DUTY TRUCK, AND MEDIUM-DUTY PASSENGER VEHICLE WEIGHT CLASSES¹

(4,000 mile Durability Vehicle Basis)

*Fleet Average Greenhouse Gas Emissions
(grams per mile CO₂-equivalent)*

Model Year	All PCs; LDTs 0–3750 lbs.	LDTs 3751 lbs. LVW — 8500 lbs. GVW; MDPVs
	LVW	
2009	323	439
2010	301	420
2011	267	390
2012	233	361
2013	227	355
2014	222	350
2015	213	341
2016+	205	332

¹Each manufacturer shall demonstrate compliance with these values in accordance with section 1961.1(a)(1)(B).

(B) *Calculation of Fleet Average Greenhouse Gas Value.*

1. *Basic Calculation.*

a. Each manufacturer shall calculate both a “city” grams per mile average CO₂-equivalent value for each GHG vehicle test group and a “highway” grams per mile average CO₂-equivalent value for each GHG vehicle test group, including vehicles certified in accordance with section 1960.5 and vehicles certified in accordance with section 1961(a)(14), using the following formula. Greenhouse Gas emissions used for the “city” CO₂-equivalent value calculation shall be measured using the “FTP” test cycle (40 CFR, Part 86, Subpart B). Greenhouse Gas emissions used for the “highway” CO₂-equivalent value calculation shall be based on emissions measured using the Highway Test Procedures.

CO₂-Equivalent Value = CO₂ + 296 x N₂O + 23 x CH₄ – A/C Direct Emissions Allowance – A/C Indirect Emissions Allowance

A manufacturer may use N₂O = 0.006 grams per mile in lieu of measuring N₂O exhaust emissions.

b. *A/C Direct Emissions Allowance.* A manufacturer may use the following A/C Direct Emission Allowances, upon approval of the Executive Officer, if that manufacturer demonstrates that the following requirements are met. Such demonstration shall include specifications of the components used and an engineering evaluation that verifies the estimated lifetime emissions from the components and the system. A manufacturer shall also provide confirmation that the number of fittings and joints has been minimized and components have been optimized to minimize leakage. No A/C Direct Emissions Allowance is permitted if the following requirements are not met.

i. A “low-leak air conditioning system” shall be defined as one that meets all of the following criteria:

A. All pipe and hose connections are equipped with multiple o-rings, seal washers, or metal gaskets only (e.g., no single o-rings);

B. All hoses in contact with the refrigerant must be ultra-low permeability barrier or veneer hose on both the high-pressure and the low-pressure sides of the system (e.g., no rubber hoses); and

C. Only multiple-lip compressor shaft seals shall be used (with either compressor body o-rings or gaskets).

ii. For an air conditioning system that uses HFC-134a as the refrigerant:

A. An A/C Direct Emissions Allowance of 3.0 CO₂-equivalent grams per mile shall apply if the system meets the criteria for a “low-leak air conditioning system.”

B. An A/C Direct Emissions Allowance of 3.0 CO₂-equivalent grams per mile shall apply if the manufacturer demonstrates alternative technology that achieves equal or lower direct emissions than a “low-leak air conditioning system.”

C. An A/C Direct Emissions Allowance greater than 3.0 CO₂-equivalent grams per mile may apply for an air conditioning system that reduces refrigerant leakage further than would be obtained from a “low-leak air conditioning system.” A maximum A/C Direct Emissions Allowance of 6.0 CO₂-equivalent grams per mile may be earned for an air conditioning system that has 100 percent containment of refrigerant during “normal operation.” To obtain an A/C Direct Emissions Allowance greater than 3.0 CO₂-equivalent grams per mile, the manufacturer must provide an engineering evaluation that supports the allowance requested.

iii. For an air conditioning system that uses HFC-152a, CO₂ refrigerant, or any refrigerant with a GWP of 150 or less: An A/C Direct Emissions Allowance shall be calculated using the following formula:

$$\text{A/C Direct Emissions Allowance} = A - (B \times C)$$

where: A = 9 CO₂-equivalent grams per mile (the lifetime vehicle emissions expected from an air conditioning system that uses refrigerant HFC-134a);

$$B = 9 \text{ CO}_2 - \text{equivalent g/mi} \times \frac{\text{GWP}}{1300}$$

where: B is the lifetime vehicle emissions expected from an air conditioning system that uses a refrigerant with a GWP of 150 or less, and “GWP” means the GWP of this refrigerant; and

C = 1, except for an air conditioning system that meets the criteria of a “low-leak air conditioning system.”

For an air conditioning system that meets or exceeds the criteria of a “low-leak air conditioning system,” the following formula shall apply:

$$C = 1 - (0.12 \times \text{credit})$$

where: “credit” equals 3.0 CO₂-equivalent grams per mile for a “low-leak air conditioning system” that meets the criteria of section 1961.1(a)(1)(B)1.b.i., or

“credit” equals a value greater than 3.0 CO₂-equivalent grams per mile for an air conditioning system that reduces refrigerant leakage further than would be obtained from a “low-leak air conditioning system.” A maximum credit of 6.0 CO₂-equivalent grams per mile may be earned for an air conditioning system that has 100 percent containment of refrigerant during normal operation. To obtain a credit greater than 3.0 CO₂-equivalent grams per mile, the manufacturer must provide an engineering evaluation that supports the credit requested.

c. *A/C Indirect Emissions Allowance.* A manufacturer may use the following A/C Indirect Emissions Allowances, upon approval of the Executive Officer, if the manufacturer demonstrates using data or an engineering evaluation that the air conditioning system meets the following requirements. A manufacturer may use the following A/C Indirect Emissions Allowances for other technologies, upon approval of the Executive Officer, if that manufacturer demonstrates that the air conditioning system achieves equal or greater CO₂-equivalent grams per mile emissions reductions.

i. An “A/C system with reduced indirect emissions” shall be defined as one that meets all of the following criteria:

A. Has managed outside and recirculated air balance to achieve comfort, demisting, and safety requirements, based on such factors as temperature, humidity, pressure, and level of fresh air in the passenger compartment to minimize compressor usage;

B. Is optimized for energy efficiency by utilizing state-of-the-art high efficiency evaporators, condensers, and other components; and

C. Has an externally controlled compressor (such as an externally controlled variable displacement or variable speed compressor or an externally controlled fully cycling fixed displacement compressor) that ad-

justs evaporative temperature to minimize the necessity of reheating cold air to satisfy occupant comfort.

ii. For an A/C system that meets all of the criteria for an "A/C system with reduced indirect emissions," the allowance shall be calculated using the following emission factors, up to a maximum allowance of 9.0 CO₂-equivalent grams per mile if the system has one evaporator and up to a maximum allowance of 11.0 CO₂-equivalent grams per mile if the system has two evaporators:

A. 5.0 CO₂-equivalent grams per mile per 100 cc of maximum compressor displacement for a system that does not use CO₂ as the refrigerant

B. 27.5 CO₂-equivalent grams per mile per 100 cc of maximum compressor displacement for a system that uses CO₂ as the refrigerant

iii. For an air conditioning system equipped with a refrigerant having a GWP of 150 or less, the allowance shall be calculated using the following emission factors, up to a maximum allowance of 0.5 CO₂-equivalent grams per mile:

A. 0.2 CO₂-equivalent grams per mile per 100cc of maximum compressor displacement for a system that does not use CO₂ as the refrigerant and

B. 1.1 CO₂-equivalent grams per mile per 100cc of maximum compressor displacement for a system that uses CO₂ as the refrigerant.

d. *Upstream Greenhouse Gas Emission Adjustment Factors for Alternative Fuel Vehicles.* A grams per mile average CO₂-equivalent value for each GHG vehicle test group certifying on a fuel other than conventional gasoline, including vehicles certified in accordance with section 1960.5 and vehicles certified in accordance with section 1961(a)(14), shall be calculated as follows:

$$(\text{CO}_2 + \text{A/C Indirect Emissions}) \times (\text{Fuel Adjustment Factor}) + 296 \times \text{N}_2\text{O} + 23 \times \text{CH}_4 + \text{A/C Direct Emissions}$$

where:

$$\text{A/C Indirect Emissions} = A - B$$

where: "A" represents the indirect emissions associated with an A/C system that does not incorporate any of the A/C improvements described in section 1961.1(a)(1)(B)1.c. A is determined by the following emission factors, with a maximum value of 17.0 CO₂-equivalent grams per mile for a system that has one evaporator and a maximum value of 21.0 CO₂-equivalent grams per mile for a system that has two evaporators.

A = 9.6 CO₂-equivalent grams per mile per 100cc of maximum compressor displacement for an A/C system that does not use CO₂ as the refrigerant or

A = 52.8 CO₂-equivalent grams per mile per 100cc of maximum compressor displacement for an A/C system that uses CO₂ as the refrigerant.

B = A/C Indirect Emissions Allowance as calculated per section 1961.1(a)(1)(B)1.c.

A/C Direct Emissions = 9 CO₂-equivalent grams per mile — A/C Direct Emissions Allowance as calculated per section 1961.1(a)(1)(B)1.b.

The Fuel Adjustment Factors are:

Fuel	Fuel Adjustment Factor
Natural Gas	1.03
LPG	0.89
E85	0.74

e. *Calculation of CO₂-Equivalent Emissions for Hydrogen Internal Combustion Engine Vehicles and for Electric and Hydrogen ZEVs.* The grams per mile average CO₂-equivalent value for each GHG vehicle test group certifying to ZEV standards, including vehicles certified in accordance with section 1960.5 and vehicles certified in accordance with section 1961(a)(14), shall be:

$$\text{A/C Direct Emissions} + \text{Upstream Emissions Factor}$$

where: A/C Direct Emissions = 9 CO₂-equivalent grams per mile — A/C Direct Emissions Allowance as calculated per section 1961.1(a)(1)(B)1.b.

The Upstream Emissions Factors are:

Vehicle Type	Upstream Emissions Factor ¹ (CO ₂ -equivalent g/mi)
Electric ZEV	130
Hydrogen Internal Combustion Engine Vehicle	290
Hydrogen ZEV	210

¹The Executive Officer may approve use of a lower upstream emissions factor if a manufacturer demonstrates the appropriateness of the lower value by providing information that includes, but is not limited to, the percentage of hydrogen fuel or the percentage of electricity produced for sale in California using a "renewable energy resource."

2. *Calculation of Greenhouse Gas Values for Bi-Fuel Vehicles, Fuel-Flexible Vehicles, Dual-Fuel Vehicles, and Grid-connected Hybrid Electric Vehicles.* For bi-fuel, fuel-flexible, dual-fuel, and grid-connected hybrid, electric vehicles, a manufacturer shall calculate a grams per mile average CO₂-equivalent value for each GHG vehicle test group, in accordance with section 1961.1(a)(1)(B)1., based on exhaust mass emission tests when the vehicle is operating on gasoline.

a. *Optional Alternative Compliance Mechanisms.* Beginning with the 2010 model year, a manufacturer that demonstrates that a bi-fuel, fuel-flexible, dual-fuel, or grid-connected hybrid electric GHG vehicle test group will be operated in use in California on the alternative fuel shall be eligible to certify those vehicles using this optional alternative compliance procedure, upon approval of the Executive Officer.

i. To demonstrate that bi-fuel, fuel-flexible, dual-fuel, or grid-connected hybrid electric vehicles within a GHG vehicle test group will be operated in use in California on the alternative fuel, the manufacturer shall provide data that shows the previous model year sales of such vehicles to fleets that provide the alternative fuel on-site or, for grid-connected hybrid electric vehicles, to end users with the capability to recharge the vehicle on-site. This data shall include both the total number of vehicles sales that were made to such fleets or end users with the capability to recharge the vehicle on-site and as the percentage of total GHG vehicle test group sales. The manufacturer shall also provide data demonstrating the percentage of total vehicle miles traveled by the bi-fuel, fuel-flexible, dual-fuel, or grid-connected hybrid electric vehicles sold to each fleet or to end users with the capability to recharge the vehicle on-site in the previous model year using the alternative fuel and using gasoline.

ii. For each GHG vehicle test group that receives approval by the Executive Officer under section 1961.1(a)(1)(B)2.a.i., a grams per mile CO₂-equivalent value shall be calculated as follows:

$$\text{CO}_2\text{-equivalent value} = [A \times E \times B \times C] + [(1 - (A \times E \times B)) \times D]$$

where: A = the percentage of previous model year vehicles within a GHG vehicle test group that were operated in use in California on the alternative fuel during the previous calendar year;

B = the percentage of miles traveled by "A" during the previous calendar year;

C = the CO₂-equivalent value for the GHG vehicle test group, as calculated in section 1961.1(a)(1)(B)1, when tested using the alternative fuel;

D = the CO₂-equivalent value for the GHG vehicle test group, as calculated in section 1961.1(a)(1)(B)1, when tested using gasoline; and

E = 0.9 for grid-connected hybrid electric vehicles or

E = 1 for bi-fuel, fuel-flexible, and dual-fuel vehicles.

The Executive Officer may approve use of a higher value for "E" for a grid-connected hybrid electric vehicle GHG vehicle test group if a manufacturer demonstrates that the vehicles can reasonably be expected to maintain more than 90 percent of their original battery capacity over a 200,000 mile vehicle lifetime. The manufacturer may demonstrate the appropriateness of a higher value either by providing data from real world vehicle operation; or by showing that these vehicles are equipped with batteries that do not lose energy storage capacity until after 100,000 miles; or by offering 10 year/150,000 mile warranties on the batteries.

iii. For the first model year in which a grid-connected hybrid electric vehicle model is certified for sale in California, the manufacturer may estimate the sales and percentage of total vehicle miles traveled informa-

tion requested in section 1961.1(a)(1)(B)2.a.i. in lieu of providing actual data, and provide final sales data and data demonstrating the percentage of total vehicle miles traveled using electricity by no later than March 1 of the calendar year following the close of the model year.

3. Calculation of Fleet Average Greenhouse Gas Values.

a. Each manufacturer's PC and LDT1 fleet average Greenhouse Gas value for the total number of PCs and LDT1s produced and delivered for sale in California, including vehicles certified in accordance with section 1960.5 and vehicles certified in accordance with section 1961(a)(14), shall be calculated as follows:

$$[0.55 \times (\sum \text{City Test Group Greenhouse Gas Values}) + 0.45 \times (\sum \text{Highway Test Group Greenhouse Gas Values})] \div \text{Total Number of PCs and LDT1s Produced, Including ZEVs and HEVs}$$

where: City Test Group Greenhouse Gas Value = $[(\text{Total Number of Vehicles in a Test Group} - \sum \text{Number of Vehicles in Optional GHG Test Vehicle Configurations}) \times \text{"worst-case" calculated CO}_2\text{-equivalent value} + \sum (\text{Number of vehicles in Optional GHG Test Vehicle Configurations} \times \text{applicable calculated CO}_2\text{-equivalent value})]$ measured using the FTP test cycle; and

Highway Test Group Greenhouse Gas Value = $[(\text{Total Number of Vehicles in a Test Group} - \sum (\text{Number of Vehicles in Optional GHG Test Vehicle Configurations}) \times \text{"worst-case" calculated CO}_2\text{-equivalent value} + \sum (\text{Number of vehicles in Optional GHG Test Vehicle Configurations} \times \text{applicable calculated CO}_2\text{-equivalent value})]$ measured using the Highway Test Procedures.

b. Each manufacturer's LDT2 and MDPV fleet average Greenhouse Gas value for the total number of LDT2s and MDPVs produced and delivered for sale in California, including vehicles certified in accordance with section 1960.5 and vehicles certified in accordance with section 1961(a)(14), shall be calculated as follows:

$$[0.55 \times (\sum \text{City Test Group Greenhouse Gas Values}) + 0.45 \times (\sum \text{Highway Test Group Greenhouse Gas Values})] \div \text{Total Number of LDT2s and MDPVs Produced, Including ZEVs and HEVs}$$

where: City Test Group Greenhouse Gas Value = $[(\text{Total Number of Vehicles in a Test Group} - \sum \text{Number of Vehicles in Optional GHG Test Vehicle Configurations}) \times \text{"worst-case" calculated CO}_2\text{-equivalent value} + \sum (\text{Number of vehicles in Optional GHG Test Vehicle Configurations} \times \text{applicable calculated CO}_2\text{-equivalent value})]$ measured using the FTP test cycle; and

Highway Test Group Greenhouse Gas Value = $[(\text{Total Number of Vehicles in a Test Group} - \sum \text{Number of Vehicles in Optional GHG Test Vehicle Configurations}) \times \text{"worst-case" calculated CO}_2\text{-equivalent value} + \sum (\text{Number of vehicles in Optional GHG Test Vehicle Configurations} \times \text{applicable calculated CO}_2\text{-equivalent value})]$ measured using the Highway Test Procedures.

(C) Requirements for Intermediate Volume Manufacturers.

1. Before the 2016 model year, compliance with this section 1961.1 shall be waived for intermediate volume manufacturers.

2. For each intermediate volume manufacturer, the manufacturer's baseline fleet average greenhouse gas value for PCs and LDT1s and baseline fleet average greenhouse gas value for LDT2s and MDPVs shall be calculated, in accordance with section 1961.1(a)(1)(B) using its 2002 model year fleet.

3. In 2016 and subsequent model years, an intermediate volume manufacturer shall either:

a. not exceed a fleet average greenhouse gas emissions value of 233 g/mi for PCs and LDT1s and 361 g/mi for LDT2s and MDPVs, or

b. not exceed a fleet average greenhouse gas value of 0.75 times the baseline fleet average greenhouse gas value for PCs and LDT1s and 0.82 times the baseline fleet average greenhouse gas value for LDT2s and MDPVs, as calculated in section 1961.1(a)(1)(C)2.

4. If a manufacturer's average annual California sales exceed 60,000 units of new PCs, LDTs, MDVs and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall no longer be treated as a intermediate vol-

ume manufacturer and shall comply with the fleet average requirements applicable to large volume manufacturers as specified in section 1961.1(a)(1) beginning with the fourth model year after the last of the three consecutive model years.

5. If a manufacturer's average annual California sales fall below 60,001 units of new PCs, LDTs, MDVs and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall be treated as a intermediate volume manufacturer and shall be subject to the requirements for intermediate volume manufacturers beginning with the next model year.

(D) Requirements for Small Volume Manufacturers and Independent Low Volume Manufacturers.

1. Before the 2016 model year, compliance with this section 1961.1 shall be waived for small volume manufacturers and independent low volume manufacturers.

2. At the beginning of the 2013 model year, each small volume manufacturer and independent low volume manufacturer shall identify all 2012 model year vehicle models, certified by a large volume manufacturer that are comparable to that small volume manufacturer or independent low volume manufacturer's 2016 model year vehicle models, based on horsepower and horsepower to weight ratio. The small volume manufacturer and independent low volume manufacturer shall demonstrate to the Executive Officer the appropriateness of each comparable vehicle model selected. Upon approval of the Executive Officer, s/he shall provide to the small volume manufacturer and to the independent low volume manufacturer the CO₂-equivalent value for each 2012 model year vehicle model that is approved. The small volume manufacturer and independent low volume manufacturer shall calculate an average greenhouse gas emissions value for each its greenhouse gas vehicle test groups based on the CO₂-equivalent values provided by the Executive Officer.

3. In the 2016 and subsequent model years, a small volume manufacturer and an independent low volume manufacturer shall either:

a. not exceed the fleet average greenhouse gas emissions value calculated for each GHG vehicle test group for which a comparable vehicle is sold by a large volume manufacturer, in accordance with section 1961.1(a)(1)(D)2; or

b. not exceed a fleet average greenhouse gas emissions value of 233 g/mi for PCs and LDT1s and 361 g/mi for LDT2s and MDPVs; or

c. upon approval of the Executive Officer, if a small volume manufacturer demonstrates a vehicle model uses an engine, transmission, and emission control system that is identical to a configuration certified for sale in California by a large volume manufacturer, those small volume manufacturer vehicle models are exempt from meeting the requirements in paragraphs 3.a. and b. of this section.

4. If a manufacturer's average annual California sales exceed 4,500 units of new PCs, LDTs, MDVs and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall no longer be treated as a small volume manufacturer and shall comply with the fleet average requirements applicable to larger volume manufacturers as specified in section 1961.1(a)(1) beginning with the fourth model year after the last of the three consecutive model years.

5. If a manufacturer's average annual California sales exceed 10,000 units of new PCs, LDTs, MDVs and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall no longer be treated as an independent low volume manufacturer and shall comply with the fleet average requirements applicable to larger volume manufacturers as specified in section 1961.1(a)(1) beginning with the fourth model year after the last of the three consecutive model years.

6. If a manufacturer's average annual California sales fall below 4,501 units of new PCs, LDTs, MDVs and heavy-duty engines based on the average number of vehicles sold for the three previous consecutive model years, the manufacturer shall be treated as a small volume manufacturer

and shall be subject to the requirements for small volume manufacturers beginning with the next model year.

(b) *Calculation of Greenhouse Gas Credits/Debits.*

(1) *Calculation of Greenhouse Gas Credits for Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles.*

(A) In the 2000 through 2008 model years, a manufacturer that achieves fleet average Greenhouse Gas values lower than the fleet average Greenhouse Gas requirement applicable to the 2012 model year shall receive credits for each model year in units of g/mi determined as:

$$[(\text{Fleet Average Greenhouse Gas Requirement for the 2012 model year}) - (\text{Manufacturer's Fleet Average Greenhouse Gas Value})] \times (\text{Total No. of Vehicles Produced and Delivered for Sale in California, Including ZEVs and HEVs}).$$

(B) In 2009 and subsequent model years, a manufacturer that achieves fleet average Greenhouse Gas values lower than the fleet average Greenhouse Gas requirement for the corresponding model year shall receive credits in units of g/mi Greenhouse Gas determined as:

$$[(\text{Fleet Average Greenhouse Gas Requirement}) - (\text{Manufacturer's Fleet Average Greenhouse Gas Value})] \times (\text{Total No. of Vehicles Produced and Delivered for Sale in California, Including ZEVs and HEVs}).$$

(2) A manufacturer with 2009 and subsequent model year fleet average Greenhouse Gas values greater than the fleet average requirement for the corresponding model year shall receive debits in units of g/mi Greenhouse Gas equal to the amount of negative credits determined by the aforementioned equation. For the 2009 and subsequent model years, the total g/mi Greenhouse Gas credits or debits earned for PCs and LDT1s and for LDT2s and MDPVs shall be summed together. The resulting amount shall constitute the g/mi Greenhouse Gas credits or debits accrued by the manufacturer for the model year.

(3) *Procedure for Offsetting Greenhouse Gas Debits.*

(A) A manufacturer shall equalize Greenhouse Gas emission debits by earning g/mi Greenhouse Gas emission credits in an amount equal to the g/mi Greenhouse Gas debits, or by submitting a commensurate amount of g/mi Greenhouse Gas credits to the Executive Officer that were earned previously or acquired from another manufacturer. A manufacturer shall equalize Greenhouse Gas debits for PCs, LDTs, and MDPVs within five model years after they are earned. If emission debits are not equalized within the specified time period, the manufacturer shall be subject to the Health and Safety Code section 43211 civil penalty applicable to a manufacturer which sells a new motor vehicle that does not meet the applicable emission standards adopted by the state board. The cause of action shall be deemed to accrue when the emission debits are not equalized by the end of the specified time period. For the purposes of Health and Safety Code section 43211, the number of passenger cars and LDT1s not meeting the state board's emission standards shall be determined by dividing the total amount of g/mi Greenhouse Gas emission debits for the model year by the g/mi Greenhouse Gas fleet average requirement for PCs and LDTs 0–3750 lbs. LVW applicable for the model year in which the debits were first incurred. For the purposes of Health and Safety Code section 43211, the number of LDT2s and MDPVs not meeting the state board's emission standards shall be determined by dividing the total amount of g/mi Greenhouse Gas emission debits for the model year by the g/mi Greenhouse Gas fleet average requirement for LDTs 3751 lbs. LVW — 8500 lbs. GVW and MDPVs applicable for the model year in which the debits were first incurred.

(B) Greenhouse Gas emission credits earned in the 2000 through 2008 model years shall be treated as if they were earned in the 2011 model year and shall retain full value through the 2012 model year. Greenhouse Gas emission credits earned in the 2009 and subsequent model years shall retain full value through the fifth model year after they are earned. The value of any credits earned in the 2000 through 2008 model years that are not used to equalize debits accrued in the 2009 through 2012 model years shall be discounted by 50% at the beginning of the 2013 model year, shall be discounted to 25% of its original value if not used by the beginning

of the 2014 model year, and will have no value if not used by the beginning of the 2015 model year. Any credits earned in the 2009 and subsequent model years that are not used by the end of the fifth model year after they are accrued shall be discounted by 50% at the beginning of the sixth model year after being earned, shall be discounted to 25% of its original value if not used by the beginning of the seventh model year after being earned, and will have no value if not used by the beginning of the eighth model year after being earned.

(c) *Test Procedures.* The certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in section 1961(d). In the case of hybrid electric vehicles and on-board fuel-fired heaters, the certification requirements and test procedures for determining compliance with the emission standards in this section are set forth in the “California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” incorporated by reference in section 1962.

(d) *Abbreviations.* The following abbreviations are used in this section 1961.1:

“cc” mean cubic centimeters.

“CH₄” means methane.

“CO₂” means carbon dioxide.

“E85” means a blend of 85 percent ethanol and 15 percent gasoline.

“FTP” means Federal Test Procedure.

“GHG” means greenhouse gas.

“g/mi” means grams per mile.

“GVW” means gross vehicle weight.

“GVWR” means gross vehicle weight rating.

“GWP” means the global warming potential.

“HEV” means hybrid-electric vehicle.

“LDT” means light-duty truck.

“LDT1” means a light-duty truck with a loaded vehicle weight of 0–3750 pounds.

“LDT2” means a “LEV II” light-duty truck with a loaded vehicle weight of 3751 pounds to a gross vehicle weight of 8500 pounds.

“LEV” means low-emission vehicle.

“LPG” means liquefied petroleum gas.

“LVW” means loaded vehicle weight.

“MDPV” means medium-duty passenger vehicle.

“MDV” means medium-duty vehicle.

“mg/mi” means milligrams per mile.

“N₂O” means nitrous oxide.

“PC” means passenger car.

“SULEV” means super-ultra-low-emission vehicle.

“ULEV” means ultra-low-emission vehicle.

“ZEV” means zero-emission vehicle.

(e) *Definitions Specific to this Section.* The following definitions apply to this section 1961.1:

(1) “A/C Direct Emissions” means any refrigerant released from a motor vehicle's air conditioning system.

(2) “A/C Indirect Emissions” means any increase in motor vehicle exhaust CO₂ emissions that can be attributed to the operation of the air conditioning system.

(3) “GHG Vehicle Test Group” means vehicles that have an identical test group, vehicle make and model, transmission class and driveline, aspiration method (e.g., naturally aspirated, turbocharged), camshaft configuration, valvetrain configuration, and inertia weight class.

(4) “Greenhouse Gas” means the following gases: carbon dioxide, methane, nitrous oxide, and hydrofluorocarbons.

(5) “Grid-Connected Hybrid Electric Vehicle” means a hybrid electric vehicle that has the capacity for the battery to be recharged from an off-board source of electricity and has some all-electric range.

(6) "GWP" means the 100-year global warming potential specified in IPCC (Intergovernmental Panel on Climate Change) 2000: Emissions Scenarios. N. Nakicenovic et. al. editors, Special Report of Working Group III of the IPCC, Cambridge University Press, Cambridge UK, ISBN 0-521-80493-0.

(7) "Normal Operation" of an air conditioning system means typical everyday use of the A/C system to cool a vehicle. "Normal Operation" does not include car accidents, dismantling of an air conditioning system, or any other non-typical events.

(8) "Optional GHG Test Vehicle Configuration" means any GHG vehicle configuration that is selected for testing by the manufacturer as allowed by section G.2.3 of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," other than the worst-case configuration.

(9) "Renewable Energy Resource" means a facility that meets all of the criteria set forth in Public Resources Code section 25741(a), except that the facility is not required to be located in California or near the border of California.

(10) "Variable Displacement Compressor" means a compressor in which the mass flow rate of refrigerant is adjusted independently of compressor speed by the control system in response to cooling load demand.

(11) "Variable Speed Compressor" means a compressor in which the mass flow rate of refrigerant can be adjusted by control of the compressor input shaft speed, independent of vehicle engine speed. For example, a variable speed compressor can have electric drive, hydraulic drive, or mechanical drive through a variable speed transmission.

(12) "Worst-Case" means the vehicle configuration within each test group that is expected to have the highest CO₂-equivalent value, as calculated in section 1961.1(a)(1)(B)1.

(f) *Severability*. Each provision of this section is severable, and in the event that any provision of this section is held to be invalid, the remainder of this article remains in full force and effect.

(g) *Effective Date of this Section*. The requirements of this section 1961.1 shall become effective on January 1, 2006.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43018.5,

43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43018.5, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43205 and 43211, Health and Safety Code.

HISTORY

1. New section filed 9-15-2005; operative 1-1-2006 (Register 2005, No. 37).

§ 1962. Zero-Emission Vehicle Standards for 2005 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

(a) *ZEV Emission Standard*. The Executive Officer shall certify new 2005 and subsequent model passenger cars, light-duty trucks and medium-duty vehicles as ZEVs if the vehicles produce zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any and all possible operational modes and conditions. Incorporation of a fuel-fired heater shall not preclude a vehicle from being certified as a ZEV provided: (1) the fuel-fired heater cannot be operated at ambient temperatures above 40°F, (2) the heater is demonstrated to have zero fuel evaporative emissions under any and all possible operational modes and conditions, and (3) the emissions of any pollutant from the fuel-fired heater when operated at an ambient temperature between 68°F and 86°F do not exceed the emission standard for that pollutant for a ULEV under section 1961(a)(1).

A vehicle that would meet the emissions standards for a ZEV except that it uses a fuel-fired heater that can be operated at ambient temperatures above 40°F, that cannot be demonstrated to have zero fuel evaporative emissions under any and all possible operation modes and conditions, or that has emissions of any pollutant exceeding the emission standard for that pollutant for a ULEV under section 1961(a)(1), shall be certified based on the emission level of the fuel-fired heater.

(b) *Percentage ZEV Requirements*.

(1) *General Percentage ZEV Requirement*.

(A) *Basic Requirement*. The minimum percentage ZEV requirement for each manufacturer is listed in the table below as the percentage of the PCs and LDT1s, and LDT2s to the extent required by section (b)(1)(C), produced by the manufacturer and delivered for sale in California that must be ZEVs, subject to the conditions in this section 1962(b).

[The next page is 236.3.]

Model Years	Minimum ZEV Requirement
2005 through 2008	10 percent
2009 through 2011	11 percent
2012 through 2014	12 percent
2015 through 2017	14 percent
2018 and subsequent	16 percent

(B) *Calculating the Number of Vehicles to Which the Percentage ZEV Requirement is Applied.* A manufacturer's volume of PCs and LDT1s produced and delivered for sale in California will be averaged for the 1997, 1998, and 1999 model years to determine the California PC and LDT1 production volume for the model year 2005 ZEV requirements. For subsequent three-year periods following model year 2005, a manufacturer's California production volume of PCs and LDT1s, and LDT2s as applicable, will be based on a three-year average of the manufacturer's volume of PCs and LDT1s, and LDT2s as applicable, produced and delivered for sale in California in the prior fourth, fifth and sixth years (e.g. 2006 to 2008 model-year ZEV requirements will be based on California production volumes of PCs and LDT1s, and LDT2s as applicable, for 2000 to 2002 model years). This production averaging is used to determine ZEV requirements only, and has no effect on a manufacturer's size determination. As an alternative to the three year averaging of prior year production described above, a manufacturer may during model year 2005 or the first model year of a subsequent three year period elect to base its ZEV obligation on the number of PCs and LDT1s, and LDT2s to the extent required by section (b)(1)(C), produced by the manufacturer and delivered for sale in California that same year. If a manufacturer elects to use this method after model year 2005 it must be used for each year of the three-year period. In applying the ZEV requirement, a PC, LDT1, or LDT2 (beginning in the 2007 model year) that is produced by a small volume manufacturer, but is marketed in California by another manufacturer under the other manufacturer's nameplate, shall be treated as having been produced by the marketing manufacturer.

(C) *Phase-in of ZEV Requirements for LDT2s.* Beginning with the ZEV requirements for the 2007 model year, a manufacturer's LDT2 production shall be included in determining the manufacturer's overall ZEV requirement under section (b)(1)(A) in the increasing percentages shown the table below.

2007	2008	2009	2010	2011	2012+
17%	34%	51%	68%	85%	100%

(D) *Exclusion of ZEVs in Determining a Manufacturer's Sales Volume.* In calculating for purposes of sections 1962(b)(1)(B) and 1962(b)(1)(C) the volume of PCs, LDT1s and LDT2s a manufacturer has produced and delivered for sale in California, the manufacturer shall exclude the number of ZEVs produced by the manufacturer, or by a subsidiary in which the manufacturer has a greater than 50% ownership interest, and delivered for sale in California.

(2) *Requirements for Large Volume Manufacturers.*

(A) *Primary Requirements for Large Volume Manufacturers.* In the 2005 through 2008 model years, a large-volume manufacturer must meet at least 20% of its ZEV requirement with ZEVs or ZEV credits generated by such vehicles, and at least another 20% with ZEVs, advanced technology PZEVs, or credits generated by such vehicles. The remainder of the large-volume manufacturer's ZEV requirement may be met using PZEVs or credits generated by such vehicles. As the ZEV requirement increases over time from 10% in model year 2005 to 16% in model years 2018 and subsequent, the maximum portion of a large volume manufacturer's percentage ZEV requirement that may be satisfied by PZEVs that are not advanced technology PZEVs, or credits generated by such vehicles, is limited to 6% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume; advanced technology PZEVs or credits generated by such vehicles may be used to meet up to one-half of the manufacturer's remaining ZEV requirement.

(B) *Alternative Requirements for Large Volume Manufacturers.*

1. *Minimum Floor for Production of Type III ZEVs.*

a. *Requirement For the 2005–2008 Model Years.* A large volume manufacturer electing to be subject to the alternative compliance requirements during model years 2005 through 2008 must produce, deliver for sale, and place in service in California enough 2001–2008 model-year Type III ZEVs to generate ZEV credits sufficient to meet a cumulative percentage ZEV requirement of 1.09 percent of the manufacturer's average annual California sales of PCs and LDT1s over the five year period from model years 1997 through 2001, or submit an equivalent number of credits generated by such vehicles. The manufacturer may meet up to one half of this requirement with [i] 2004–2008 model-year Type I or Type II ZEVs, provided that 20 Type I ZEVs or 10 Type II ZEVs will equal one Type III ZEV, and [ii] 1997–2003 model-year Type I or Type II ZEVs that qualify for an extended service multiplier under section 1962(f) for a year primarily during calendar years 2004–2008, provided that 33 years of such a multiplier will equal one Type III ZEV.

b. *Requirement For the 2009–2011 Model Years.* A large volume manufacturer electing to be subject to the alternative compliance requirements during model years 2009 through 2011 must produce, deliver for sale, and place in service in California enough 2009–2011 model-year Type III ZEVs to generate ZEV credits sufficient to meet the 2009–2011 alternative path percentage, as calculated pursuant to section 1962(b)(2)(B)1.e., of the manufacturer's section 1962(b)(1) percentage ZEV requirement for the 2010 model year, based on the prior year method described in section 1962(b)(1)(B), or submit an equivalent number of credits generated by such vehicles. The manufacturer may meet up to one half of this requirement with [i] 2009–2011 model-year Type I or Type II ZEVs, provided that 20 Type I ZEVs or 10 Type II ZEVs will equal one Type III ZEV, and [ii] 1997–2003 model-year ZEVs that qualify for an extended service multiplier under section 1962(f) for a year primarily during calendar years 2009–2011, provided that 33 years of such a multiplier will equal one Type III ZEV.

c. *Requirement For the 2012–2014 Model Years.* A large volume manufacturer electing to be subject to the alternative compliance requirements during model years 2012 through 2014 must produce, deliver for sale, and place in service in California enough 2012–2014 model-year Type III ZEVs to generate ZEV credits sufficient to meet the 2012–2014 alternative path percentage, as calculated pursuant to section 1962(b)(2)(B)1.e., of the manufacturer's section 1962(b)(1) percentage ZEV requirement for the 2013 model year, based on the prior year method described in section 1962(b)(1)(B), or submit an equivalent number of credits generated by such vehicles. The manufacturer may meet up to one half of this requirement with 2012–2014 model-year Type I or Type II ZEVs, provided that 10 Type I ZEVs or 5 Type II ZEVs will equal one Type III ZEV.

d. *Requirement For the 2015–2017 Model Years.* A large volume manufacturer electing to be subject to the alternative compliance requirements during model years 2015 through 2017 must produce, deliver for sale, and place in service in California enough 2015–2017 model-year Type III ZEVs to generate ZEV credits sufficient to meet the 2015–2017 alternative path percentage, as calculated in section 1962(b)(2)(B)1.e., of the manufacturer's section 1962(b)(1) percentage ZEV requirement for the 2016 model year, based on the prior year method described in section 1962(b)(1)(B), or submit an equivalent number of credits generated by such vehicles. The manufacturer may meet up to one half of this requirement with 2015–2017 model-year Type I or Type II ZEVs, provided that 10 Type I ZEVs or 5 Type II ZEVs will equal one Type III ZEV.

e. *Calculation of a Manufacturer's Alternative Path Percentage.* A manufacturer's alternative path percentage for a given time period is calculated as the target number of credits for each time period divided by the applicable combined model year ZEV obligation of all large volume manufacturers for that same time period, where:

<i>Time Period (MYs)</i>	<i>Target Number of Alternative Path Type III ZEVs</i>	<i>Credits per Vehicle</i>	<i>Target Number of Credits</i>	<i>Combined Model Year ZEV Obligation</i>	<i>Alternative Path Percentage</i>
2009 – 2011	2,500	4	10,000	A	$(10,000/A) \times 100$
2012 – 2014	25,000	3	75,000	B	$(75,000/B) \times 100$
2015 – 2017	50,000	3	150,000	C	$(150,000/C) \times 100$

And where:

A = The combined total section 1962(b)(1) percentage ZEV requirement, based on the prior year method described in section 1962(b)(1)(B), that would apply for all large manufacturers for the 2010 model year,

B = The combined total section 1962(b)(1) percentage ZEV requirement, based on the prior year method described in section 1962(b)(1)(B), that would apply for all large manufacturers for the 2013 model year, and

C = The combined total section 1962(b)(1) percentage ZEV requirement, based on the prior year method described in section 1962(b)(1)(B), that would apply for all large manufacturers for the 2016 model year.

f. *Exclusion of Additional Credits for Transportation Systems.* Any additional credits for transportation systems generated in accordance with section 1962(g)(5) shall not be counted towards compliance with this section 1962(b)(2)(B)1.a.–d.

g. *Carry-over of Excess Credits.* Where a manufacturer generates more qualifying ZEV credits than are needed to meet the minimum floor requirement for the production of Type III ZEVs in one of the periods identified in section 1962(b)(2)(B)1.a.–c., the qualifying ZEV credits may be used towards meeting the minimum floor requirement for the production of Type III ZEVs in a subsequent period, provided that the value of these carryover credits shall be based on the model year in which the credits are used.

h. *Failure to Meet Requirement for Production of Type III ZEVs.* A manufacturer that, after electing to be subject to the alternative requirements in section 1962(b)(2)(B) for any model year from 2005 through 2017, fails to meet the requirement in section 1962(b)(2)(B)1.a.–d. by the end of the specified three or four year period in which the model year falls, shall be treated as subject to the primary requirements in section 1962(b)(2)(A) for all model years in the specified three or four year period.

i. The number of Type III ZEVs needed for a manufacturer under section 1962(b)(2)(B)1. a.–d shall be rounded to the nearest whole number.

2. *Compliance With Percentage ZEV Requirements.* In the 2005 through 2008 model years, a large volume manufacturer electing to be subject to the alternative compliance requirements in a given model year must meet at least 40 percent of its ZEV requirement for that model year with ZEVs, advanced technology PZEVs, or credits generated from such vehicles. The remainder of the large volume manufacturer's ZEV requirement may be met using PZEVs or credits generated from such vehicles. As the ZEV requirement increases over time from 11% in model year 2009 to 16% in model years 2018 and subsequent, the maximum portion of the large volume manufacturer's percentage ZEV requirement that may be satisfied by PZEVs that are not advanced technology PZEVs, or credits generated by such vehicles, is limited to 6% of the manufacturer's applicable California PC, LDT1, and LDT2 production volume; ZEVs, AT PZEVs, or credits generated by such vehicles may be used to meet the manufacturer's remaining ZEV requirement.

3. *Sunset of Alternative Requirements After the 2017 Model Year.* The alternative requirements in section 1962(b)(2)(B) are not available after the 2017 model year.

(C) *Election of the Primary or Alternative Requirements for Large Volume Manufacturers.* A large volume manufacturer shall be subject to the primary ZEV requirements for the 2005 model year unless it notifies the Executive Officer in writing prior to the start of the 2005 model year that it is electing to be subject to the alternative compliance requirements for that model year. Thereafter, a manufacturer shall be subject to the same compliance option as applied in the previous model year unless it notifies the Executive Officer in writing prior to the start of a new model year that it is electing to switch to the other compliance option for that new model year. However, a large volume manufacturer that has pre-

viously elected to be subject to the primary ZEV requirements for one or more of the model years in the three or four year periods identified in section 1961(b)(1)(B)1.a.–d. may prior to the end of the three or four year period elect to become subject to the alternative compliance requirements for the full three or four year period upon a demonstration that it has complied with all of the applicable requirements for that period in section 1962(b)(2)(B)1.a.–d.

(D) *Use of Credits from Model Year 2003–2004 PZEVs.* A large volume manufacturer may produce, and deliver for sale in California, model year 2003 or 2004 PZEVs that generate credits exceeding the number of credits equal to 6 percent of the average annual volume of 1997, 1998 and 1999 PCs and LDTs produced and delivered for sale in California by the manufacturer. In that event, the manufacturer may use those excess credits as AT PZEV credits in the 2005 and 2006 model years.

(3) *Requirements for Intermediate Volume Manufacturers.* In the 2005 and subsequent model years, an intermediate volume manufacturer may meet its ZEV requirement with up to 100 percent PZEVs or credits generated by such vehicles.

(4) *Requirements for Small Volume Manufacturers and Independent Low Volume Manufacturers.* A small volume manufacturer or an independent low volume manufacturer is not required to meet the percentage ZEV requirements. However, a small volume manufacturer or an independent low volume manufacturer may earn and market credits for the ZEVs or PZEVs it produces and delivers for sale in California.

(5) *Counting ZEVs and PZEVs in Fleet Average NMOG Calculations.* For purposes of calculating a manufacturer's fleet average NMOG value and NMOG credits under sections 1960.1(g)(2) and 1961(b) and (c), a vehicle certified as a ZEV is counted as one ZEV, and a PZEV is counted as one SULEV certified to the 150,000 mile standards regardless of any ZEV or PZEV multipliers.

(6) *Implementation Prior to 2005 Model Year.* Prior to the 2005 model year, a manufacturer that voluntarily produces vehicles meeting the ZEV emission standards applicable to 2005 and subsequent model year vehicles may certify the vehicles to those standards and requirements for purposes of calculating fleet average NMOG exhaust emission values and NMOG credits under sections 1960.1(g)(2) and 1961(b) and (c), and for calculating ZEV credits as set forth in section 1962(g).

(7) *Changes in Small Volume, Independent Low Volume, and Intermediate Volume Manufacturer Status.*

(A) *Increases in California Production Volume.* In the 2003 and subsequent model years, if a small volume manufacturer's average California production volume exceeds 4,500 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, or if an independent low volume manufacturer's average California production volume exceeds 10,000 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, or if an intermediate volume manufacturer's average California production volume exceeds 60,000 units of new PCs, LDTs, and MDVs based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, the manufacturer shall no longer be treated as a small volume, independent low volume, or intermediate volume manufacturer, as applicable, and shall comply with the ZEV requirements for independent low volume, intermediate volume or large volume manufacturers, as applicable, beginning with the sixth model year after the last of the three consecutive model years. The lead time shall be four rather than six years where a manufacturer ceases to be a small or intermediate volume manufacturer in the 2003 or subsequent years due to the aggregation requirements in majority ownership situations, except that if the majority ownership in

the manufacturer was acquired prior to the 2001 model year, the manufacturer must comply with the stepped-up ZEV requirements starting in the 2010 model year.

(B) *Decreases in California Production Volume.* If a manufacturer's average California production volume falls below 4,500, 10,000 or 60,000 units of new PCs, LDTs, and MDVs, as applicable, based on the average number of vehicles produced and delivered for sale for the three previous consecutive model years, the manufacturer shall be treated as a small volume, independent low volume, or intermediate volume manufacturer, as applicable, and shall be subject to the requirements for a small volume, independent low volume, or intermediate volume manufacturer beginning with the next model year.

(C) *Calculating California Production Volume in Change of Ownership Situations.* Where a manufacturer experiences a change in ownership in a particular model year, the change will affect application of the aggregation requirements on the manufacturer starting with the next model year. The manufacturer's small or intermediate volume manufacturer status for the next model year shall be based on the average California production volume in the three previous consecutive model years of those manufacturers whose production must be aggregated for that next model year. For example, where a change of ownership during the 2004 model year results in a requirement that the production volume of Manufacturer A be aggregated with the production volume of Manufacturer B, Manufacturer A's status for the 2005 model year will be based on the production volumes of Manufacturers A and B in the 2002–2004 model years. Where the production volume of Manufacturer A must be aggregated with the production volumes of Manufacturers B and C for the 2004 model year, and during that model year a change in ownership eliminates the requirement that Manufacturer B's production volume be aggregated with Manufacturer A's, Manufacturer A's status for the 2005 model year will be based on the production volumes of Manufacturers A and C in the 2002–2004 model years. In either case, the lead time provisions in section 1962(b)(5)(A) and (B) will apply.

(c) *Partial ZEV Allowance Vehicles (PZEVs).*

(1) *Introduction.* This section 1962(c) sets forth the criteria for identifying vehicles delivered for sale in California as PZEVs. A PZEV is a vehicle that cannot be certified as a ZEV but qualifies for a PZEV allowance of at least 0.2.

(2) *Baseline PZEV Allowance.* In order for a vehicle to be eligible to receive a PZEV allowance, the manufacturer must demonstrate compliance with all of the following requirements. A qualifying vehicle will receive a baseline PZEV allowance of 0.2.

(A) *SULEV Standards.* Certify the vehicle to the 150,000-mile SULEV exhaust emission standards for PCs and LDTs in section 1961(a)(1) (for model years 2003 through 2006, existing SULEV intermediate in-use compliance standards shall apply to all PZEVs). Bi-fuel, fuel-flexible and dual-fuel vehicles must certify to the applicable 150,000-mile SULEV exhaust emission standards when operating on both fuels;

(B) *Evaporative Emissions.* Certify the vehicle to the evaporative emission standards in section 1976(b)(1)(E) ("zero" evaporative emissions standards);

(C) *OBD.* Certify that the vehicle will meet the applicable on-board diagnostic requirements in section 1968.1 for 150,000 miles; and

(D) *Extended Warranty.* Extend the performance and defects warranty

period set forth in sections 2037(b)(2) and 2038(b)(2) to 15 years or 150,000 miles, whichever occurs first, except that the time period is to be 10 years for a zero emission energy storage device used for traction power (such as battery, ultracapacitor, or other electric storage device).

(3) *Zero-Emission VMT PZEV Allowance.*

(A) *Calculation of Zero Emission VMT Allowance.* A vehicle that meets the requirements of section 1962(c)(2) and has zero-emission vehicle miles traveled ("VMT") capability will generate an additional zero emission VMT PZEV allowance, calculated as follows:

Urban All-Electric Range	Zero-emission VMT Allowance
< 10 miles	0.0
10 miles to 90 miles	$(33.8 + [0.5 \times \text{Urban AER}]) / 35$
90 miles	2.25

The urban all-electric range shall be determined in accordance with section E.3.2(a) of the "California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," incorporated by reference in section 1962(h).

(B) *Alternative Procedures.* As an alternative to determining the zero-emission VMT allowance in accordance with the preceding section 1962(c)(3)(A), a manufacturer may submit for Executive Officer approval an alternative procedure for determining the zero-emission VMT potential of the vehicle as a percent of total VMT, along with an engineering evaluation that adequately substantiates the zero-emission VMT determination. For example, an alternative procedure may provide that a vehicle with zero-emissions of one regulated pollutant (e.g. NO_x) and not another (e.g. NMOG) will qualify for a zero-emission VMT allowance of 1.5.

(C) *Additional Allowances for Qualifying HEVs.* The Executive Officer shall approve an additional 0.1 zero-emission VMT partial ZEV allowance for an HEV with an all-electric range if the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer that the HEV is equipped with software and/or other strategies that would promote maximum use of off-vehicle charging, and that the strategies employed are reasonably reliable and tamper-proof.

(4) *PZEV Allowance for Advanced ZEV Componentry.* A vehicle that meets the requirements of section 1962(c)(2) may qualify for an advanced componentry PZEV allowance as provided in this section 1962(c)(4).

(A) *Use of High Pressure Gaseous Fuel or Hydrogen Storage System.* A vehicle equipped with a high pressure gaseous fuel storage system capable of refueling at 3600 pounds per square inch or more and operating exclusively on this gaseous fuel shall qualify for an advanced componentry PZEV allowance of 0.2. A vehicle capable of operating exclusively on hydrogen stored in a high pressure system capable of refueling at 3600 pounds per square inch or more, or stored in nongaseous form, shall instead qualify for an advanced componentry PZEV allowance of 0.3.

(B) *Use of Qualifying HEV Electric Drive System.*

1. *Classification of HEVs.* HEVs qualifying for additional allowances or allowances that may be used in the AT PZEV category are classified in one of five types of HEVs based on the criteria in the following table.

Characteristics	Type A	Type B	Type C	Type D	Type E
Electric Drive System Peak Power Output	>= 4 kW	>= 4 kW <10kw	>= 10 kW	>= 10 kW	>= 50 kW
Traction Drive System Voltage	<60 Volts	>=60 Volts	<60 Volts	>=60 Volts	>=60 volts
Traction Drive Boost	Yes	Yes	Yes	Yes	Yes
Regenerative Braking	Yes	Yes	Yes	Yes	Yes
Idle Start/Stop	Yes	Yes	Yes	Yes	Yes

2. *Type A HEVs.* A 2008 or earlier model-year PZEV that the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer meets all of the criteria for a Type A HEV does not receive an additional allowance for meeting those criteria but generates credits that may be used in the AT PZEV category through the 2008 model year.

3. *Type B HEVs.* A 2008 or earlier model-year PZEV that the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer meets all of the criteria for a Type B HEV qualifies for an additional advanced componentry allowance of 0.2.

4. *Type C HEVs.* A 2011 or earlier model-year PZEV that the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer meets all of the criteria for a Type C HEV, and that is equipped with an advanced traction energy storage system – such as nickel metal-hydrate batteries, ultracapacitors, or other similar systems – with a design lifetime of at least 10 years, qualifies for an additional advanced componentry allowance of 0.2.

5. *Type D HEVs.* A PZEV that the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer meets all of the criteria for a Type D HEV qualifies for an additional advanced componentry allowance of 0.4 in the 2003 through 2011 model years, 0.35 in the 2012 through 2014 model years, and 0.25 in the 2015 and subsequent model years.

6. *Type E HEVs.* A PZEV that the manufacturer demonstrates to the reasonable satisfaction of the Executive Officer meets all of the criteria for a Type E HEV qualifies for an additional advanced componentry allowance of 0.5 in the 2003 through 2011 model years, 0.45 in the 2012 through 2014 model years, and 0.35 in the 2015 and subsequent model years.

7. *Severability.* In the event that all or part of section 1962(c)(4)(B)1.–6. is found invalid, the remainder of section 1962, including the remainder of section 1962(c)(4)(B)1.–6. if any, remains in full force and effect.

(5) *PZEV Allowance for Low Fuel-Cycle Emissions.* A vehicle that uses fuel(s) with very low fuel-cycle emissions shall receive a PZEV allowance not to exceed 0.3 (0.15 in the case of an HEV that uses for propulsion any fuel that does not have very low fuel-cycle emissions). In order to receive the fuel-cycle PZEV allowance, a manufacturer must demonstrate to the Executive Officer, using peer-reviewed studies or other relevant information, that NMOG emissions associated with the fuel(s) used by the vehicle (on a grams/mile basis) are lower than or equal to 0.01 grams/mile. Fuel-cycle emissions must be calculated based on near-term production methods and infrastructure assumptions, and the uncertainty in the results must be quantified. The fuel-cycle PZEV allowance is calculated according to the following formula:

PZEV Fuel Cycle Allowance = $0.3 \times [(\text{percent of VMT using fuel(s) meeting the requirements of the preceding paragraph}) / 100]$

A manufacturer's demonstration to the Executive Officer that a vehicle qualifies for a fuel-cycle PZEV allowance shall include test results and/or empirical data supporting the estimate of the relative proportion of VMT while operating on fuel(s) with very low fuel-cycle emissions.

(6) *Calculation PZEV Allowance.*

(A) *Calculation of Combined PZEV Allowance for a Vehicle.* The combined PZEV allowance for a qualifying vehicle in a particular model year is the sum of the PZEV allowances listed in this section 1962(c)(6), multiplied by any PZEV introduction phase-in multiplier listed in section 1962(c)(7), subject to the caps in section 1962(c)(6)(B).

1. *Baseline PZEV Allowance.* The baseline PZEV allowance of 0.2 for vehicles meeting the criteria in section 1962(c)(2);

2. *Zero Emission VMT PZEV Allowance.* The zero-emission VMT PZEV allowance, if any, determined in accordance with section 1962(c)(3);

3. *Advanced ZEV Componentry PZEV Allowance.* The advanced ZEV componentry PZEV allowance, if any, determined in accordance with section 1962(c)(4); and

4. *Fuel-cycle Emissions PZEV Allowance.* The fuel-cycle emissions PZEV allowance, if any, determined in accordance with section 1962(c)(5).

(B) *Caps on the Value of an AT PZEV Allowance.*

1. *Cap for 2012 and Subsequent Model-Year Vehicles.* The maximum value of AT PZEV allowances a 2012 and subsequent model-year vehicle may earn, including the baseline PZEV allowance, is 3.0.

2. *Cap Based on the Credit Value of a Type III ZEV.* In no case may the combined AT PZEV allowance for a qualifying vehicle in a particular model year, including the baseline PZEV allowance, exceed the ZEV credits for a Type III ZEV placed in service in the same model year.

(7) *PZEV Multipliers.*

(A) *PZEV Introduction Phase-In Multiplier.* Each 2000 through 2005 model-year PZEV that is produced and delivered for sale in California, other than a PZEV qualifying for a phase-in multiplier under section 1962(c)(7)(B), qualifies for a PZEV introduction phase-in multiplier as follows:

	MY 2000–2003	MY 2004	MY 2005
Multiplier	4.0	2.0	1.33

(B) *Introduction Phase-In Multiplier for PZEVs That Earn a Zero Emission VMT Allowance.* Each 2000 through 2011 model year PZEV that earns a zero emission VMT allowance under section 1962(c)(3) and is produced and delivered for sale in California qualifies for a phase-in multiplier as follows:

	MY 2000–2008	MY 2009–2011
Multiplier	6.0	3.0

(d) *Qualification for ZEV Multipliers and Credits.*

(1) *1996–1998 Model-Year ZEV Multipliers.*

(A) *1996–1998 Model-Year ZEV Multiplier Based on Vehicle Range.* 1996–1998 model-year ZEVs shall qualify for a ZEV multiplier based on vehicle range as follows:

ZEV Multiplier	Vehicle Range (miles)	
	Model Years 1996 and 1997	Model Year 1998
2	any	≥ 100
3	≥ 70	≥ 130

Range shall be determined in accordance with section 9.f.(2)(a) of the “California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles,” incorporated by reference in section 1960.1(k).

(B) *1996–1998 Model-Year ZEV Multiplier Based on Specific Energy of Battery.* 1996–1998 model-year ZEVs shall qualify for a ZEV multiplier based on specific energy of the battery as follows:

ZEV Multiplier	Specific Energy of Battery (w-hr/kg)
2	any
3	≥ 40

(C) *Election of Multiplier.* A 1996–1998 model-year ZEV may qualify for a ZEV multiplier according to section 1962(d)(1)(A) or section 1962(d)(1)(B), but not both.

(2) *1999–2000 Model-Year ZEV Multiplier Calculation for Extended Electric Range Vehicles.* Each ZEV that is produced and delivered for sale in California in the 1999–2000 model years and that has an extended electric range shall qualify for a ZEV multiplier as follows:

All-electric range	MY 1999–2000
100–175	6–10

ZEV multipliers under the above schedule will be determined by linear interpolation between the values shown in the above schedule. Range shall be determined in accordance with section E.3.(2)(a) of the “California Exhaust Emission Standards and Test Procedures for 2003 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes,” incorporated by reference in section

1962(h). ZEVs that have a refueling time of less than 10 minutes and a range of 100 miles or more shall be counted as having unlimited all-electric range, and shall consequently earn the maximum allowable ZEV multiplier for a specific model year. ZEVs that have a range of 80 to 99 miles shall qualify for ZEV multipliers in the 1999–2000 model years in accordance with the following equation:

$$\text{ZEV multiplier} = (6) \times (\text{AER equivalent to a 10 minute recharge}/100) \times 0.5.$$

As an option to the above mechanism, the manufacturer of a 1999 model-year ZEV may elect to have its multiplier based on the regulatory requirements pertaining to multipliers based on range or specific energy in section 1960.1(g)(2) and (h)(2), title 13, California Code of Regulations that were applicable to 1999 model-year ZEVs immediately before this section 1962 became operative on November 27, 1999 as a result of the "LEV II" rulemaking.

(3) *ZEV Multipliers for 2001–2002 Model Years.*

(A) *ZEV Phase-In Multiplier.* Each 2001 and 2002 model-year ZEV that is placed in service in California by September 30, 2003 qualifies for a ZEV phase-in multiplier of 4.0. A 2001 or 2002 model-year ZEV that is placed in service in California after September 30, 2003 earns credits in accordance with section 1962(d)(5) instead of section 1962(d)(3).

(B) *ZEV Extended Electric Range Multiplier.*

1. *Basic Multiplier Schedule.* Each 2001 and 2002 model-year ZEV that is placed in service in California and that has an extended urban electric range qualifies for a ZEV extended electric range multiplier as follows:

Urban All-Electric Range	Multiplier
< 50 miles	1
> 50 miles to < 275 miles	(Urban AER–25)/25
>275 miles	10

A NEV is not eligible to earn a ZEV extended electric range multiplier. In determining ZEV range multipliers, specialty ZEVs may, upon Executive Officer approval, be tested at the parameters used to determine the ZEV multipliers for the existing ZEV.

2. *Fast refueling.*

a. *Full Fueling in 10 Minutes or Less.* A 2001–2002 model-year ZEV with the demonstrated capability to accept fuel or electric charge until achieving at least 95% SOC or rated fuel capacity in 10 minutes or less when starting from all operationally allowable SOC or fuel states is counted as having unlimited zero emission range and qualifies for the maximum allowable ZEV extended electric range multiplier.

b. *At Least 60-Mile Range in Less Than 10 Minutes.* A 2001–2002 model year ZEV with the demonstrated capacity to accept fuel or electric charge equivalent to at least 60 miles of UDDS range when starting from 20% SOC in less than 10 minutes is counted as having 60 additional miles (up to a 275 mile maximum) of UDDS range in the range multiplier deter-

mination in section 1962(d)(3)(C)1.

(C) *Combined ZEV Multiplier.* During the 2001–2002 model years, the combined ZEV multiplier for each ZEV in a specific model year is the product of:

1. The ZEV phase-in multiplier if any as set forth in section 1962(d)(3)(A), times
2. The extended electric range multiplier if any as set forth in section 1962(d)(3)(B).

(4) *Effect of ZEV Multipliers in the 1996–2002 Model Years.* In calculating the number of ZEVs produced and delivered for sale in California by a manufacturer in the 1996–2002 model years and the ZEV credits from such vehicles, the number of ZEVs qualifying for a particular ZEV multiplier shall be multiplied by the combined ZEV multiplier.

(5) *ZEV Credits for 2003 and Subsequent Model Years.*

(A) *ZEV Tiers for Credit Calculations.* Starting in the 2003 model year, ZEV credits from a particular ZEV are based on the assignment of a given ZEV into one of the following five ZEV tiers:

ZEV Tier	Common Description	UDDS ZEV Range	Fast Refueling Capability
NEV	NEV	No minimum	N/A
Type 0	Utility EV	<50 miles	N/A
Type I	City EV	>=50, <100 miles	N/A
Type II	Full Function EV	>=100 miles	N/A
Type III	Fuel Cell EV	>=100 miles	Must be capable of replacing 95% maximum rated energy capacity in <= 10 minutes

A specialty ZEV that has the same zero emission energy storage device and chassis as an existing ZEV from which it was modified may, upon Executive Officer approval, be categorized on the basis of that existing ZEV. A specialty vehicle that optimized for a particular duty cycle that conflicts with optimization for maximum vehicle range may be promoted to the next higher ZEV tier upon a determination by the Executive Officer that the specialty vehicle has ZEV componentry equivalent to the utilized by ZEVs in the next tier and would meet the requirements for the next tier if optimized for maximum range.

(B) *ZEV Credits for 2003 and Subsequent Model-Year ZEVs.* A 2003 and subsequent model-year ZEV, other than a NEV, earns 1 ZEV credit when it is produced and delivered for sale in California. A 2003 and subsequent model-year ZEV earns additional credits based on the earliest model year in which the ZEV is placed in service (not earlier than the ZEV's model year). The following table identifies the credits that a ZEV in each of the five ZEV tiers will earn, including the credit not contingent on placement in service, if it is placed in service in the specified model year or by June 30 after the end of the specified model year.

Model Year in Which ZEV is Placed in Service

Tier	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012+
NEV	1.25	0.625	0.625	0.15	0.15	0.15	0.15	0.15	0.15	0.15
Type 0 (Utility)	1.5	1.5	1.5	1.5	1.5	1.5	1	1	1	1
Type I (City)	8	8	8	7	7	7	2	2	2	2
Type II	12	12	12	10	10	10	3	3	3	3
Type III	40	40	40	40	40	40	4	4	4	3

(C) *Multiplier for Certain Type I and Type II ZEVs.* A 2004 through 2011 model-year Type I and Type II ZEV shall qualify for a multiplier of 1.25 if it is either sold to a motorist or is leased for three or more years to a motorist who is given the option to purchase or re-lease the vehicle for two years or more at the end of the first lease term.

(D) *Counting a Type III ZEV Placed in a Section 177 State.* Through the 2011 model year, a Type III ZEV that is certified to the California ZEV standards and is placed in service in a state that is administering the California ZEV requirements pursuant to section 177 of the federal Clean Air Act (42 U.S.C. § 7507) applicable for the ZEV's model year may be counted towards compliance with the California percentage ZEV requirements in section 1962(b), including the requirements in section

1962(b)(2)(B), as if it were delivered for sale and placed in service in California. Similarly, a 2011 and earlier model-year Type III ZEV that is certified to the California ZEV standards and is placed in service in California may be counted towards the percentage ZEV requirements of any state that is administering the California ZEV requirements pursuant to section 177 of the federal Clean Air Act, including requirements based on section 1962(b)(2)(B).

(e) [Reserved]

(f) *Extended Service Multiplier for 1997–2003 Model-Year ZEVs and PZEVs With ≥ 10 Mile Zero Emission Range.* Except in the case of a NEV, an additional ZEV or PZEV multiplier will be earned by the manufacturer of a 1997 through 2003 model-year ZEV, or PZEV with

≥ 10 mile zero emission range, for each full year it is registered for operation on public roads in California beyond its first three years of service, through the 2011 calendar year. For additional years of service starting earlier than April 24, 2003, the manufacturer will receive 0.1 times the ZEV credit that would be earned by the vehicle if it were leased or sold new in that year, including multipliers, on a year-by-year basis beginning in the fourth year after the vehicle is initially placed in service. For additional years of service starting April 24, 2003 or later, the manufacturer will receive 0.2 times the ZEV credit that would be earned by the vehicle if it were leased or sold new in that year, including multipliers, on a year-by-year basis beginning in the fourth year after the vehicle is initially placed in service. The extended service multiplier is reported and earned in the year following each continuous year of service.

(g) *Generation and Use of ZEV Credits; Calculation of Penalties*

(1) *Introduction.* A manufacturer that produces and delivers for sale in California ZEVs or PZEVs in a given model year exceeding the manufacturer's ZEV requirement set forth in section 1962(b) shall earn ZEV credits in accordance with this section 1962(g).

(2) *ZEV Credit Calculations.*

(A) *Credits from ZEVs.* The amount of g/mi ZEV credits earned by a manufacturer in a given model year from ZEVs shall be expressed in units of g/mi NMOG, and shall be equal to the number of credits from ZEVs produced and delivered for sale in California that the manufacturer applies towards meeting the ZEV requirements for the model year subtracted from the number of ZEVs produced and delivered for sale in California by the manufacturer in the model year and then multiplied by the NMOG fleet average requirement for PCs and LDT1s for that model year.

(B) *Credits from PZEVs.* The amount of g/mi ZEV credits from PZEVs earned by a manufacturer in a given model year shall be expressed in units of g/mi NMOG, and shall be equal to the total number of PZEV allowances from PZEVs produced and delivered for sale in California that the manufacturer applies towards meeting its ZEV requirement for the model year subtracted from the total number of PZEV allowances from PZEVs produced and delivered for sale in California by the manufacturer in the model year and then multiplied by the NMOG fleet average requirement for PCs and LDT1s for that model year.

(C) *Separate Credit Accounts.* The number of credits from a manufacturer's [i] ZEVs [ii] advanced technology PZEVs, and [iii] all other PZEVs shall each be maintained separately.

(3) *ZEV Credits for MDVs and LDTs Other Than LDT1s.* ZEVs and PZEVs classified as MDVs or as LDTs other than LDT1s may be counted toward the ZEV requirement for PCs and LDT1s, and included in the calculation of ZEV credits as specified in this section 1962(g) if the manufacturer so designates.

(4) *ZEV Credits for Advanced Technology Demonstration Programs.* A vehicle, other than a NEV, that is placed in a California advanced technology demonstration program may earn ZEV credits even if it is not "delivered for sale." To earn such credits, the manufacturer must demonstrate to the reasonable satisfaction of the Executive Officer that the vehicles will be regularly used in applications appropriate to evaluate issues related to safety, infrastructure, fuel specifications or public education, and that for more than 50 percent of the first year of placement the vehicle will be situated in California. Such a vehicle is eligible to receive the same allowances and credits that it would have earned if placed in service. To determine vehicle credit, the model-year designation for a demonstration vehicle shall be consistent with the model-year designation for conventional vehicles placed in the same timeframe.

(5) *ZEV Credits for Transportation Systems.*

(A) *General.* In model years 2001 through 2011, a ZEV, advanced technology PZEV or PZEV placed as part of a transportation system may earn additional ZEV credits, which may be used in the same manner as other credits earned by vehicles of that category, except as provided in section (g)(5)(C) below. A NEV is not eligible to earn credit for transportation systems. To earn such credits, the manufacturer must demonstrate to the reasonable satisfaction of the Executive Officer that the vehicle will be

used as a part of a project that uses an innovative transportation system as described in section (g)(5)(B) below.

(B) *Credits Earned.* In order to earn additional credit under this section (g)(5), a project must at a minimum demonstrate [i] shared use of ZEVs, AT PZEVs or PZEVs, and [ii] the application of "intelligent" new technologies such as reservation management, card systems, depot management, location management, charge billing and real-time wireless information systems. If, in addition to factors [i] and [ii] above, a project also features linkage to transit, the project may receive further additional credit. For ZEVs only, not including NEVs, a project that features linkage to transit, such as dedicated parking and charging facilities at transit stations, but does not demonstrate shared use or the application of intelligent new technologies, may also receive additional credit for linkage to transit. The maximum credit awarded per vehicle shall be determined by the Executive Officer, based upon an application submitted by the manufacturer and, if appropriate, the project manager. The maximum credit awarded shall not exceed the following:

Type of Vehicle	Shared Use, Intelligence	Linkage to Transit
PZEV	2	1
Advanced Technology PZEV	4	2
ZEV	6	3

(C) *Cap on Use of Credits.*

1. *ZEVs.* Credits earned or allocated by ZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-tenth of a manufacturer's ZEV obligation in any given model year.

2. *AT PZEVs.* Credits earned or allocated by AT PZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-twentieth of a manufacturer's ZEV obligation in any given model year, but may only be used in the same manner as other credits earned by vehicles of that category.

3. *PZEVs.* Credits earned or allocated by PZEVs pursuant to this section (g)(5), not including all credits earned by the vehicle itself, may be used to satisfy up to one-fiftieth of the manufacturer's ZEV obligation in any given model year, but may only be used in the same manner as other credits earned by vehicles of that category.

(D) *Allocation of Credits.* Credits shall be assigned by the Executive Officer to the project manager or, in the absence of a separate project manager, to the vehicle manufacturers upon demonstration that a vehicle has been placed in a project. Credits shall be allocated to vehicle manufacturers by the Executive Officer in accordance with a recommendation submitted in writing by the project manager and signed by all manufacturers participating in the project, and need not be allocated in direct proportion to the number of vehicles placed.

(6) *Submission of ZEV Credits.* A manufacturer may meet the ZEV requirements in any given model year by submitting to the Executive Officer a commensurate amount of g/mi ZEV credits, consistent with section 1962(b). These credits may be earned previously by the manufacturer or acquired from another party, except that beginning with the 2006 model year credits earned from NEVs offered for sale or placed in service in model years 2001 through 2005 cannot be used to satisfy more than the following portion of a manufacturer's percentage ZEV obligation that may only be satisfied with credits from ZEVs and, starting with the 2009 model year, the manufacturer's percentage ZEV obligation that may be satisfied by credits from AT PZEVs but not PZEVs:

ZEV Category		AT PZEV Category	
2006	2007 and beyond	2009	2010 and beyond
75%	50%	75%	50%

This limitation applies to credits earned in model years 2001 through 2005 by the same manufacturer or earned in model years 2001 through 2005 by another manufacturer and acquired. The amount of g/mi ZEV credits required to be submitted shall be calculated according to the criteria set forth in this section 1962(g).

(7) *Requirement to Make Up a ZEV Deficit.*

(A) *General.* A manufacturer that produces and delivers for sale in California fewer ZEVs than required in a given model year shall make

up the deficit by the end of the next model year by submitting to the Executive Officer a commensurate amount of ZEV g/mi credits, except that credits generated from PZEVs may be used to offset deficits for two model years. The amount of g/mi ZEV credits required to be submitted shall be calculated by [i] adding the number of ZEVs produced and delivered for sale in California by the manufacturer for the model year to the number of ZEV allowances from partial ZEV allowance vehicles produced and delivered for sale in California by the manufacturer for the model year (for a large volume manufacturer, not to exceed that permitted under section 1962(b)(2)), [ii] subtracting that total from the number of ZEVs required to be produced and delivered for sale in California by the manufacturer for the model year, and [iii] multiplying the resulting value by the fleet average requirements for PCs and LDT1s for the model year in which the deficit is incurred.

(8) *Penalty for Failure to Meet ZEV Requirements.* Any manufacturer that fails to produce and deliver for sale in California the required number of ZEVs or submit an appropriate amount of g/mi ZEV credits and does not make up ZEV deficits within the specified time period shall be subject to the Health and Safety Code section 43211 civil penalty applicable to a manufacturer that sells a new motor vehicle that does not meet the applicable emission standards adopted by the state board. The cause of action shall be deemed to accrue when the ZEV deficits are not balanced by the end of the specified time period. For the purposes of Health and Safety Code section 43211, the number of vehicles not meeting the state board's standards shall be calculated according to the following equation, provided that the percentage of a large volume manufacturer's ZEV requirement for a given model year that may be satisfied with partial ZEV allowance vehicles or ZEV credits from such vehicles may not exceed the percentages permitted under section 1962(b)(2)(A):

(No. of ZEVs required to be produced and delivered for sale in California for the model year) – (No. of ZEVs produced and delivered for sale in California for the model year) – (No. of ZEV allowances from partial ZEV allowance vehicles produced and delivered for sale in California for the model year) – [(Amount of ZEV credits submitted for the model year) / (the fleet average requirement for PCs and LDT1s for the model–year)].

(h) *Test Procedures.* The certification requirements and test procedures for determining compliance with this section 1962 are set forth in "California Exhaust Emission Standards and Test Procedures for 2005 and Subsequent Model Zero-Emission Vehicles, and 2001 and Subsequent Model Hybrid Electric Vehicles, in the Passenger Car, Light-Duty Truck and Medium-Duty Vehicle Classes," adopted by the state board on August 5, 1999, and last amended December 19, 2003, which is incorporated herein by reference.

(i) *ZEV-Specific Definitions.* The following definitions apply to this section 1962.

(1) "Advanced technology PZEV" or "AT PZEV" means any PZEV with an allowance greater than 0.2 before application of the PZEV early introduction phase-in multiplier.

(2) "Battery electric vehicle" means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

(2.5) "Electric drive system" means an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation. This does not include components that could act as a motor, but are configured to act only as a generator or engine starter in a particular vehicle application.

(3) "Neighborhood electric vehicle" means a motor vehicle that meets the definition of Low-Speed Vehicle either in section 385.5 of the Vehicle Code or in 49 CFR 571.500 (as it existed on July 1, 2000), and is certified to zero-emission vehicle standards.

(4) "Placed in service" means having been sold or leased to an end-user and not to a dealer or other distribution chain entity, and having been individually registered for on-road use by the California Department of Motor Vehicles.

(4.5) "Regenerative braking" means the partial recovery of the energy normally dissipated into friction braking that is returned as electrical current to an energy storage device.

(5) "Specialty ZEV" means a ZEV that is designed for a commercial or governmental fleet application, and either [i] has the same zero emissions energy storage device and chassis as an existing ZEV from which it is modified, or [ii] in the case of a vehicle that is not based on an existing ZEV platform, is optimized for a particular duty cycle, such as urban delivery service, that conflicts with optimization for maximum vehicle range.

(6) "Type 0, I, II, and III ZEV" all have the meanings set forth in section 1962(d)(5)(A).

(j) *Abbreviations.* The following abbreviations are used in this section 1962:

"AER" means all-electric range.

"BEV" means battery electric vehicle.

"HEV" means hybrid-electric vehicle.

"LDT" means light-duty truck.

"LDT1" means a light-truck with a loaded vehicle weight of 0–3750 pounds.

"LDT2" means a "LEV II" light-duty truck with a loaded vehicle weight of 3751 pounds to a gross vehicle weight of 8500 pounds, or a "LEV I" light-duty truck with a loaded vehicle weight of 3751–5750 pounds.

"MDV" means medium-duty vehicle.

"Non-Methane Organic Gases" or "NMOG" means the total mass of oxygenated and non-oxygenated hydrocarbon emissions.

"MY" means model year.

"NEV" means neighborhood electric vehicle.

"NOx" means oxides of nitrogen.

"PC" means passenger car.

"PZEV" means any vehicle that is delivered for sale in California and that qualifies for a partial ZEV allowance of at least 0.2.

"SOC" means state of charge.

"SULEV" means super ultra-low-emission-vehicle.

"UDDS" means urban dynamometer driving cycle.

"ULEV" means ultra-low emission vehicle.

"VMT" means vehicle miles traveled.

"ZEV" means zero-emission vehicle.

(k) *Severability.* Each provision of this section is severable, and in the event that any provision of this section is held to be invalid, the remainder of this article remains in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 10–28–99; operative 11–27–99 (Register 99, No. 44).
2. Amendment of section and NOTE filed 5–24–2002; operative 6–23–2002 (Register 2002, No. 21).
3. New subsections (b)(5)(A)–(C) filed 6–24–2002; operative 7–24–2002 (Register 2002, No. 26).
4. Amendment of subsection (c)(2)(A) filed 9–16–2002; operative 10–16–2002 (Register 2002, No. 38).
5. Amendment filed 2–25–2004; operative 3–26–2004 (Register 2004, No. 9).

§ 1962.1. Electric Vehicle Charging Requirements.

(a) *Applicability.* This section applies to (1) all battery electric vehicles that qualify for 1.0 or greater ZEV credit under section 1962, and (2) all hybrid electric vehicles that are capable of being recharged by a battery charger that transfers energy from the electricity grid to the vehicle for purposes of recharging the vehicle traction battery, other than battery electric vehicles and hybrid electric vehicles that are only capable of Level 1 charging.

(b) *Definitions.*

(1) The definitions in section 1962 apply to this section.

(2) "Level 1 charging" means a charging method that allows an electric vehicle or hybrid electric vehicle to be charged by having its charger connected to the most common grounded receptacle (NEMA 5–15R). A

vehicle that is only capable of Level 1 charging is one that is charged by an on-board or off-board charger capable of accepting energy from the existing AC supply network. The maximum power is 12 amps, with a branch circuit rating of 15 amps, and continuous power of 1.44 kilowatts.

(c) *Requirements.* Beginning with the 2006 model year, all vehicles identified in subsection (a) must be equipped with a conductive charger inlet port which meets all the specifications contained in Society of Automotive Engineers (SAE) Surface Vehicle Recommended Practice SAE J1772 REV NOV 2001, SAE Electric Vehicle Conductive Charger Coupler, which is incorporated herein by reference. All such vehicles must be equipped with an on-board charger with a minimum output of 3.3 kilovolt amps.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43204 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 6-24-2002; operative 7-24-2002 (Register 2002, No. 26).

§ 1964. Special Test Procedures for Certification and Compliance—New Modifier Certified Motor Vehicles.

The emission standards and test procedures for new vehicle certification, warranty, assembly-line testing, and recall for modifier certified motor vehicles are set forth in "California Certification and Compliance Test Procedures for New Modifier Certified Motor Vehicles," as adopted by the Air Resources Board on February 3, 1986, as last amended December 21, 1989.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43101, 43104, 43105, 43203.5, 43210 and 43835, Health and Safety Code. Reference: Sections 43000, 43012, 43100-43106, 43200, 43202, 43203, 43203.5, 43204, 43210-43213 and 43835 Health and Safety Code.

HISTORY

1. New section filed 6-13-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 24).
2. Amendment incorporating by reference procedures as amended December 21, 1989 filed 1-24-90; operative 2-23-90 (Register 90, No. 8).

§ 1965. Emission Control, Smog Index, and Environmental Performance Labels—1979 and Subsequent Model-Year Motor Vehicles.

In addition to all other requirements, emission control labels are required by the California certification procedures contained in the "California Motor Vehicle Emission Control and Smog Index Label Specifications for 1978 through 2003 Model Year Motorcycles, Light-, Medium- And Heavy-Duty Engines And Vehicles," adopted March 1, 1978, as last amended September 5, 2003, which is incorporated herein by reference, the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," incorporated by reference in §1961(d), the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel-Engines and Vehicles," incorporated by reference in §1956.8(b), the "California Interim Certification Procedures for 2004 and Subsequent Model Hybrid-Electric Vehicle Classes," incorporated by reference in §1956.8(b) and (d), and the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Otto-Cycle Engines," incorporated by reference in §1956.8(d). Smog index labels for passenger cars and light-duty trucks shall conform to the "California Smog Index Label Specifications for 2004 Through 2009 Model Year Passenger Cars and Light-Duty Trucks," adopted September 5, 2003, as last amended May 2, 2008, which is incorporated herein by reference. Environmental Performance labels for passenger cars, light-duty trucks, and medium-duty passenger vehicles shall conform to the "California Environmental Performance Label Specifications for 2009 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles," adopted May 2, 2008, which is incorporated herein by reference.

Motorcycles shall meet the requirements of Title 40 Code of Federal Regulations section 86.413-78, as last amended October 28, 1977, which is incorporated herein by reference.

NOTE: Authority cited: Sections 39600, 39601, 43200 and 43200.1, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43018.5, 43100, 43101, 43102, 43104, 43107, 43200 and 43200.1, Health and Safety Code.

HISTORY

1. Amendment filed 6-20-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 26).
2. Amendment filed 1-24-85; effective thirtieth day thereafter (Register 85, No. 4).
3. Amendment filed 5-15-85; effective thirtieth day thereafter (Register 85, No. 20).
4. Amendment filed 9-15-86; effective thirtieth day thereafter (Register 86, No. 38).
5. Amendment filed 6-6-88; operative 6-6-88 pursuant to Government Code section 11346.2(d) (Register 88, No. 25).
6. Amendment filed 8-22-88; operative 9-21-88 (Register 88, No. 39).
7. Amendment filed 2-21-90; operative 3-23-90 (Register 90, No. 8).
8. Amendment filed 6-14-90; effective 7-14-90 (Register 90, No. 33).
9. Amendment filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
10. Amendment filed 5-12-94; operative 6-13-94 (Register 94, No. 19).
11. Amendment filed 12-14-95; operative 1-13-96 (Register 95, No. 50).
12. Amendment of section heading, section and NOTE filed 9-23-96; operative 10-23-96 (Register 96, No. 39).
13. Amendment filed 4-15-99; operative 5-15-99 (Register 99, No. 16).
14. Amendment filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
15. Amendment filed 11-22-99; operative 12-22-99 (Register 99, No. 48).
16. Amendment filed 1-23-2001; operative 1-23-2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
17. Amendment filed 11-4-2003; operative 12-4-2003 (Register 2003, No. 45).
18. Amendment of incorporated document *California Smog Index Label Specifications for 2004 Through 2009 Model Year Passenger Cars and Light-Duty Trucks*, incorporation of new document *California Environmental Performance Label Specifications for 2009 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles* and amendment of section heading, section and NOTE filed 6-16-2008; operative 6-16-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 1965.5. Device Identification—1978 and Prior Model Light-Duty Vehicles.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013 and 43101, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1966. Device Identification—1978 and Prior Model Heavy-Duty Gasoline Engines.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013 and 43101, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1967. Device Identification—1978 and Prior Model Heavy-Duty Diesel Engines.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013 and 43101, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1968. Malfunction and Diagnostic System for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles with Three-Way Catalyst Systems and Feedback Control.

(a) All 1988 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles equipped with a three-way catalyst

system and feedback control shall be equipped with a means of informing the vehicle operator of the malfunction of computer-sensed emission-related components, and of the on-board computer processor, and of the malfunction of the emission-related functioning of the fuel metering device and EGR system on vehicles so equipped, and which provides for on-board diagnosis of the likely area of the malfunction without the aid of any external device. The system shall include a means of informing the vehicle operator, upon initiation of engine starting, that it is functioning properly. No malfunction and diagnostic system shall be required for malfunctions which would significantly impair vehicle driveability or prevent engine starting.

(b) This section shall be implemented as specified in this subsection or by any means determined by the executive officer to meet the requirements of this section:

The vehicles shall be equipped with a malfunction indicator light and an on-board self-diagnostic system. The on-board computer processor shall interrogate input parameters from computer-sensed emission-related components and shall also interrogate the functioning of the fuel metering device and of the EGR system on vehicles so equipped. Upon detection of a malfunction of any such component, device, or system, the computer processor shall cause the malfunction indicator light to illuminate. An on-board computer processor malfunction shall also cause the malfunction indicator light to illuminate. In the case of any such component, device or system whose malfunction would significantly impair vehicle driveability or prevent engine starting, no malfunction indication or diagnostic code shall be required. The indicator light shall also illuminate in the engine-run key position before engine cranking to indicate that the malfunction indicator light is functioning. The self-diagnostic system shall provide an on-board means of identifying, without the aid of any external device, the likely area responsible for the detected malfunction when the vehicle is serviced. The malfunction indicator light shall be located on the instrument panel and shall when illuminated, display the phrase "Check Engine" or "Service Engine Soon" or may display such other phrase determined by the executive officer to be likely to cause a vehicle owner to seek corrective action.

(c) For purposes of this section:

(1) A "computer-sensed emissions-related component of the three-way catalyst emission control system" means a component which provides emission control system input to the on-board computer processor.

(2) "Malfunction" means the partial or total failure of one or more computer-sensed emission-related components or the on-board computer processor, or of the emission-related functioning of a fuel metering device or EGR system to a degree which would likely cause the emissions of an average certification vehicle with the failure or failures, individually or in combination, to exceed the emissions standards applicable pursuant to Subchapter 1 (commencing with Section 1900), Chapter 3 of Title 13.

(d) The executive officer shall grant an extension for compliance with the requirements of this section with respect to a specific vehicle model or engine family if a manufacturer demonstrates that it cannot modify a present electronic control system by the 1988 model year because major design system changes not consistent with the manufacturer's projected changeover schedule would be needed to comply with the provisions of this regulation. The period of extension shall not exceed that necessary to enable modification of the electronic system in accordance with the manufacturer's projected changeover schedule or three years, whichever first occurs. Any manufacturer requesting an extension shall, no later than July 1, 1986, submit to the executive officer of the state board an application setting forth the required demonstration and specifying the period for which the extension is requested.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101, 43102, 43104, 43105 and 43204, Health and Safety Code.

HISTORY

1. New section filed 11-15-85; effective thirtieth day thereafter (Register 85, No. 46).

§ 1968.1. Malfunction and Diagnostic System Requirements—1994 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines.

(a) GENERAL REQUIREMENTS

(1.0) All 1994 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles shall be equipped with a malfunction indicator light (MIL) located on the instrument panel that will automatically inform the vehicle operator in the event of a malfunction of any powertrain components which can affect emissions and which provide input to, or receive output from, the on-board computer(s) or of the malfunction of the on-board computer(s) itself. The MIL shall not be used for any other purpose.

(1.1) The MIL shall be of sufficient illumination and location to be readily visible under all lighting conditions. The MIL shall illuminate in the engine-run key position before engine cranking to indicate that the MIL is functional and shall, when illuminated, display the phrase "Check Engine" or "Service Engine Soon." The word "Powertrain" may be substituted for "Engine" in the previous phrase. Alternatively, the International Standards Organization (ISO) engine symbol may be substituted for the word "Engine," or for the entire phrase.

(1.2) All 1994 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles required to have MIL pursuant to (1.0) above shall also be equipped with an on-board diagnostic system capable of identifying the likely area of malfunction by means of fault codes stored in computer memory. These vehicles shall be equipped with a standardized electrical connector to provide access to the stored fault codes. Specific performance requirements are listed below. A glossary of terms is contained in subsection (n). Unless otherwise noted, all section references refer to section 1968.1 of Title 13, CCR.

(1.3) Any reference to vehicles in this regulation shall also include medium-duty vehicles with engines certified on an engine dynamometer.

(1.4) For Low Emission Vehicles (LEV), the Executive Officer shall revise the emission threshold for a malfunction on any check if the most reliable monitoring method developed requires a higher threshold to prevent significant errors of commission in detecting a malfunction.

(1.5) For every case in which a malfunction is to be noted when an emission threshold is exceeded (e.g., emissions in excess of 1.5 times the standard), the manufacturer may perform only a functional check (defined in section (n)(16.0)) of a specific component or system if deterioration or failure of such would not cause the vehicle's emissions to exceed the emission threshold.

(1.6) After the 1998 model year, for Non-LEVs, fulfillment of federal On-Board Diagnostic (OBD) requirements shall be deemed to be an acceptable option for the manufacturer for the purpose of meeting these requirements.

(1.7) For 1994 and 1995 model years only, illumination of the malfunction indicator light upon detection of a malfunction shall be optional for catalyst, misfire, and complete evaporative system monitoring. MIL illumination for such vehicles shall be optional for other monitoring requirements, subject to Executive Officer approval, on the basis of use of a new monitoring strategy which is significantly different than that used previously by the manufacturer and/or which entails a high degree of sophistication in its application. Irrespective of the preceeding the MIL shall illuminate on these vehicles in accordance with section 1968.1 for lack of function (see section (n)(16.0)) for electronic components/systems otherwise approved for not illuminating the MIL. Furthermore, setting fault codes for all malfunctions shall continue to conform with requirements of section 1968.1. For components/systems not requiring illumination of the MIL, manufacturers shall provide a plan for approval by the Executive Officer for reporting on the correct performance of the monitoring systems in customer use at 6 month intervals beginning from the start of production each year for at least the first three years after production. Approval of the plan shall be based on obtaining a statistically

valid sample size, assuring that adequate resources are available to investigate the potential problems, and assuring that a wide variety of vehicles, operating modes, and mileage accumulation will be included in the evaluation. Should incorrect performance of the diagnostic system be determined by the Executive Officer on the basis of these reports or through other means, manufacturers shall recall the vehicles for correction of the OBD II system in accordance with Article 2.2, Title 13 CCR, or they shall submit an alternate plan for remedying the problem for approval by the Executive Officer on the basis of achieving comparable capture rates and timeliness as an official recall plan.

(1.8) Manufacturers may employ alternate statistical MIL illumination and fault code storage protocols to those specified in these requirements, subject to Executive Officer approval based on comparable timeliness in detecting a malfunction and evaluating system performance. For strategies requiring on average between three and six driving cycles for MIL illumination, the manufacturer shall provide data and/or an engineering evaluation which adequately demonstrate that the monitoring system is equally effective and timely in detecting component deterioration. Strategies requiring on average more than six driving cycles for MIL illumination shall not be accepted.

(1.9) Regarding diagnostic system monitoring conditions and MIL illumination requirements, manufacturers are generally required to define appropriate operating conditions for monitoring, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable Federal Test Procedure (FTP) test. Alternatively, manufacturers may request, subject to Executive Officer approval, use of monitoring conditions encountered during the Unified Cycle (see section (n)). In approval of the request, the Executive Officer shall consider the extent to which use of the cycle provides for more effective monitoring. Upon detection of a malfunction, the MIL is to be illuminated and a fault code stored no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again detected. Until the 1997 model year, diagnostic strategies that illuminate the MIL on the basis of completing a trip (trip is defined in section (n)(5.0) of these requirements) shall be accepted. The Executive Officer shall accept trip based diagnostic systems until the 1998 model year, provided the manufacturer adequately demonstrates that the diagnostic strategies run with reasonable frequency during normal driving conditions. When a trip criterion is employed, upon detection of a malfunction, the diagnostic system shall store a fault code and the MIL shall be illuminated no later than the end of the next trip if the malfunction is again present.

(1.10) For other emission control devices not identified or addressed in sections (b)(1) through (b)(12) (e.g., hydrocarbon adsorbers), manufacturers shall submit a plan for Executive Officer approval of the monitoring strategy and fault thresholds prior to introduction on a production vehicle. Executive Officer approval shall be based on the effectiveness of the monitoring strategy, the malfunction criteria utilized, and the monitoring conditions required by the diagnostic.

(2.0) Manufacturers may request Executive Officer approval to disable a diagnostic system designed to meet the requirements of section (b) at ambient engine starting temperatures below twenty degrees Fahrenheit (low ambient temperature conditions may be determined based on intake air or engine coolant temperature at engine starting), and at elevations above eight thousand feet above sea level provided the manufacturer submits data and/or an engineering evaluation which adequately demonstrate that monitoring would be unreliable when such conditions exist. Notwithstanding, diagnostic system disablement may be requested at other ambient engine starting temperatures if the manufacturer adequately demonstrates with data and/or an engineering evaluation that misdiagnosis would occur due to the impact of such ambient temperatures on the performance of the component itself (e.g., component freezing).

(2.1) Manufacturers may disable monitoring systems that can be affected by running out of fuel (e.g., misfire detection) when the fuel level

is low, provided disablement will not occur when the fuel level is above 15 percent of the nominal capacity of the fuel tank.

(2.2) For vehicles designed to accommodate the installation of Power Take-Off (PTO) units (defined in section (n)(19.0)), disablement of affected monitoring systems is permitted provided disablement occurs only while the PTO unit is active, and provided the OBD II readiness code (specified in section (e)) is cleared by the on-board computer (i.e., all bits shall be set to "test not complete") while the PTO unit is activated. The code may be restored to its state prior to PTO activation upon PTO de-activation.

(b) MONITORING REQUIREMENTS

(1.0) CATALYST MONITORING

(1.1) Requirement:

(1.1.1) The diagnostic system shall monitor the catalyst system for proper performance.

(1.1.2) Manufacturers are not required to implement these catalyst monitoring requirements on diesel vehicles and engines. Further, manufacturers of spark-ignited lean-burn vehicles and engines may request that the Executive Officer exempt such applications from these catalyst monitoring requirements if it can be demonstrated that a reliable monitoring technology is not available. The Executive Officer shall approve such a request upon determining that all reasonable monitoring technologies have been considered to the extent possible.

(1.2) Malfunction Criteria:

(1.2.1) Low Emission Vehicles (see section (n)(14.0)): The catalyst system shall be considered malfunctioning when its conversion capability decreases to the point that either of the following occurs: 1) Hydrocarbon (HC) emissions exceed the applicable emission threshold specified in section (b)(1.2.2) below, or 2) the average Federal Test Procedure (FTP) Non-Methane Hydrocarbon (NMHC) conversion efficiency of the monitored portion of the catalyst system falls below 50 percent. Regarding the first criterion, the malfunction threshold shall be based on the emission standards to which the vehicle is certified. For low emission vehicle applications, hydrocarbon emissions shall be multiplied by the certification reactivity adjustment factor for the vehicle. Regarding the second criterion, the efficiency determination shall be based on an FTP test wherein a malfunction is noted when the cumulative NMHC emissions measured at the outlet of the monitored catalyst(s) are more than 50 percent of the cumulative engine-out emissions measured at the inlet of the catalyst(s).

(1.2.2) TLEV applications shall employ an emission threshold malfunction criterion of 2.0 times the applicable FTP HC standard plus the emissions from a test run with a representative 4000 mile catalyst system (125 hours of operation for medium-duty vehicles with engines certified on an engine dynamometer). The emission threshold criterion for LEV and ULEV applications shall be 2.5 and 3.0 times the applicable FTP HC standard, respectively, plus the emission level with a representative 4000 mile catalyst system. Notwithstanding, beginning with the 1998 model year, manufacturers shall phase in an emission threshold of 1.75 times the applicable FTP HC standard for all categories of low emission vehicles, which shall not include the emission level with a 4000 mile catalyst system. The phase in percentages (based on the manufacturer's projected sales volume for low emission vehicle applications) shall equal or exceed 20 percent in the 1998 model year, 40 percent in the 1999 model year, 60 percent in the 2000 model year, 80 percent in the 2001 model year, with 100 percent implementation for the 2002 model year. Alternate phase-in schedules that provide for equivalent emission reduction and timelines overall as defined in section (n)(21.0) shall be accepted. Small volume manufacturers shall not be required to meet the phase-in percentages; however, such manufacturers shall achieve 100 percent compliance by the 2002 model year.

(1.2.3) Non-Low Emission Vehicles: The catalyst system shall be considered malfunctioning when its conversion capability decreases to the point that HC emissions increase by more than 1.5 times the standard

over an FTP test from a test run with a representative 4000 mile catalyst system.

(1.2.4) For 1994 and 1995 model year vehicles and engines, as an option to monitoring the catalyst during FTP driving conditions, manufacturers may monitor the front catalyst independently of, or in combination with, the next catalyst downstream. Each monitored catalyst or catalyst combination shall be considered malfunctioning when total HC conversion efficiency falls below 60 percent while in normal closed loop operation. As a guideline, the catalyst(s) should not be considered malfunctioning when its efficiency is greater than 80 percent. The efficiency determination shall be based on a steady state test wherein a malfunction is noted when the total HC emission concentration measured at the outlet of the monitored catalyst(s) is more than 20 to 40 percent of the cumulative total engine-out emissions measured at the inlet of the catalyst(s). Alternatively, if correlation with FTP emissions can be demonstrated, manufacturers may use the malfunction criteria specified in (b)(1.2.1) or (b)(1.2.3). 1994 and 1995 model year vehicles certified to this option shall incorporate FTP based monitoring no later than the 1997 model year (vehicles initially complying with section 1968.1 in the 1996 model year shall utilize an FTP based catalyst monitoring system).

(1.3) Monitoring Conditions:

(1.3.1) The manufacturer shall define appropriate operating conditions during which monitoring shall occur, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. However, vehicles utilizing steady state monitoring (as permitted by section (1.2.4) above), may alternatively comply with the monitoring conditions specified in section (1.3.2). The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(1.3.2) If steady state efficiency is being monitored (see section (b)(1.2.4)), the manufacturer shall choose a non-closed throttle, reasonably steady speed condition for monitoring the catalyst with the constraints that the check shall (i) occur between 20 mph and 50 mph, or within an engine rpm and torque range determined by the manufacturer to be representative of medium-duty vehicle operating conditions between 20 and 50 mph steady speed conditions with a load equivalent to 50 percent of the maximum load carrying capacity, (ii) take no more than a 20 second interval to determine both that the vehicle is operating in a proper window to perform the check and to actually perform the check, and (iii) be conducted at the earliest such condition encountered after the beginning of closed-loop operation for each driving cycle. Performance of the check may be delayed after engine startup until stabilized coolant temperature is achieved and/or a suitable cumulative time interval of non-closed throttle vehicle operation has elapsed to ensure the catalyst is warmed-up for properly performing the monitoring check. The specified cumulative time interval shall begin from the first non-closed throttle operation after achieving a stabilized coolant temperature or after engine starting and shall not exceed 180 seconds. These monitoring constraints and conditions may be altered, subject to Executive Officer Approval. Such approval shall be granted if the manufacturer submits data and an engineering evaluation justifying the need for the exception and demonstrates that the requested alteration would yield improved catalyst monitoring. "Reasonably steady" speed interval in this instance means a 20 second period where all accelerations and decelerations are of an average magnitude equivalent to 0.5 mph/second or less over any two second interval during this period. The manufacturer may abort the check if engine operating conditions change during the check so that the vehicle exceeds the speed or acceleration/deceleration tolerance before the end of the checking interval. The manufacturer may base performance of the catalyst check upon engine RPM and load conditions equivalent to the above monitoring conditions. If a manufacturer develops a means of monitoring catalyst efficiency which cannot utilize a steady state monitoring period (e.g., examining time vs. temperature during catalyst warmup), it may present a monitoring proposal to the Executive Officer

for approval based on equivalent accuracy and timeliness as the steady state monitoring protocol in detecting a malfunctioning catalyst.

(1.4) MIL Illumination and Fault Code Storage:

(1.4.1) Except as noted below, upon detection of a catalyst malfunction, the MIL shall illuminate and a fault code stored no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(1.4.2) For steady state catalyst efficiency checks, upon detection of catalyst efficiency below 60 percent, the diagnostic system may perform up to two successive monitoring checks prior to informing the vehicle operator of a malfunction. These monitoring checks need not occur on the same driving cycle, but shall be performed as soon as proper monitoring conditions occur. If catalyst efficiency remains below 60 percent for the three sequential checks, a fault code shall be stored and the MIL shall then be activated.

(1.4.3) The diagnostic system shall temporarily disable catalyst monitoring when a malfunction exists which could affect the proper evaluation of catalyst efficiency.

(1.4.4) The monitoring method for the catalyst(s) shall be capable of detecting when a catalyst trouble code has been cleared (except diagnostic system self-clearing), but the catalyst has not been replaced (e.g., catalyst over temperature approaches may not be acceptable).

(2.0) HEATED CATALYST MONITORING

(2.1) Requirement:

(2.1.1) The diagnostic system shall monitor all heated catalyst systems for proper heating.

(2.1.2) The efficiency of heated catalysts shall be monitored in conjunction with the requirements of section (b)(1).

(2.2) Malfunction Criteria:

(2.2.1) The catalyst heating system shall be considered malfunctioning when the catalyst does not reach its designated heating temperature within a requisite time period after engine starting. The time period is to be determined by the manufacturer subject to the requirement that the system shall detect a heating system malfunction causing emissions from a vehicle equipped with the heated catalyst system to exceed 1.5 times any of the applicable FTP standards.

(2.2.2) Manufacturers using other heating or monitoring strategies may submit an alternate plan for approval by the Executive Officer to monitor heated catalyst systems based on comparable reliability and timeliness to these requirements in detecting a catalyst heating malfunction.

(2.3) Monitoring Conditions:

Manufacturers shall define appropriate operating conditions for monitoring of the catalyst heating system, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(2.4) MIL Illumination and Fault Code Storage:

Upon detection of a catalyst heating malfunction, the MIL shall illuminate and a fault code stored no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(3.0) MISFIRE MONITORING

(3.1) Requirement: The diagnostic system shall monitor engine misfire and shall identify the specific cylinder experiencing misfire. Manufacturers may request Executive Officer approval to store a general misfire fault code instead of a cylinder specific code under certain operating conditions provided the manufacturer submits data and/or an engineering evaluation which adequately demonstrate that the misfiring cylinder cannot be reliably identified when such conditions occur. If more than one cylinder is misfiring, a separate code shall indicate that multiple cylinders are misfiring (specifying the individual misfiring cylinders under this condition is optional, however, identifying only one misfiring cylinder shall not occur when a multiple misfire code is stored).

(3.2) Malfunction Criteria: The manufacturer shall specify in the documentation provided for certification (see subsection (g) and (h) infra.) a percentage of misfires out of the total number of firing events necessary for determining a malfunction for each of the conditions listed below.

(A) The percent misfire evaluated in 200 revolution increments for each engine speed and load condition which would result in catalyst damage. Subject to Executive Officer approval, a longer interval may be employed (but only for determining, on a given driving cycle, the first misfire exceedance in section (3.4.1)(A) below) provided the manufacturer submits data and/or an engineering evaluation which adequately demonstrate that catalyst damage would not occur due to unacceptably high catalyst temperatures before the interval has elapsed. The manufacturer shall submit in the certification documentation catalyst temperature data versus percent misfire over the full range of engine speed and load conditions. The data shall be obtained from a representative cross section of a manufacturer's engine offerings from small to large displacements. Up to three such engine evaluations shall be documented per manufacturer, though a manufacturer may submit more data if desired. An engineering evaluation shall be provided for establishing malfunction criteria for the remainder of engine families in the manufacturer's product line. The Executive Officer shall waive the evaluation requirement each year if, in the judgment of the Executive Officer, technological changes do not affect the previously determined malfunction criteria;

(B) The percent misfire evaluated in 1000 revolution increments which would cause emissions from a durability demonstration vehicle to exceed 1.5 times any of the applicable FTP standards if the degree of misfire were present from the beginning of the test. Subject to Executive Officer approval, a manufacturer may employ other revolution increments if the manufacturer adequately demonstrates that the strategy is equally effective and timely in detecting misfire. For the purpose of establishing the percent misfire, the manufacturer shall conduct the demonstration test(s) with misfire events occurring at equally spaced complete engine cycle intervals, across randomly selected cylinders throughout each 1000 revolution increment. However, the percent misfire established shall be applicable for any misfire condition (e.g. random, continuous, equally spaced, etc.) for the purpose of identifying a malfunction. This criterion may be used for all vehicles with engines containing the same number of cylinders as the demonstration vehicle. The number of misfires in 1000 revolution increments which was determined for the durability demonstration vehicle malfunction criterion may be used to establish the corresponding percent misfire malfunction criteria for engines with other numbers of cylinders. The malfunction criteria for a manufacturer's product line shall be updated when a new durability demonstration vehicle is tested which indicates more stringent criteria are necessary than previously established to remain within the above emission limit;

(3.3) Monitoring Conditions:

(3.3.1) Pre-1997 Model Year Vehicles: misfire shall be monitored continuously during, at a minimum, positive torque operating conditions within the range of engine speed and load condition combinations encountered during an FTP test; nonetheless, subject to Executive Officer approval, manufacturers may employ higher misfire percentage malfunction criteria under specific conditions within the range of operating conditions encountered during an FTP test if the manufacturer provides data and/or an engineering evaluation which adequately demonstrate that the detection of lower levels of misfire would not be reliable for the vehicle model in question when such conditions are encountered without making fundamental engine or control unit design modifications. If the manufacturer can so demonstrate that even the detection of a higher misfire percentages is not feasible under specific FTP operating conditions,

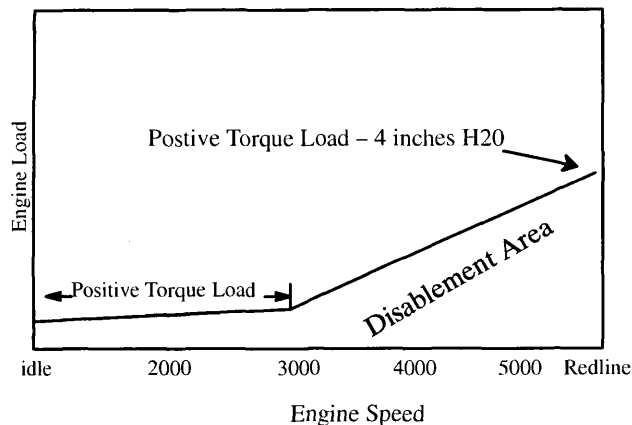
the manufacturer may request Executive Officer approval to disable the monitoring system when such conditions are encountered.

(3.3.2) 1997 and Later Model Year Vehicles: Manufacturers shall phase in expanded misfire monitoring conditions beginning with the 1997 model year. The phase in percentages (based on the manufacturer's projected sales volume for all vehicles and engines) shall equal or exceed 50 percent in the 1997 through 1999 model years, 75 percent in the 2000 model year, 90 percent in the 2001 model year, with 100 percent implementation for the 2002 model year. Alternate phase-in schedules that provide for equivalent emission reduction and timeliness overall shall be accepted. Small volume manufacturers shall not be required to meet the phase-in percentages; however, 100 percent implementation of these monitoring conditions shall be required beginning with the 2002 model year. On vehicles meeting these phase-in percentages, except as provided for in section (3.3.3) below, monitoring for misfire shall be continuous from engine starting (see section (n)) and under all positive torque engine speeds and load conditions. Vehicles not meeting the monitoring conditions of this section shall meet the monitoring conditions specified in section (b)(3.3.1) above.

(3.3.3) As an exception to monitoring misfire during all positive torque operating conditions, manufacturers may disable misfire monitoring in the engine operating region bound by the positive torque line (i.e., engine load with the transmission in neutral), and the two following engine operating points: an engine speed of 3000 rpm with the engine load at the positive torque line, and the redline engine speed (defined in section (n)(18.0)) with the engine's manifold vacuum at four inches of mercury lower than that at the positive torque line. Misfire detection systems unable to detect all misfire patterns under all required conditions shall be evaluated for compliance by the Executive Officer based on, but not limited to, the following factors: the magnitude of the region(s) in which misfire detection is limited, the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events), the frequency with which said region(s) are expected to be encountered in-use, the type of misfire patterns for which misfire detection is troublesome, and demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines). The evaluation shall be based on the following misfire patterns: equally spaced misfire occurring on randomly selected cylinders, single cylinder continuous misfire, and paired cylinder (cylinders firing at the same crank angle) continuous misfire. Further, with Executive Officer approval, the manufacturer may disable misfire monitoring or employ higher malfunction criteria when misfire cannot be distinguished from other effects (e.g., rough roads, transmission shifts, etc.) when using the best available monitoring technology. The manufacturer shall present data and/or an engineering evaluation to the Executive Officer to justify the proposed action. Executive Officer approval shall be based on the extent to which monitoring is expected to be disabled in relation to the capabilities of the best available monitoring technologies as applied to other engines. However, through the 2000 model year, any such disablement occurring within the first 5 seconds after engine starting shall not require Executive Officer approval. Additionally, for engines with greater than eight cylinders, the Executive Officer shall waive the requirements of this section provided the manufacturer submits data and/or an engineering evaluation which adequately demonstrates that misfire detection throughout the required operating region cannot be achieved when employing proven monitoring technology (i.e., a technology that provides for compliance with these requirements on other engines) and provided misfire is detected to the full-

est extent permitted by the technology, but under no circumstances shall acceptance be granted for misfire detection systems not meeting the requirements of section (b)(3.3.1) above.

Figure 10



(3.4) MIL Illumination with Fault Code Storage:

(3.4.1) Upon detection of the level of misfire specified in subsection (3.2)(A), the following criteria shall apply for MIL illumination and fault code storage:

(A) A temporary fault code shall be stored and the MIL shall blink once per second during actual misfire conditions no later than after the third exceedance of the specified misfire level when operating in the region bound by the maximum engine speed and load conditions encountered during the FTP cycle and no later than after the first exceedance of the specified misfire level when operating at any other engine speed and load condition during a single driving cycle. While a temporary fault code is stored, the MIL shall blink during every subsequent exceedance during the driving cycle but may remain extinguished when misfire is not present. If the level of misfire is exceeded again (a single exceedance) during the following driving cycle or the next driving cycle in which similar conditions are encountered (as defined in section (3.4.3)) or while a temporary fault code for the level of misfire specified in subsection (3.2)(B) is present, the MIL shall blink as specified above, a fault code shall be stored, and the MIL shall remain continuously illuminated, even if the misfire ceases. The initial temporary code and stored conditions may be erased if misfire is not detected during the following driving cycle and similar conditions have been encountered without an exceedance of the specified misfire level. The code and conditions may also be erased if similar driving conditions are not encountered during 80 driving cycles subsequent to the initial detection of a malfunction.

(B) Notwithstanding, in vehicles which provide fuel shutoff and default fuel control to prevent overfueling during misfire conditions, the MIL need not blink. Instead, the MIL may illuminate continuously in accordance with the requirements for continuous MIL illumination in section (3.4.1)(A) above upon detection of misfire provided that the fuel shutoff and default control shall be activated as soon as misfire is detected. Fuel shutoff and default fuel control may be deactivated only to permit fueling outside of the misfire range.

(3.4.2) Upon detection of the misfire levels specified in subsection (3.2)(B), the following criteria shall apply for MIL illumination and fault code storage:

(A) A temporary fault code shall be stored no later than after the fourth exceedance of the specified misfire level during a single driving cycle and the MIL shall be illuminated and a fault code stored no later than the end of the following driving cycle or the next driving cycle in which similar conditions are encountered (as defined in section (3.4.3)) if the level of misfire is again exceeded four times. The initial temporary code and stored conditions may be erased if misfire is not detected during the fol-

lowing driving cycle and similar conditions have been encountered without an exceedance of the specified misfire level. The code and conditions may also be erased if similar driving conditions are not encountered during 80 driving cycles subsequent to the initial detection of a malfunction.

(B) Notwithstanding, a temporary fault code shall be stored no later than after the first exceedance of the specified misfire level during a single driving cycle if the exceedance occurs within the first 1000 revolutions from engine start (defined in section (n)(20.0)) during which misfire detection is active. The MIL shall be illuminated and a fault code stored no later than the end of any subsequent driving cycle if misfire is again detected in the first 1000 revolutions. If similar conditions are encountered during a subsequent driving cycle without an exceedance of the specified misfire level, the initial temporary code and stored conditions may be erased. Furthermore, if similar driving conditions are not encountered during 80 driving cycles subsequent to the initial detection of a malfunction, the initial temporary code and stored conditions may be erased.

(3.4.3) Upon detection of misfire, manufacturers shall store the engine speed, load, and warm-up status (i.e., cold or warmed-up) under which the first misfire event which resulted in the storage of a temporary fault code was detected. A driving cycle shall be considered to have similar conditions if the stored engine speed conditions are encountered within 375 rpm, load conditions within 20 percent, and the same warm-up status is present. With Executive Officer approval, other strategies for determining if similar conditions have been encountered may be employed. Approval shall be based on comparable timeliness and reliability in detecting similar conditions.

(3.5) MISFIRE MONITORING FOR DIESELS

(3.5.1) Requirement: Beginning with the 1998 model year, the diagnostic system on a diesel engine shall be capable of detecting the lack of combustion in one or more cylinders. To the extent possible without adding hardware for this specific purpose, the diagnostic system shall also identify the specific cylinder for which combustion cannot be detected. If the lack of combustion is present in more than one cylinder, a separate code shall indicate that multiple cylinders are malfunctioning (specifying the individual malfunctioning cylinders under this condition is optional; however, identifying one malfunctioning cylinder shall not occur when a multiple cylinder code is stored).

(3.5.2) Malfunction Criteria: A cylinder shall be considered malfunctioning when combustion cannot be detected.

(3.5.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(3.5.4) MIL Illumination and Fault Code Storage: The MIL shall illuminate and a fault code shall be stored no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(4.0) EVAPORATIVE SYSTEM MONITORING

(4.1) Requirement:

(4.1.1) The diagnostic system shall verify air flow from the complete evaporative system. In addition, the diagnostic system shall also monitor the evaporative system for the loss of HC vapor into the atmosphere by performing a pressure or vacuum check of the complete evaporative system.

(4.1.2) Manufacturers may temporarily disable the evaporative purge system to perform a check.

(4.1.3) Manufacturers may request Executive Officer approval to abort an evaporative system check under specific conditions (e.g., when the fuel tank level is over 85 percent of nominal tank capacity) if data and/or an engineering evaluation are provided which adequately demonstrate that a reliable check cannot be made when these conditions exist.

(4.1.4) Subject to Executive Officer approval, other monitoring strategies may be used provided the manufacturer provides a description of the

strategy and supporting data showing equivalent monitoring reliability and timeliness in detecting an evaporative system malfunction or leak.

(4.1.5) Implementation of this requirement is mandatory only for 1996 and later model year vehicles designed to comply with the requirements of Title 13, California Code of Regulations, Section 1976, "Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions," for 1995 and subsequent model year vehicles.

(4.2) Malfunction Criteria:

(4.2.1) An evaporative system shall be considered malfunctioning when no air flow from the system can be detected, or when a system leak is detected that is greater than or equal in magnitude to a leak caused by a 0.040 inch diameter orifice in any portion of the evaporative system excluding the tubing and connections between the purge valve and the intake manifold.

(4.2.2) Beginning with the 2000 model year, manufacturers shall phase-in diagnostic strategies to detect system leaks greater than or equal in magnitude to a leak caused by a 0.020 inch diameter orifice. The phase-in percentages (based on the manufacturer's projected sales volume for all vehicles) shall equal or exceed 20 percent for the 2000 model year, 40 percent for the 2001 model year, 70 percent for the 2002 model year, and 100 percent implementation for the 2003 model year. Alternate phase-in schedules that provide for equivalent emission reduction and timeliness overall shall be accepted. Small volume manufacturers shall not be subject to the phase-in requirements; however, 100 percent implementation shall be required for the 2003 model year.

(4.2.3) On vehicles with fuel tank capacity greater than 25 gallons, the Executive Officer shall revise the size of the orifice if the most reliable monitoring method available cannot reliably detect a system leak of the magnitudes indicated above. Further, on vehicles with fuel tank capacity from 18 to 25 gallons, the Executive Officer may allow a larger size orifice (e.g., 0.050 inch diameter rather than 0.040 inch diameter) to be detected at low fuel levels (e.g., less than 50 percent of capacity) through the 1999 model year if the manufacturer demonstrates that it is necessary to avoid false MILs for a particular application due to a unique fuel tank configuration that would require hardware modifications to facilitate reliable monitoring.

(4.2.4) Upon request by the manufacturer and submission of data and/or engineering evaluation which adequately support the request, the Executive Officer shall revise the orifice size upward to exclude detection of leaks that cannot cause evaporative or running loss emissions to exceed 1.5 times the applicable standards.

(4.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met. However, monitoring conditions may be further limited with respect to detecting leaks equivalent to a 0.020 inch diameter orifice, subject to Executive Officer approval, on the basis that the monitoring conditions will be reasonably-occurring in-use, and provided that a check for leaks equal or greater in magnitude than a 0.040 inch orifice will continue to be conducted at least once per driving cycle as indicated above. Subject to Executive Officer approval, if performance of the check causes vehicles to exceed applicable emission standards when using the best available technology, manufacturers may perform evaporative system monitoring during a steady-speed condition, as defined in section (b)(1.3.2), between 20 and 50 mph.

(4.4) MIL Illumination and Fault Code Storage:

(4.4.1) Upon detection of an evaporative system malfunction or a malfunction that prevents completion of an evaporative system check, the MIL shall illuminate and a fault code shall be stored no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(4.4.2) If the diagnostic system is capable of discerning that a system leak is being caused by a missing or improperly secured fuel cap, the manufacturer may notify the vehicle operator through the use of an indi-

cator light other than the MIL. The manufacturer is not required to store a fault code in this case. The indicator light shall conform to the requirements outlined in section (a)(1.1) for location and illumination. As another option, the manufacturer may extinguish the MIL, provided no other malfunctions have been detected, and may erase the fault code corresponding to the problem once the on-board diagnostic system has verified that the fuel cap specifically has been securely fastened. Other equivalent strategies shall be considered by the Executive Officer.

(5.0) SECONDARY AIR SYSTEM MONITORING

(5.1) Requirement: Any vehicle equipped with any form of secondary air delivery system shall have the diagnostic system monitor the proper functioning of (a) the secondary air delivery system and (b) any air switching valve.

(5.2) Malfunction Criteria:

(5.2.1) The diagnostic system shall indicate secondary air delivery system malfunction when the flow rate falls below the manufacturer's specified low flow limit such that a vehicle would exceed 1.5 times any of the applicable FTP emission standards.

(5.2.2) Manufacturers adequately demonstrating that deterioration of the flow distribution system is unlikely may request Executive Officer approval to perform only a functional check of the system. As part of this demonstration, manufacturers shall demonstrate that the materials used for the secondary air system (e.g., air hoses, and tubing) are inherently resistant to corrosion or other deterioration. If a functional check is approved, the diagnostic system shall indicate a malfunction when some degree of secondary airflow is not detectable in the exhaust system during a check.

(5.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring of the secondary air system, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(5.4) MIL Illumination and Fault Code Storage: The diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(6.0) AIR CONDITIONING SYSTEM REFRIGERANT MONITORING

(6.1) Requirement:

(6.1.1) The diagnostic system shall monitor air conditioning systems for loss of refrigerants which would harm the stratospheric ozone layer or are reactive in forming atmospheric ozone. Any sensor used for such monitoring shall itself be monitored for proper circuit continuity and proper range of operation. A provision for ensuring that a leak has been corrected before extinguishing the MIL shall be provided.

(6.1.2) Manufacturers of a model vehicle which will phase out the use of chlorofluorocarbons in its air conditioning systems by the 1996 model-year or which will use federally-approved refrigerants with substantially less atmospheric ozone depleting potential than CFC-12 need not comply with this requirement for that model.

(6.2) Malfunction Criteria: Manufacturers shall provide a monitoring strategy for approval by the Executive Officer for monitoring a refrigerant leak. The approval shall be based on timeliness and reliability in detecting a leak.

(6.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(6.4) MIL Illumination and Fault Code Storage: The diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present. The diagnostic system shall not clear a fault code and the MIL shall not turn off unless the leak has been corrected.

(7.0) FUEL SYSTEM MONITORING

(7.1) Requirement: The diagnostic system shall monitor the fuel delivery system for its ability to provide compliance with emission standards. For diesel vehicles and engines, the manufacturer shall monitor the performance of all electronic fuel system components to the extent feasible with respect to the malfunction criteria specified in section (7.2) below.

(7.2) Malfunction Criteria: The manufacturer shall establish malfunction criteria to monitor the fuel delivery system such that a vehicle's emissions would not exceed 1.5 times any of the applicable FTP standards before a fault is detected. If the vehicle is equipped with fuel trim circuitry, the manufacturer shall include as one of the malfunction criteria the condition where the trim circuitry has used up all of the trim adjustment allowed within the manufacturer's selected limit(s). Manufacturers may compensate the criteria limit(s) appropriately for changes in altitude or for temporary introduction of large amounts of purge vapor or for other similar identifiable operating conditions when they occur.

(7.3) Monitoring Conditions: The fuel system shall be monitored continuously for the presence of a malfunction.

(7.4) MIL Illumination and Fault Code Storage:

(7.4.1) For fuel systems with short-term trim only capability the diagnostic system shall store a fault code after the fuel system has attained the criteria limit for a manufacturer-defined time interval sufficient to determine a malfunction. If the malfunction criteria limit and time intervals are exceeded, the MIL shall be illuminated and a fault code stored no later than the end of the next driving cycle in which the criteria and interval are again exceeded, unless driving conditions similar to those under which the problem was originally detected have been encountered (see section (7.4.3)) without such an exceedance, in which case the initial temporary code and stored conditions may be erased. Furthermore, if similar driving conditions are not encountered during 80 driving cycles subsequent to the initial detection of a malfunction, the initial temporary code and stored conditions may be erased.

(7.4.2) For fuel systems with long-term capability, upon attaining a long-term based malfunction criteria limit independent of, or in combination with, the short-term trim system status, the MIL shall be illuminated and a fault code stored no later than the end of the next driving cycle if the malfunction is again detected. If the malfunction is not detected during the second driving cycle, the MIL shall be illuminated and a fault code stored no later than the next driving cycle in which the malfunction is again detected, unless driving conditions similar to those under which the problem was originally detected have been encountered (see section (7.4.3)) without an indication of a malfunction, in which case the initial temporary code and stored conditions may be erased. Furthermore, if similar driving conditions are not encountered during 80 driving cycles subsequent to the initial detection of a malfunction, the initial temporary code and stored conditions may be erased.

(7.4.3) Upon detection of a fuel system malfunction, manufacturers shall store the engine speed, load and warm-up status (i.e., cold or warm-up) under which the malfunction was detected. A driving cycle shall be considered to have similar conditions if the stored engine speed is encountered within 375 rpm, load conditions within 20 percent, and the same warm-up status is present. With Executive Officer approval, other strategies for determining if similar conditions have been encountered may be employed. Approval shall be based on comparable timeliness and reliability in detecting similar conditions.

(8.0) OXYGEN SENSOR MONITORING

(8.1) Requirement:

(8.1.1) The diagnostic system shall monitor the output voltage, response rate, and any other parameter which can affect emissions, of all primary (fuel control) oxygen (lambda) sensors for malfunction. It shall also monitor all secondary oxygen sensors (fuel trim control or use as a monitoring device) for proper output voltage and/or response rate. Response rate is the time required for the oxygen sensor to switch from lean-to-rich once it is exposed to a richer than stoichiometric exhaust gas or vice versa (measuring oxygen sensor switching frequency may not be

an adequate indicator of an oxygen sensor response rate, particularly at low speeds).

(8.1.2) Either the lean-to-rich or both the lean-to-rich and the rich-to-lean response rates shall be checked. Response rate checks shall evaluate the portions of the sensor's dynamic signal that are most affected by sensor malfunctions such as aging or poisoning.

Manufacturers may observe the voltage envelope of the sensor when cycled at a frequency of 1.5 Hertz or greater, as determined by the manufacturer, to evaluate a slow response rate sensor (i.e. a slow sensor cannot achieve maximum and/or minimum voltage as will a good sensor given a properly chosen switching frequency and fuel step change for a check). With Executive Officer approval, manufacturers may use other voltage requirements/fuel-air switching frequencies or monitoring strategies based on a determination of accurate and timely evaluation of the sensor.

(8.1.3) For sensors with different characteristics, the manufacturer shall submit data and an engineering evaluation to the Executive Officer for approval based on showing equivalent evaluation of the sensor.

(8.1.4) For vehicles equipped with heated oxygen sensors, the heater circuit shall be monitored for proper current and voltage drop (note: a continuity check of oxygen sensors is not required). Other heater circuit monitoring strategies would require approval by the Executive Officer based on equally reliable and timely indication of malfunction as current or voltage-based monitoring.

(8.2) Malfunction Criteria:

(8.2.1) An oxygen sensor shall be considered malfunctioning when the voltage, response rate, or other criteria are exceeded and causes emissions from a vehicle equipped with the sensor(s) to exceed 1.5 times any of the applicable FTP standards, or when the sensor output characteristics are no longer sufficient (e.g., lack of sensor switching) for use as a diagnostic system monitoring device (e.g., for catalyst efficiency monitoring).

(8.2.2) For heated oxygen sensors, the heater circuit shall be considered malfunctioning when the current or voltage drop in the circuit is no longer within the manufacturer's specified limits for normal operation (i.e., within the criteria required to be met by the component vendor for heater circuit performance at high mileage). Subject to Executive Officer approval, other monitoring strategy malfunction criteria for detection of heater circuit malfunctions may be used provided the manufacturer submits data and/or an engineering evaluation adequately showing monitoring reliability and timeliness to be equivalent to the stated criteria in this paragraph.

(8.3) Monitoring Conditions:

(8.3.1) For primary oxygen sensor(s) used for fuel control, the response rate and output voltage shall be monitored for malfunction before the end of the first idle period after the vehicle has commenced closed-loop operation, if the necessary checking condition for acceptable oxygen sensor(s) performance has been encountered. The performance of the sensor can only be judged acceptable by one or more of the following means: within any 20 second reasonably steady speed condition as defined in (b)(1.3.2), within any deceleration of 3 seconds or more, or during the first idle period of at least 20 seconds after closed loop operation begins (i.e., not during an acceleration condition); not withstanding, unacceptable performance can be determined at any time. Other monitoring conditions may be used provided the manufacturer provides a monitoring strategy and supporting data showing equivalent monitoring reliability and timeliness in detecting a malfunctioning sensor compared to the above monitoring conditions and the Executive Officer approves.

(8.3.2) For secondary oxygen sensors used for catalyst monitoring and/or fuel system trim, the manufacturer shall define appropriate operating conditions for response rate and/or output voltage malfunction monitoring, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per

driving cycle during which the manufacturer-defined monitoring conditions are met.

(8.3.3) For heated oxygen sensors, the manufacturer shall define appropriate operating conditions for malfunction monitoring of the heater circuit, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(8.4) MIL Illumination and Fault Code Storage: Upon detection of any oxygen sensor malfunction, the diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(8.5) Other (non-lambda) Oxygen Sensors:

(8.5.1) For vehicles equipped with universal exhaust gas oxygen sensors (i.e. sensors which provide an output proportional to exhaust gas oxygen concentration), the manufacturer shall define appropriate operating conditions for the diagnostic system to perform a response rate check (the time required to respond to a specific change in fuel/air ratio), subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met. The diagnostic system shall also perform an out-of-range check for which monitoring shall be continuous. For malfunctions, MIL illumination and fault code storage shall be as in (8.4).

(8.5.2) If a manufacturer utilizes other types of oxygen sensors, the manufacturer shall submit a monitoring plan to the Executive Officer for approval based on equivalent monitoring with conventional sensors.

(9.0) EXHAUST GAS RECIRCULATION (EGR) SYSTEM MONITORING

(9.1) Requirement:

(9.1.1) The diagnostic system shall monitor the EGR system on vehicles so-equipped for low and high flow rate malfunctions.

(9.1.2) Manufacturers may request Executive Officer approval to temporarily disable the EGR system check under specific conditions provided the manufacturer submits data and/or an engineering evaluation which adequately demonstrated that a reliable check cannot be made when these conditions exist.

(9.2) Malfunction Criteria: The EGR system shall be considered malfunctioning when one or both of the following occurs: (1) any components of the system fails to perform within manufacturer specifications, or (2) the EGR flow rate exceeds the manufacturer's specified low or high flow limits such that a vehicle would exceed 1.5 times any of the applicable FTP emission standards.

(9.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring the EGR system, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(9.4) MIL Illumination and Fault Code Storage: The diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(10.0) POSITIVE CRANKCASE VENTILATION (PCV) SYSTEM MONITORING

(10.1) Requirement: Beginning with the 2002 model year, manufacturers shall phase-in diagnostic strategies to monitor the PCV system on vehicles so-equipped for system integrity. The phase-in percentages (based on the manufacturer's projected sales volume for all vehicles and engines subject to this section) shall equal or exceed 30 percent in the 2002 model year, 60 percent in the 2003 model year, with 100 percent implementation of the 2004 model year. Small volume manufacturers are

not required to meet the phase-in percentages; however, 100 percent implementation of these monitoring requirements shall be required beginning with the 2004 model year. Alternate phase-in percentages that provide for equivalent emission reduction and timeliness overall in implementing these requirements shall be accepted.

(10.2) Malfunction Criteria:

(10.2.1) Except as provided below, the PCV system shall be considered malfunctioning when disconnection occurs between either the crankcase and the PCV valve, or between the PCV valve and the intake manifold.

(10.2.2) If the PCV system is designed such that the PCV valve is fastened directly to the crankcase in a manner which makes it significantly more difficult to remove the valve from the crankcase rather than disconnect the line between the valve and the intake manifold (taking aging effects into consideration), the Executive Officer shall exempt the manufacturer from detection of disconnection between the crankcase and the PCV valve. Subject to Executive Officer approval, system designs that utilize tubing between the valve and the crankcase shall also be exempted from this portion of the monitoring requirement provided the manufacturer submits data and/or engineering which adequately demonstrate that the connections between the valve and the crankcase are resistant to deterioration or accidental disconnection, are significantly more difficult to disconnect than the line between the valve and the intake manifold, and are not subject to disconnection per manufacturer's repair procedures for non-PCV system repair work.

(10.2.3) Manufacturers shall not be required to detect disconnections between the PCV valve and the intake manifold if said disconnection (1) causes the vehicle to stall immediately during idle operation; or (2) is unlikely due to a PCV system design that is integral to the induction system (e.g., machined passages rather than tubing or hoses).

(10.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring the PCV system, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. The monitoring system shall operate at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(10.4) MIL Illumination and Fault Code Storage: The diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present. The fault code need not specifically identify the PCV system (e.g., a fault code for idle speed control or fuel system monitoring can be stored) if the manufacturer demonstrates that additional monitoring hardware would be necessary to make this identification, and provided the manufacturer's diagnostic and repair procedures for the indicated fault include directions to check the integrity of the PCV system.

(11.0) THERMOSTAT MONITORING

(11.1) Requirement: Beginning with the 2000 model year, manufacturers shall phase-in diagnostic strategies to monitor the thermostat on vehicles so-equipped for proper operation. The phase-in percentages (based on the manufacturer's projected sales volume for all vehicles and engines) shall equal or exceed 30 percent in the 2000 model year, 60 percent in the 2001 model year, with 100 percent implementation for the 2002 model year. Small volume manufacturers are not required to meet the phase-in percentages; however, 100 percent implementation of these monitoring requirements shall be required beginning with the 2002 model year. Alternate phase-in percentages that provide for equivalent emission reduction and timeliness overall in implementing these requirements shall be accepted.

(11.2) Malfunction Criteria: The thermostat shall be considered malfunctioning if within a manufacturer-specified time interval after starting the engine, (a) the coolant temperature does not reach the highest temperature required by the manufacturer to enable other diagnostics; or (b) the coolant temperature does not reach a warmed-up temperature within 20 degrees Fahrenheit of the manufacturer's thermostat regulating tem-

perature. Manufacturers shall provide data and/or engineering evaluation to support specified times. Subject to Executive Officer approval, manufacturers may utilize lower temperatures for criterion (b) above if they adequately demonstrate that the fuel, spark timing, and/or other coolant temperature-based modifications to the engine control strategies would not cause an emission increase of 50 or more percent of any of the applicable standards (e.g., 50 degree Fahrenheit emission test, etc.). With Executive Officer approval, manufacturers may omit this monitor provided the manufacturer adequately demonstrates that a malfunctioning thermostat cannot cause a measurable increase in emissions during any reasonable driving condition nor cause any disablement of other monitors.

(11.3) Monitoring Conditions: Manufacturers shall define appropriate operating conditions for monitoring the thermostat; however, manufacturers may disable monitoring at ambient engine starting temperatures below 20 degrees Fahrenheit.

(11.4) MIL Illumination and Fault Code Storage: The diagnostic system shall store a fault code and the MIL shall illuminate no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again present.

(12.0) COMPREHENSIVE COMPONENT MONITORING

(12.1) Requirement: The diagnostic system shall monitor for malfunction any electronic powertrain component/system not otherwise described above which either provides input to (directly or indirectly), or receives commands from the on-board computer, and which: (1) can affect emissions during any reasonable in-use driving condition, or (2) is used as part of the diagnostic strategy for any other monitored system or component.

(12.1.1) Input Components:

(A) The monitoring system shall have the capability of detecting, at a minimum, lack of circuit continuity and out of range values to ensure proper operation of the input device. The determination of out of range values shall include logic evaluation of available information to determine if a component is operating within its normal range (e.g., a low throttle position sensor voltage would not be reasonable at a high engine speed with a high mass airflow sensor reading). To the extent feasible, said logic evaluation shall be "two-sided" (i.e., verify a sensor output is not inappropriately high or low).

(B) Input components may include, but are not limited to, the vehicle speed sensor, crank angle sensor, knock sensor, throttle position sensor, coolant temperature sensor, cam position sensor, fuel composition sensor (e.g. methanol flexible fuel vehicles), transmission electronic components such as sensors, modules, and solenoids which provide signals to the powertrain control system (see section (b)(12.5)).

(C) The coolant temperature sensor shall be monitored for achieving a stabilized minimum temperature level which is needed to achieve closed-loop operation (or for diesel applications, the minimum temperature needed for warmed-up fuel control to begin) within a manufacturer-specified time interval after starting the engine. The time interval shall be a function of starting engine coolant temperature and/or a function of intake air temperature and, except as noted below, shall not exceed two minutes for engine start temperatures at or above 50 degrees Fahrenheit and five minutes for engine start temperatures at or above 20 degrees and below 50 degrees Fahrenheit. Manufacturers may suspend or delay the diagnostic if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 to 75 percent of the warm-up time). Manufacturers shall provide data to support specified times. The Executive Officer shall allow longer time intervals provided a manufacturer submits data and/or an engineering evaluation which adequately demonstrate that the vehicle requires a longer time to warm up under normal conditions. The Executive Officer shall allow disablement of this check under extremely low ambient temperature conditions (below 20 degrees Fahrenheit) provided a manufacturer submits data and/or an engineering evaluation which adequately demonstrate non-attainment of a stabilized minimum temperature.

(12.1.2) Output Components:

(A) The diagnostic system shall monitor output components for proper functional response to computer commands.

(B) Components for which functional monitoring is not feasible shall be monitored, at a minimum, for proper circuit continuity and out of range values, if applicable.

(C) Output components may include, but are not limited to, the automatic idle speed motor, emission-related electronic only transmission controls, heated fuel preparation systems, the wait-to-start lamp on diesel applications, and a warmup catalyst bypass valve (see section (b)(12.5)).

(12.2) Malfunction Criteria:

(12.2.1) Input Components: Input components/systems shall be considered malfunctioning when, at a minimum, lack of circuit continuity or manufacturer-specified out-of-range values occur.

(12.2.2) Output Components:

(A) Output components/systems shall be considered malfunctioning when a proper functional response to computer commands does not occur. Should a functional check for malfunction not be feasible, then an output component/system shall be considered malfunctioning when, at a minimum, lack of circuit continuity or manufacturer-specified out-of-range values occur.

(B) The idle speed control motor/valve shall be monitored for proper functional response to computer commands. For strategies based on deviation from target idle speed, a fault shall be indicated when the idle speed control system cannot achieve the target idle speed within a manufacturer specified time and engine speed tolerance. In general, the engine speed tolerances shall not exceed 200 revolutions per minute (rpm) above the target speed or 100 rpm below the target speed. The Executive Officer shall allow larger engine speed tolerances provided a manufacturer submits data and/or an engineering evaluation which adequately demonstrates that the tolerances can be exceeded without a malfunction present.

(C) Glow plugs shall be monitored for proper functional response to computer commands. The glow plug circuit(s) shall be monitored for proper current and voltage drop. The Executive Officer shall approve other monitoring strategies based on manufacturer's data and/or engineering analysis demonstrating equally reliable and timely indication of malfunctions. Manufacturers shall indicate a malfunction when a single glow plug no longer operates within the manufacturer's specified limits for normal operation. If a manufacturer demonstrates that a single glow plug failure cannot cause a measurable increase in emissions during any reasonable driving condition, the manufacturer shall indicate a malfunction for the minimum number of glow plugs needed to cause an emission increase. Further, to the extent feasible (without adding additional hardware for this purpose), the stored fault code shall identify the specific malfunctioning glow plug(s).

(12.3) Monitoring Conditions:

(12.3.1) Input Components: Input components shall be monitored continuously for proper range of values and circuit continuity. For rationality monitoring (where applicable), manufacturers shall define appropriate operating conditions during which monitoring shall occur, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. Rationality monitoring shall occur at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(12.3.2) Output Components: Monitoring for circuit continuity and proper range of values (if applicable) shall be conducted continuously. For functional monitoring, manufacturers shall define appropriate operating conditions during which monitoring shall occur, subject to the limitation that the monitoring conditions shall be encountered at least once during the first engine start portion of the applicable FTP test. However, functional monitoring may be conducted during non-FTP driving conditions, subject to Executive Officer approval, if the manufacturer provides data and/or an engineering evaluation which adequately demonstrate that the component does not normally function, or monitoring is otherwise

not feasible, during applicable FTP test driving conditions. Functional monitoring shall occur at least once per driving cycle during which the manufacturer-defined monitoring conditions are met.

(12.4) MIL Illumination and Fault Code Storage:

(12.4.1) Upon detecting a malfunction, the diagnostic system shall store a fault code no later than the end of the next driving cycle during which monitoring occurs provided the malfunction is again detected.

(12.4.2) In conjunction with storing a fault code, manufacturers shall illuminate the MIL for malfunctions of components/systems for which either of the following occurs: 1) When malfunctioning, the component or system could cause vehicle emissions to increase by 15 percent or more of the FTP standard, or 2) The component/system is used as part of the diagnostic strategy for any other monitored system or component.

(12.5) Component Determination: The manufacturer shall determine whether a powertrain input or output component not otherwise covered can affect emissions. If the Executive Officer reasonably believes that a manufacturer has incorrectly determined that a component cannot affect emissions, the Executive Officer shall require the manufacturer to provide emission data showing that such a component, when faulty and installed in a suitable test vehicle, does not have an emission effect. Emission data may be requested for any reasonable driving condition.

(c) ADDITIONAL MIL ILLUMINATION AND FAULT CODE STORAGE PROTOCOL

(1.0) MIL ILLUMINATION For all emission-related components/systems, upon final determination of malfunction, the MIL shall remain continuously illuminated (except that it shall blink as indicated previously for misfire detection). If any malfunctions are identified in addition to misfire, the misfire condition shall take precedence, and the MIL shall blink accordingly. The diagnostic system shall store a fault code for MIL illumination whenever the MIL is illuminated. The diagnostic system shall illuminate the MIL and shall store a code whenever the powertrain enters a default or "limp home" mode of operation. The diagnostic system shall illuminate the MIL and shall store a code whenever the engine control system fails to enter closed-loop operation (if employed) within a manufacturer specified minimum time interval.

(2.0) EXTINGUISHING THE MIL

(2.1) Misfire and Fuel System Malfunctions: For misfire or fuel system malfunction, the MIL may be extinguished if the fault does not recur when monitored during three subsequent sequential driving cycles in which conditions are similar to those under which the malfunction was first determined (see sections (b)(3.4.3) and (b)(7.4.3)).

(2.2) All Other Malfunctions: Except as noted in section (b)(6.4), for all other faults, the MIL may be extinguished after three subsequent sequential driving cycles during which the monitoring system responsible for illuminating the MIL functions without detecting the malfunction and if no other malfunction has been identified that would independently illuminate the MIL according to the requirements outlined above.

(3.0) ERASING A FAULT CODE The diagnostic system may erase a fault code if the same fault is not re-registered in at least 40 engine warm-up cycles, and the MIL is not illuminated for that fault code.

(d) TAMPERING PROTECTION Computer-coded engine operating parameters shall not be changeable without the use of specialized tools and procedures (e.g. soldered or potted computer components or sealed (or soldered) computer enclosures). Subject to Executive Officer approval manufacturers may exempt from this requirement those pre-cut lines which are unlikely to require protection. Criteria to be evaluated in making an exemption include, but are not limited to, current availability of performance chips, high performance capability of the vehicle, and sales volume.

(e) READINESS/FUNCTION CODE The on-board computer shall store a code upon first completing a full diagnostic check (i.e., the minimum number of checks necessary for MIL illumination) of all monitored components and systems (except as noted below) since the computer memory was last cleared (i.e., through the use of a scan tool or battery disconnect). The code shall be stored in the format specified by SAE J1979 or SAE J1939, whichever applies. Both documents are incorpo-

rated by reference in sections (k)(2.0) and (k)(5.0). The diagnostic system check for comprehensive component monitoring and continuous monitoring of misfire and fuel system faults shall be considered complete for purposes of determining the readiness indication if malfunctions are not detected in those areas by the time all other diagnostic system checks are complete. Subject to Executive Officer approval, if monitoring is disabled for a multiple number of driving cycles due to the continued presence of extreme operating conditions (e.g., cold ambient temperatures, high altitudes, etc.), readiness for the subject monitoring system may be set without monitoring having been completed. Executive Officer approval shall be based on the conditions for monitoring system disablement and the number of driving cycles specified without completion of monitoring before readiness is indicated. For evaporative system monitoring, the readiness indication shall be set when a full diagnostic check has been completed with respect to the 0.040 inch orifice malfunction criteria if the monitoring conditions are constrained with respect to detection of a 0.020 inch leak (see sections (b)(4.2.2) and (4.3)).

(f) STORED ENGINE CONDITIONS Upon detection of the first malfunction of any component or system, "freeze frame" engine conditions present at the time shall be stored in computer memory. Should a subsequent fuel system or misfire malfunction occur, any previously stored freeze frame conditions shall be replaced by the fuel system or misfire conditions (whichever occurs first). Stored engine conditions shall include, but are not limited to, calculated load value, engine RPM, fuel trim value(s) (if available), fuel pressure (if available), vehicle speed (if available), coolant temperature, intake manifold pressure (if available), closed- or open-loop operation (if available), and the fault code which caused the data to be stored. The manufacturer shall choose the most appropriate set of conditions facilitating effective repairs for freeze frame storage. Only one frame of data is required. Manufacturers may at their discretion choose to store additional frames provided that at least the required frame can be read by a generic scan tool meeting Society of Automotive Engineers (SAE) specifications established in SAE Recommended Practices on "OBD II Scan Tool" (J1978), June, 1994, and "E/E Diagnostic Test Modes" (J1979), June, 1994, which are incorporated by reference herein. If approval is granted to use the SAE J1939 communication protocol according to section (k)(5.0), the data shall be accessible using a scan tool meeting the J1939 specifications. If the fault code causing the conditions to be stored is erased in accordance with section (c)(3.0), the stored engine conditions may be cleared as well.

(g) MONITORING SYSTEM DEMONSTRATION REQUIREMENTS

(1.0) REQUIREMENT Each year a manufacturer shall provide emission test data obtained from a certification durability vehicle for one engine family that has not been used previously for purposes of this section. If a manufacturer does not have a certification durability vehicle available which is suitable for the engine family designated for testing, the Executive Officer shall permit a manufacturer to satisfy this requirement with data from a representative high mileage vehicle or vehicles (or a representative high operating-hour engine or engines) acceptable to the Executive Officer to demonstrate that malfunction criteria are based on emission performance. The Air Resources Board (ARB) shall determine the engine family to be demonstrated. Each manufacturer shall notify the Executive Officer prior to applying for certification of the engine families planned for a particular model year in order to allow selection of the engine family to be demonstrated. Demonstration tests shall be conducted on the certification durability vehicle or engine at the end of the required mileage or operating-hour accumulation. For non-LEVs, until a NOx standard applicable for more than 50,000 miles is established in California, the federal 50,000 to 100,000 mile NOx standard shall be used for demonstration purposes.

(1.1) Flexible fuel vehicles shall perform each demonstration test using 85 percent methanol and 15 percent gasoline, and gasoline only. For vehicles capable of operating on other fuel combinations, the manufacturer shall submit a plan for performing demonstration testing for ap-

proval by the Executive Officer on the basis of providing accurate and timely evaluation of the monitored systems.

(2.0) **APPLICABILITY:** The manufacturer shall perform single-fault testing based on the applicable FTP test cycle with the following components/systems at their malfunction criteria limits as determined by the manufacturer.

(2.1) **Oxygen Sensors.** The manufacturer shall conduct the following demonstration tests: The first test involves testing all primary and secondary (if equipped) oxygen sensors used for fuel control simultaneously possessing normal output voltage but response rate deteriorated to the malfunction criteria limit (secondary oxygen sensors for which response rate is not monitored shall be normal response characteristics). The second test shall include testing with all primary and secondary (if equipped) oxygen sensors used for fuel control simultaneously possessing output voltage at the malfunction criteria limit. Manufacturers shall also conduct a malfunction criteria demonstration test for any other oxygen sensor parameter that can cause vehicle emissions to exceed 1.5 times the applicable standards (e.g., shift in air/fuel ratio at which oxygen sensor switches). When performing additional test(s), all primary and secondary (if equipped) oxygen sensors used for fuel control shall be operating at the malfunction criteria limit for the applicable parameter only. All other primary and secondary oxygen sensor parameters shall be with normal characteristics.

(2.2) **EGR System:** The manufacturer shall conduct at least one flow rate demonstration test at the low flow limit.

(2.3) **Fuel Metering System:**

(2.3.1) For vehicles with short-term or long-term fuel trim circuitry, the manufacturer shall conduct one demonstration test at the border of the rich limit and one demonstration test at the border of the lean limit established by the manufacturer for emission compliance.

(2.3.2) For other systems, the manufacturer shall conduct a demonstration test at the criteria limit(s).

(2.3.3) For purposes of the demonstration, the fault(s) induced may result in a uniform distribution of fuel and air among the cylinders. Non-uniform distribution of fuel and air used to induce a fault shall not cause an indication of misfire. The manufacturer shall describe the fault(s) induced in the fuel system causing it to operate at the criteria limit(s) for the demonstration test (e.g., restricted or increased flow fuel injectors, and altered output signal airflow meter etc.). Computer modifications to cause the fuel system to operate at the adaptive limit for malfunction shall be allowed for the demonstration tests if the manufacturer demonstrates that the computer modification produces equivalent test results.

(2.4) **Misfire:** The manufacturer shall conduct one FTP demonstration test at the criteria limit specified in (b)(3.2)(B) for malfunction. This demonstration is not required for diesel applications.

(2.5) **Secondary Air System:** The manufacturer shall conduct a flow rate demonstration test at the low flow limit, unless only a functional check is permitted according to section (b)(5.2.2).

(2.6) **Catalyst Efficiency:**

(2.6.1) **Non-Low Emission Vehicles:** The manufacturer shall conduct a baseline FTP test with a representative 4000 mile catalyst system followed by one FTP demonstration test using a catalyst system deteriorated to its malfunction limit. If a manufacturer is employing a steady state catalyst efficiency check in accordance with section (b)(1.2.4), demonstration of the catalyst monitoring system is not required.

(2.6.2) **Low Emission Vehicles:** The manufacturer shall conduct a catalyst efficiency demonstration using a catalyst system deteriorated to the malfunction criteria.

(2.7) **Heated Catalyst Systems:** The manufacturer shall conduct a demonstration test where the designated heating temperature is reached at the time limit for malfunction after engine starting.

(2.8) Manufacturers may electronically simulate deteriorated components, but may not make any vehicle control unit modifications (unless otherwise excepted above) when performing demonstration tests. All equipment necessary to duplicate the demonstration test must be made available to the ARB upon request.

(3.0) **PRECONDITIONING** The manufacturer shall use the first engine start portion of one applicable FTP cycle (or Unified Cycle, if approved) for preconditioning before each of the above emission tests. If a manufacturer provides data and/or an engineering evaluation which adequately demonstrate that additional preconditioning is necessary to stabilize the emission control system, the Executive Officer shall allow an additional identical preconditioning cycle, or a Federal Highway Fuel Economy Driving Cycle, following a ten-minute (or 20 minutes for medium duty engines certified on an engine dynamometer) hot soak after the initial preconditioning cycle. The manufacturer shall not require the demonstration vehicle to be cold soaked prior to conducting preconditioning cycles in order for the monitoring system demonstration to be successful.

(4.0) **EVALUATION PROTOCOL**

(4.1) The manufacturer shall set the system or component for which detection is to be demonstrated at the criteria limit(s) prior to conducting the applicable preconditioning cycle(s). (For misfire demonstration, misfire shall be set at its criteria limit as specified pursuant to section (b)(3.2)(B)). If a second preconditioning cycle is permitted in accordance with section (3.0) above, the manufacturer may adjust the demonstrated system or component before conducting the second preconditioning cycle; however, the demonstrated system or component shall not be replaced, modified or adjusted after preconditioning has taken place.

(4.2) After preconditioning, the vehicle shall be operated over the first engine start portion of the applicable FTP test (or Unified Cycle, if approved) to allow for the initial detection of the malfunction. This driving cycle may be omitted from the evaluation protocol if it is unnecessary. If required by the demonstrated monitoring strategy, a cold soak may be performed prior to conducting this driving cycle.

(4.3) The vehicle shall then be operated over a full applicable FTP test. If monitoring during the Unified Cycle is approved, a second Unified Cycle may be conducted prior to the FTP test.

(4.4) For all demonstrations, the MIL shall be illuminated before the hot start portion of the full FTP test (or before the hot start portion of the last Unified Cycle, if applicable) in accordance with requirements of subsection (b):

(4.4.1) If the MIL does not illuminate when the systems or components are set at their limit(s), the criteria limit or the OBD system is not acceptable.

(4.4.2) Except for catalyst efficiency demonstration, if the MIL illuminates and emissions do not exceed 1.5 times any of the applicable FTP emission standards, no further demonstration shall be required.

(4.4.3) Except for catalyst efficiency demonstration, if the MIL illuminates and emissions exceed 1.5 times any of the applicable FTP emission standards, the vehicle shall be retested with the component's malfunction criteria limit value reset such that vehicle emissions are reduced by no more than 30 percent. Limit value at a minimum includes, in the case of oxygen sensors, response rate and voltage; for EGR systems, EGR flow rate; for secondary air systems, air flow rate; for short-term fuel trim-only systems, time interval at the fuel system range of authority limit; for long-term fuel trim systems, shift in the base fuel calibration; for heated catalyst systems, the time limit between engine starting and attaining the designated heating temperature (if an after-start heating strategy is used); and for misfire, percent misfire. For the OBD system to be approved, the vehicle must then meet the above emission levels when tested with the faulty components. The MIL shall not illuminate during this demonstration.

(4.4.4) For Non-LEV catalyst efficiency demonstration, if HC emissions do not increase by more than 1.5 times the standard from the baseline FTP test and the MIL is illuminated, no further demonstration shall be required. However, if HC emissions increase by more than 1.5 times the standard from the baseline FTP test and the MIL is illuminated, the vehicle shall be retested with the average FTP HC conversion capability of the catalyst system increased by no more than 10 percent (i.e., 10 percent more engine out hydrocarbons are converted). For the OBD system

to be approved, the vehicle must then meet the above emission levels when re-tested. The MIL shall not illuminate during this demonstration.

(4.4.5) For Low Emission Vehicle catalyst efficiency demonstration, if HC emissions do not exceed the applicable emission threshold specified in section (b)(1.2.2) and the MIL is illuminated, no further demonstration shall be required. However, if HC emissions exceed the threshold and the MIL is illuminated, the vehicle shall be retested with average FTP HC conversion capability of the catalyst system increased by no more than 5 percent (i.e., 5 percent more engine out hydrocarbons are converted). For the OBD II system to be approved, the vehicle must then meet the above emission levels when re-tested. The MIL shall not illuminate during this demonstration.

(4.5) If an OBD system is determined unacceptable by the above criteria, the manufacturer may re-calibrate and re-test the system on the same vehicle. Any affected monitoring systems demonstrated prior to the re-calibration shall be re-verified.

(4.6) The Executive Officer may approve other demonstration protocols if the manufacturer can adequately show comparable assurance that the malfunction criteria are chosen based on meeting emission requirements and that the timeliness of malfunction detections are within the constraints of the applicable monitoring requirements.

(h) **CERTIFICATION DOCUMENTATION:** The manufacturer shall submit the following documentation for each engine family at the time of certification. With Executive Officer approval, one or more of the documentation requirements specified in this section may be waived or altered if the information required would be redundant or unnecessarily burdensome to generate:

(1) A written description of the functional operation of the diagnostic system to be included in section 8 of manufacturers' certification application.

(2) A table providing the following information for each monitored component or system (either computer-sensed or -controlled) of the emission control system:

- (A) corresponding fault code
- (B) monitoring method or procedure for malfunction detection
- (C) primary malfunction detection parameter and its type of output signal
- (D) fault criteria limits used to evaluate output signal of primary parameter
- (E) other monitored secondary parameters and conditions (in engineering units) necessary for malfunction detection
- (F) monitoring time length and frequency of checks
- (G) criteria for storing fault code
- (H) criteria for illuminating malfunction indicator light
- (I) criteria used for determining out of range values and input component rationality checks.

(3) A logic flowchart describing the general method of detecting malfunctions for each monitored emission-related component or system. To the extent possible, abbreviations in Society of Automotive Engineers' (SAE) J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms", September, 1995, shall be used. J1930 is incorporated by reference herein. The information required in the chart under (2) above may instead be included in this flow chart, provided all of the information required in (2) is included.

(4) A listing and block diagram of the input parameters used to calculate or determine calculated load values and the input parameters used to calculate or determine fuel trim values.

(5) A scale drawing of the MIL and the fuel cap indicator light, if present, which specifies location in the instrument panel, wording, color, and intensity.

(6) Emission test data specified in subsection (g).

(7) Data supporting the selected degree of misfire which can be tolerated without damaging the catalyst. For vehicles designed to meet the expanded misfire monitoring conditions (section (b)(3.3.2) or (b)(3.3.3)), representative data demonstrating the capability of the misfire monitoring system (i.e., probability of detection of misfire events) to detect mis-

fire over the full engine speed and load operating range for selected misfire patterns (i.e., random cylinders, one cylinder out, paired cylinders out).

(8) Data supporting the limit for the time between engine starting and attaining the designated heating temperature for after-start heated catalyst systems.

(9) For Low Emission Vehicles, data supporting the criteria used to indicate a malfunction when catalyst deterioration causes emissions to exceed the applicable threshold specified in section (b)(1.2.2).

(10) For Non-Low Emission Vehicles, data supporting the criteria used to indicate a malfunction when catalyst deterioration leads to a 1.5 times the standard increase in HC emissions. If a steady state catalyst efficiency check is employed in accordance with section (b)(1.2.4), data supporting the criteria used by the diagnostic system for establishing a 60 to 80 percent catalyst efficiency level shall be provided instead.

(11) Data supporting the criteria used to detect evaporative purge system leaks.

(12) A description of the modified or deteriorated components used for fault simulation with respect to the demonstration tests specified in section (g).

(13) A listing of all electronic powertrain input and output signals.

(14) Any other information determined by the Executive Officer to be necessary to demonstrate compliance with the requirements of this section.

(i) **IN-USE REAL TESTING PROTOCOL** The manufacturer shall adhere to the following procedures for vehicles subject to in-use recall testing required by the ARB:

(1) If the MIL illuminates during a test cycle or during a preconditioning cycle, the fault causing the illumination may be identified and repaired following published procedures readily available to the public including the independent service sector.

(2) The test may be rerun, and the results from the repaired vehicle may be used for emission reporting purposes.

(3) If a vehicle contains a part which is operating outside of design specifications with no MIL illumination, the part shall not be replaced prior to emission testing unless it is determined that the part has been tampered with or abused in such a way that the diagnostic system cannot reasonably be expected to detect the resulting malfunction.

(4) Failure of a vehicle, or vehicles on average, to meet applicable emission standards with no illumination of the MIL shall not by itself be grounds for requiring the OBD system to be recalled for recalibration or repair since the OBD system cannot predict precisely when vehicles exceed emission standards.

(5) A decision to recall the OBD system for recalibration or repair will depend on factors including, but not limited to, level of emissions above applicable standards, presence of identifiable faulty or deteriorated components which affect emissions with no MIL illumination, and systematic erroneous activation of the MIL. With respect to erroneous activation of the MIL, the manufacturer may request Executive Officer approval to take action apart from a formal recall (e.g., extended warranty or a service campaign) to correct the performance of the diagnostic strategy on in-use vehicles. In considering a manufacturer's request, the Executive Officer shall consider the estimated frequency of false MIL activation in-use, and the expected effectiveness in relation to a formal recall of the manufacturer's proposed corrective action in capturing vehicles in the field. For 1994 through 1997 model years, on-board diagnostic systems recall shall not be considered for excessive emissions without MIL illumination (if required) and fault code storage until emissions exceed 2.0 times any of the applicable standards in those instances where the malfunction criterion is based on exceeding 1.5 times (or 1.75 times for LEV catalyst monitoring) any of the applicable standards. This higher emission threshold for recall shall extend through the 1998 model year for TLEV applications (except for catalyst monitoring, for which the threshold shall extend through the 2003 model year), and through the 2003 model year for all applicable monitoring requirements on LEV and ULEV applications.

(6) Regarding catalyst system monitoring, unmonitored catalysts shall be normally aged.

(j) **CONFIRMATORY TESTING** The ARB may perform confirmatory testing of manufacturer's diagnostic systems for compliance with requirements of this section in accordance with malfunction criteria submitted in the manufacturer's approved certification documentation. The ARB or its designee may install appropriately deteriorated normal functioning components in an otherwise properly functioning test vehicle of an engine family represented by the demonstration test vehicle(s) (or simulate a deteriorated or malfunctioning component response) in order to test the fuel system, misfire detection system, oxygen sensor, secondary air system, catalyst efficiency monitoring system, heated catalyst system, and EGR system malfunction criteria for compliance with the applicable emission constraints in this section. Confirmatory testing to verify that malfunction criteria are set for compliance with emission requirements of this section shall be limited to vehicles in engine families derived from the demonstration vehicle(s). Diagnostic systems of a representative sample of vehicles which uniformly fail to meet the requirements of this section may be recalled for correction.

(k) **STANDARDIZATION** Standardized access to emission-related fault codes, emission-related powertrain test information (i.e., parameter values) as outlined in subsection (l), emission related diagnostic procedures, and stored freeze frame data shall be incorporated based on the industry specifications referenced in this regulation.

(l.0) Either SAE Recommended Practice J1850, "Class B Data Communication Network Interface", July, 1995, or International Standards Organization (ISO) 9141-2, "Road vehicles - Diagnostic Systems - CARB Requirements for Interchange of Digital Information," February, 1994, or ISO 14230-4, "Road vehicles - Diagnostic systems - KWP 2000 requirements for Emission-related systems," April, 1996, which are incorporated by reference, shall be used as the on-board to off-board network communications protocol. All SAE J1979 emission related messages sent to the J1978 scan tool over a J1850 data link shall use the Cyclic Redundancy Check and the three byte header, and shall not use inter-byte separation or checksums.

(2.0) J1978 & J1979 Standardization of the message content (including test modes and test messages) as well as standardization of the downloading protocol for fault codes, parameter values and their units, and freeze frame data are set forth in SAE Recommended Practices on "OBD II Scan Tool" (J1978), June, 1994, and "E/E Diagnostic Test Modes" (J1979), July, 1996, which have been incorporated by reference. Fault codes, parameter values, and freeze frame data shall be capable of being downloaded to a generic scan tool meeting these SAE specifications.

(2.1) Manufacturers shall make readily available at a fair and reasonable price to the automotive repair industry vehicle repair procedures which allow effective emission related diagnosis and repairs to be performed using only the J1978 generic scan tool and commonly available, non-microprocessor based tools. As an alternative to publishing repair procedures using only the J1978 generic scan tool, manufacturers may make available manufacturer-specific commands needed to perform the same emission-related diagnosis and repair procedures (excluding any reprogramming) in a comparable manner as the manufacturer-specific diagnostic scan tool. In addition to these procedures, manufacturers may publish repair procedures referencing the use of manufacturer specific or enhanced equipment. Vehicle manufacturers shall provide for same day availability (e.g., via facsimile transmission) at a fair and reasonable cost of emission-related technical service bulletins less than 20 pages in length.

(2.2) The J1978 scan tool shall be capable of notifying the user when one or more of the required monitoring systems are not included as part of the OBD system.

(3.0) J2012 Part C Uniform fault codes based on SAE specifications shall be employed. SAE "Recommended Format and Messages for Diagnostic Trouble Codes" (J2012), October, 1994, is incorporated by reference.

(4.0) J1962 A standard data link connector in a standard location in each vehicle based on SAE specifications shall be incorporated. The location of the connector shall be easily identified by a technician entering

the vehicle from the driver's side. Any pins in the standard connector that provide any electrical power shall be properly fused to protect the integrity and usefulness of the diagnostic connector for diagnostic purposes. The SAE Recommended Practice "Diagnostic Connector" (J1962), January, 1995, is incorporated by reference.

(5.0) With Executive Officer approval, medium-duty vehicles may alternatively employ the communication protocols established in Draft SAE Recommended Practice J1939, "Serial Control and Communications Network", April 1994, to satisfy the standardization requirements specified in sections (k)(1) through (k)(4) above. The Executive Officer's decision shall be based on the effectiveness of the SAE J1939 protocol in satisfying the diagnostic information requirements of Section 1968.1 in comparison with the above referenced documents.

(6.0) J2008 Beginning January 1, 2002, manufacturers shall make available at a fair and reasonable price, all 2002 and newer model year vehicle emission-related diagnosis and repair information provided to the manufacturer's franchised dealers (e.g., service manuals, technical service bulletins, etc.) in the electronic format specified in SAE J2008 Draft Technical Report, "Recommended Organization of Service Information", November, 1995. The information shall be made available within 30 days of its availability to franchised dealers. Small volume manufacturers shall be exempted indefinitely from the J2008 formatting requirement.

(l) SIGNAL ACCESS

(1.0) The following signals in addition to the required freeze frame information shall be made available on demand through the serial port on the standardized data link connector: calculated load value, diagnostic trouble codes, engine coolant temperature, fuel control system status (open loop, closed loop, other; if equipped with closed loop fuel control), fuel trim (if equipped), fuel pressure (if available), ignition timing advance (if equipped), intake air temperature (if equipped), manifold air pressure (if equipped), air flow rate from mass air flow meter (if equipped), engine RPM, throttle position sensor output value (if equipped), secondary air status (upstream, downstream, or atmospheric; if equipped), and vehicle speed (if equipped). The signals shall be provided in standard units based on the SAE specifications incorporated by reference in this regulation, and actual signals shall be clearly identified separately from default value or limp home signals. Additionally, beginning with a phase-in of 30 percent in the 2000 model year, 60 percent in the 2001 model year, and with full implementation by the 2002 model year, the software calibration identification number shall be made available through the serial port on the standardized data link connector. The phase-in percentages shall be based on the manufacturer's projected sales volume for all vehicles and engines. Small volume manufacturers shall not be required to meet the phase-in percentages; however, such manufacturers shall achieve 100 percent compliance by the 2002 model year. The software calibration identification number shall be provided in a standardized format. Alternate phase-in percentages that provide for equivalent timeliness overall in implementing these requirements shall be accepted.

(2.0) The manufacturer shall publish in factory service manuals a normal range for the calculated load value and mass air flow rate (if available) at idle, and at 2500 RPM (no load, in neutral or park). If 2500 RPM is outside of the operating range of the engine, the corresponding data may be omitted. If the total fuel command, trim is made up by more than one source (e.g. short-term trim and long-term trim), all fuel trim signals shall be available. The signals shall be provided in standard units based on the incorporated SAE specifications, and actual signals shall be clearly identified separately from default value or limp home signals. Diesel vehicles shall be exempt from this requirement.

(3.0) Oxygen sensor data (including current oxygen sensor output voltages) that will allow diagnosis of malfunctioning oxygen sensors shall be provided through serial data port on the standardized data link. In addition, beginning with the 1996 model year (with full compliance required by the 1997 model year), for all monitored components and systems, except misfire detection, fuel system monitoring, and comprehensive component monitoring, results of the most recent test performed by

the vehicle, and the limits to which the system is compared shall be available through the data link. For the monitored components and systems excepted above, a pass/fail indication for the most recent test results shall be available through the data link. Such data shall be transmitted in accordance with SAE J1979 (or SAE J1939, whichever applies). Manufacturers shall report the test results such that properly functioning systems do not indicate a failure (e.g., a test value which is outside of the test limits). Alternative methods shall be approved by the Executive Officer if, in the judgment of the Executive Officer, they provide for equivalent off-board evaluation.

(4.0) Beginning with a phase-in of 30 percent in the 2000 model year, 60 percent in the 2001 model year, and with full implementation by the 2002 model year, manufacturers shall provide for verification of the on-board computer software integrity in electronically reprogrammable control units through the standardized vehicle data connector in a standardized format to be adopted by SAE. The phase-in percentages shall be based on the manufacturer's projected sales volume for all vehicles and engines. Small volume manufacturers shall not be required to meet the phase-in percentages; however, such manufacturers shall achieve 100 percent compliance by the 2002 model year. Such verification shall be capable of being used to determine if the emission-related software and/or calibration data are valid and applicable for that vehicle. Alternate phase-in percentages that provide for equivalent timeliness overall in implementing these requirements shall be accepted.

(m) IMPLEMENTATION SCHEDULE

(1.0) These OBD II requirements, unless otherwise specified, shall be implemented beginning with the 1994 model year.

(2.0) The Executive Officer shall grant an extension for compliance with the requirements of these subsections with respect to a specific vehicle model or engine family if the vehicle model or engine family meets previously applicable on-board diagnostic system requirements and a manufacturer demonstrates that it cannot modify a present electronic control system by the 1994 model-year because major design system changes not consistent with the manufacturer's projected changeover schedule should be needed to comply with provisions of these subsections.

(2.1) The manufacturer which has received an extension from the Executive Officer shall comply with these regulations when modification of the electronic system occurs in accordance with the manufacturer's projected changeover schedule or in the 1996 model year, whichever first occurs.

(2.2) Any manufacturer requesting an extension shall, no later than October 15, 1991, submit to the Executive Officer an application specifying the period for which the extension is required.

(3.0) Small volume manufacturers as defined in (n)(13.0) shall meet these requirements by the 1996 model year.

(4.0) Manufacturers may at their discretion implement a portion of these regulations prior to the required implementation date provided that the system complies with previously applicable on-board diagnostic system requirements.

(5.0) Diesel vehicles shall meet these requirements by the 1996 model year. Manufacturers may request a delay in the implementation of these requirements for diesel vehicles until 1997, subject to Executive Officer approval, if it is adequately demonstrated that the delay will allow for the development of significantly more effective monitoring systems.

(5.1) Vehicles and engines certified to run on alternate fuels shall meet these requirements by the 1996 model year. However, manufacturers may request the Executive Officer to waive specific monitoring requirements for which monitoring may not be reliable with respect to the use of alternate fuels until the 2005 model year.

(5.2) Medium-duty vehicles with engines certified on an engine dynamometer may comply with these requirements on an engine model year certification basis rather than on a vehicle model basis.

(6.0) The Executive Officer may waive one or more of the requirements of these subsections with respect to a specific vehicle or engine family for which production commences prior to April 1, 1994, and which is not otherwise exempted from compliance in accordance with sections (2.0) and (2.1) above. In granting a waiver, the Executive Officer

shall consider the following factors: the extent to which these requirements are satisfied overall on the vehicle applications in question, the extent to which the resultant diagnostic system design will be more effective than systems developed according to section 1968, Title 13, and a demonstrated good-faith effort to meet these requirements in full by evaluating and considering the best available monitoring technology.

(6.1) For 1995 and 1996 model year vehicles for which production is to commence subsequent to March 31, 1994, and which are not exempted from compliance in accordance with section (2.0) and (2.1) above, the Executive Officer, upon receipt of an application from the manufacturer, may certify the vehicles in questions even though said vehicles may not comply with one or more of the requirements of these subsections. Such certification is contingent upon the manufacturer meeting the criteria set forth in section (6.0) above. Manufacturers of non-complying systems shall be subject to fines pursuant to section 43016 of the California Health and Safety Code for each deficiency identified, after the second, in a vehicle model. For the third deficiency and every deficiency thereafter identified in a vehicle model, the fines shall be in the amount of \$50 per deficiency per vehicle for non-compliance with any of the monitoring requirements specified in subsections (b)(1) through (b)(11), and \$25 per deficiency per vehicle for non-compliance with any other requirement of section 1968.1. In determining the identified order of deficiencies, deficiencies of subsections (b)(1) through (b)(11) shall be identified first. Total fines per vehicle under this section shall not exceed \$500 per vehicle and shall be payable to the State Treasurer for deposit in the Air Pollution Control Fund. Engine families in receipt of a waiver granted under section (6.0) above shall be exempt from these fines. Further, small volume manufacturers choosing to comply with these requirements in the 1995 model year shall also be exempt from these fines. For 1996 model year vehicles and engines only, failure to properly monitor multiple electronic transmission components shall be considered a single monitoring system deficiency.

(6.2) Beginning with the 1997 model year and through the 2003 model year, the certification provisions set forth in section (m)(6.1) above shall continue to apply subject to the following limitations: 1) The specified fines shall apply to the third and subsequently identified deficiencies, with the exception that fines shall apply to all monitoring system deficiencies wherein a required monitoring strategy is completely absent from the OBD system, and 2) Manufacturers may not carry over monitoring system deficiencies for more than two model years unless it can be adequately demonstrated that substantial vehicle hardware modifications and additional lead time beyond two years would be necessary to correct the deficiency, in which case the deficiency may be carried over for three model years.

(6.3) Beginning with the 2004 model year, the certification provisions set forth in section (m)(6.1) and (m)(6.2) above shall continue to apply subject to the following limitations: 1) The specified fines shall apply to the second and subsequently identified deficiencies, and 2) Manufacturers may not carry over monitoring system deficiencies to future model years.

(n) GLOSSARY For purposes of this section:

(1.0) "Malfunction" means the inability of an emission-related component or system to remain within design specifications. Further, malfunction refers to the deterioration of any of the above components or systems to a degree that would likely cause the emissions of an average certification durability vehicle with the deteriorated components or systems present at the beginning of the applicable certification emission test to exceed by more than 1.5 times any of the emission standards (both with respect to the certification and useful life standards), unless otherwise specified, applicable pursuant to Subchapter 1 (commencing with Section 1900), Chapter 3 of Title 13. Notwithstanding, for catalyst monitoring (section (b)(1.0)), applicable HC emission standard shall refer only to the useful life standards.

(2.0) "Secondary air" refers to air introduced into the exhaust system by means of a pump or aspirator valve or other means that is intended to aid in the oxidation of HC and CO contained in the exhaust gas stream.

(3.0) "Engine misfire" means lack of combustion in the cylinder due to absence of spark, poor fuel metering, poor compression, or any other cause.

(4.0) Oxygen sensor "response rate" refers to the delay (measured in milliseconds) between a switch of the sensor from lean to rich or vice versa in response to a change in fuel/air ratio above and below stoichiometric.

(5.0) A "trip" means vehicle operation (following an engine-off period) of duration and driving mode such that all components and systems are monitored at least once by the diagnostic system except catalyst efficiency or evaporative system monitoring when a steady-speed check is used, subject to the limitation that the manufacturer-defined trip monitoring conditions shall all be encountered at least once during the first engine start portion of the applicable FTP cycle.

(6.0) A "warm-up cycle" means sufficient vehicle operation such that the coolant temperature has risen by at least 40 degrees Fahrenheit from engine starting and reaches a minimum temperature of at least 160 degrees Fahrenheit (140 degrees Fahrenheit for diesel applications).

(7.0) A "driving cycle" consists of engine startup, and engine shutoff.

(8.0) "Continuous monitoring" means sampling at a rate no less than two samples per second. If for engine control purposes, a computer input component is sampled less frequently, the value of the component may instead be evaluated each time sampling occurs.

(9.0) "Fuel trim" refers to feedback adjustments to the base fuel schedule. Short-term fuel trim refers to dynamic or instantaneous adjustments. Long-term fuel trim refers to much more gradual adjustments to the fuel calibration schedule than short-term trim adjustments. These long term adjustments compensate for vehicle differences and gradual changes that occur over time.

(10.0) "Base Fuel Schedule" refers to the fuel calibration schedule programmed into the Powertrain Control Module or PROM when manufactured or when updated by some off-board source, prior to any learned on-board correction.

(11.0) "Calculated load value" refers to an indication of the current airflow divided by peak airflow, where peak airflow is corrected for altitude, if available. This definition provides a unitless number that is not engine specific, and provides the service technician with an indication of the percent engine capacity that is being used (with wide open throttle as 100%).

$$CLV = \frac{\text{Current airflow}}{\text{Peak airflow (@ sea level)}} \times \frac{\text{Atm. pressure (@ sea level)}}{\text{Barometric pressure}}$$

For diesel applications, the calculated load value shall be determined by the ratio of current output torque to maximum output torque at current engine speed.

(12.0) "Medium-duty vehicle" is defined in title 13, section 1900(b)(9).

(13.0) "Small volume manufacturer" shall mean any vehicle manufacturer with sales less than or equal to 3000 new light-duty vehicles and medium-duty vehicles per model year based on the average number of vehicles sold by the manufacturer each model year from 1989 to 1991, except as noted below. For manufacturers certifying for the first time in California, model year sales shall be based on projected California sales. If a manufacturer's average California sales exceeds 3000 units of new light-duty and medium-duty vehicles based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall no longer be treated as a small volume manufacturer and shall comply with the requirements applicable for larger manufacturers beginning with the fourth model year after the last of the three consecutive model years. If a manufacturer's average California sales falls below 3000 units of new light-duty and medium-duty vehicles based on the average number of vehicles sold for any three consecutive model years, the manufacturer shall be treated as a small volume manufacturer and shall be subject to the requirements for small volume manufacturers beginning with the next model year.

(14.0) "Low Emission Vehicle" refers to a vehicle certified in California as a Transitional Low Emission Vehicle, a Low Emission Vehicle, or

an Ultra Low Emission Vehicle. These vehicle categories are further defined in Title 13, sections 1956.8 and 1960.1.

(15.0) "Diesel engines" refers to engines using a compression ignition thermodynamic cycle.

(16.0) "Functional check" for an output component means verification of proper response to a computer command. For an input component, functional check means verification of the input signal being in the range of normal operation, including evaluation of the signal's rationality in comparison to all available information.

(17.0) "Federal Test Procedure" (FTP) cycle or test refers to, for passenger vehicles, light-duty trucks, and medium-duty vehicles certified on a chassis dynamometer, the driving schedule in Code of Federal Regulations (CFR) 40, Appendix 1, Part 86, section (a) entitled, "EPA Urban Dynamometer Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks." For medium-duty engines certified on an engine dynamometer, FTP cycle or test refers to the engine dynamometer schedule in CFR 40, Appendix 1, Part 86, section (f)(1), entitled, "EPA Engine Dynamometer Schedule for Heavy-Duty Otto-Cycle Engines," or section (f)(2), entitled, "EPA Engine Dynamometer Schedule for Heavy-Duty Diesel Engines."

(18.0) "Redline engine speed" means the manufacturer recommended maximum engine speed as normally displayed on instrument panel tachometers, or the engine speed at which fuel shutoff occurs.

(19.0) "Power Take-Off unit" refers to an engine driven output provision for the purposes of powering auxiliary equipment (e.g., a dump-truck bed, aerial bucket, or tow-truck winch).

(20.0) "Engine Start" is defined as the point at which normal, synchronized spark and fuel control is obtained or when the engine reaches a speed 150 rpm below the normal, warmed-up idle speed (as determined in the drive position for vehicles equipped with an automatic transmission).

(21.0) An "Alternate or Equivalent Phase-in" is one that achieves equivalent emission reductions by the end of the last year of the scheduled phase-in. The emission reductions shall be calculated by multiplying the percent of vehicles (based on the manufacturer's projected sales volume of all vehicles and engines) meeting the new requirements per year by the number of years implemented prior to and including the last year of the scheduled phase-in and then summing these yearly results to determine a cumulative total (e.g., a three year, 30/60/100 percent scheduled phase-in would be calculated as (30%*3 years) + (60%*2 years) + (100%*1 year) = 310). Manufacturers shall be allowed to include vehicles introduced before the first year of the scheduled phase-in (e.g., in the previous example, 10 percent introduced one year before the scheduled phase-in begins would be calculated as (10%*4 years) and added to the cumulative total). Any alternate phase-in which results in an equal or larger cumulative total by the end of the last year of the scheduled phase-in shall be considered acceptable by the Executive Officer; however, all vehicles shall comply with the respective requirements subject to the phase-in within one model year following the last year of the phase-in schedule.

(22.0) "Unified Cycle" is defined in "Speed Versus Time Data for California's Unified Driving Cycle", dated December 12, 1996, incorporated by reference.

NOTE: Authority cited: Sections 39515, 39600, 39601, 43006, 43013, 43018, 43104 and 44036.2, Health and Safety Code; and Sections 27156 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43004, 43006, 43008.6, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204 and 44036.2, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 8-27-90; operative 9-26-90 (Register 90, No. 42).
2. Amendment of subsections (a), (b), (g), (k), (l) and (n) filed 8-2-91; operative 9-2-91 (Register 91, No. 49).
3. Amendment filed 9-3-92; operative 10-5-92 (Register 92, No. 36).
4. New sections (m)(6.0) and (m)(6.1) filed 8-27-93; operative 8-27-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 35).
5. Editorial correction (Register 95, No. 15).
6. Amendment filed 6-8-95; operative 6-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
7. Amendment filed 9-25-97; operative 9-25-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 39).

8. Amendment of subsection (b)(4.2.2) and NOTE filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 1968.2. Malfunction and Diagnostic System Requirements—2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines.

(a) Purpose.

The purpose of this regulation is to establish emission standards and other requirements for onboard diagnostic systems (OBD II systems) that are installed on 2004 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles and engines certified for sale in California. The OBD II systems, through the use of an onboard computer(s), shall monitor emission systems in-use for the actual life of the vehicle and shall be capable of detecting malfunctions of the monitored emission systems, illuminating a malfunction indicator light (MIL) to notify the vehicle operator of detected malfunctions, and storing fault codes identifying the detected malfunctions.

(b) Applicability.

Except as specified elsewhere in this regulation (title 13, CCR section 1968.2), all 2004 and subsequent model-year vehicles, defined as passenger cars, light-duty trucks, and medium-duty vehicles, including medium-duty vehicles with engines certified on an engine dynamometer and medium-duty passenger vehicles, shall be equipped with an OBD II system and shall meet all applicable requirements of this regulation (title 13, CCR section 1968.2). Except as specified in section (d)(2.2.5), medium-duty vehicles with engines certified on an engine dynamometer may comply with these requirements on an engine model year certification basis rather than a vehicle model year basis.

(c) Definitions.

“Actual life” refers to the entire period that a vehicle is operated on public roads in California up to the time a vehicle is retired from use.

“Alternate phase-in” is a phase-in schedule that achieves equivalent compliance volume by the end of the last year of a scheduled phase-in provided in this regulation. The compliance volume is the number calculated by multiplying the percent of vehicles (based on the manufacturer’s projected sales volume of all vehicles) meeting the new requirements per year by the number of years implemented prior to and including the last year of the scheduled phase-in and then summing these yearly results to determine a cumulative total (e.g., a three year, 30/60/100 percent scheduled phase-in would be calculated as $(30 \times 3 \text{ years}) + (60 \times 2 \text{ years}) + (100 \times 1 \text{ year}) = 310$). On phase-ins scheduled to begin prior to the 2004 model year, manufacturers are allowed to include vehicles introduced before the first year of the scheduled phase-in (e.g., in the previous example, 10 percent introduced one year before the scheduled phase-in begins would be calculated as $(10 \times 4 \text{ years})$ and added to the cumulative total). However, on phase-ins scheduled to begin in 2004 or subsequent model years, manufacturers are only allowed to include vehicles introduced up to one model year before the first year of the scheduled phase-in. The Executive Officer shall consider acceptable any alternate phase-in that results in an equal or larger cumulative total by the end of the last year of the scheduled phase-in and ensures that all vehicles subject to the phase-in will comply with the respective requirements no later than two model years following the last year of the scheduled phase-in.

For alternate phase-in schedules resulting in all vehicles complying one model year following the last year of the scheduled phase-in, the compliance volume shall be calculated as described directly above. For example, a 30/60/100 percent scheduled phase-in during the 2010–2012 model years would have a cumulative total of 310. If the manufacturer’s planned alternate phase-in schedule is 40/50/80/100 percent during the 2010–2013 model years, the final compliance volume calculation would be $(40 \times 3 \text{ years}) + (50 \times 2 \text{ years}) + (80 \times 1 \text{ year}) = 300$, which is less than 310 and therefore would not be acceptable as an alternate phase-in schedule.

For alternate phase-in schedules resulting in all vehicles complying two model years following the last year of the scheduled phase-in, the

compliance volume calculation shall be calculated as described directly above and shall also include a negative calculation for vehicles not complying until one or two model years following the last year of the scheduled phase-in. The negative calculation shall be calculated by multiplying the percent of vehicles not meeting the new requirements in the final year of the phase-in by negative one and the percent of vehicles not meeting the new requirements in the one year after the final year of the phase-in by negative two. For example, if 10 percent of a manufacturer’s vehicles did not comply by the final year of the scheduled phase-in and 5 percent did not comply by the end of the first year after the final year of the scheduled phase-in, the negative calculation result would be $(10 \times (-1 \text{ years})) + (5 \times (-2 \text{ years})) = -20$. The final compliance volume calculation is the sum of the original compliance volume calculation and the negative calculation. For example, a 30/60/100 percent scheduled phase-in during the 2010–2012 model years would have a cumulative total of 310. If a manufacturer’s planned alternate phase-in schedule is 40/70/80/90/100 percent during the 2010–2014 model years, the final compliance volume calculation would be $(40 \times 3 \text{ years}) + (70 \times 2 \text{ years}) + (80 \times 1 \text{ year}) + (20 \times (-1 \text{ year})) + (10 \times (-2 \text{ years})) = 300$, which is less than 310 and therefore would not be acceptable as an alternate phase-in schedule.

“Applicable standards” refers to the specific exhaust emission standards or family emission limits (FEL) of the Federal Test Procedure (FTP) to which the vehicle or engine is certified. For 2010 and subsequent model year diesel engines, “applicable standards” shall also refer to the specific exhaust emission standards or family emission limits (FEL) of either the FTP or the Supplemental Emission Test (SET) to which the engine is certified, as determined according to section (d)(6).

“Auxiliary Emission Control Device (AECD)” refers to any approved AECD (as defined by 40 Code of Federal Regulations (CFR) 86.082–2 and 86.094–2).

“Emission Increasing Auxiliary Emission Control Device (EI-AECD)” refers to any approved AECD that: reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use; and the need for the AECD is justified in terms of protecting the vehicle against damage or accident. For medium-duty vehicles certified to an engine dynamometer tailpipe emission standard, an AECD that is certified as an NTE deficiency shall not be considered an EI-AECD. An AECD that does not sense, measure, or calculate any parameter or command or trigger any action, algorithm, or alternate strategy shall not be considered an EI-AECD. An AECD that is activated solely due to operation of the vehicle above 8000 feet in elevation shall not be considered an EI-AECD.

“Base fuel schedule” refers to the fuel calibration schedule programmed into the Powertrain Control Module or PROM when manufactured or when updated by some off-board source, prior to any learned on-board correction.

“Calculated load value” refers to an indication of the percent engine capacity that is being used and is defined in Society of Automotive Engineers (SAE) J1979 “E/E Diagnostic Test Modes – Equivalent to ISO/DIS 15031–5: April 30, 2002”, April 2002 (SAE J1979), incorporated by reference (section (g)(1.4)¹). For diesel applications, the calculated load value is determined by the ratio of current output torque to maximum output torque at current engine speed as defined by suspect parameter number (SPN) 92 of SAE J1939 “Recommended Practice for a Serial Control and Communications Vehicle Network” (SAE J1939), incorporated by reference.

“Confirmed fault code” is defined as the diagnostic trouble code stored when an OBD II system has confirmed that a malfunction exists (e.g., typically on the second driving cycle that the malfunction is detected) in accordance with the requirements of sections (e), (f), and (g)(4.4).

“Continuously,” if used in the context of monitoring conditions for circuit continuity, lack of circuit continuity, circuit faults, and out-of-range values, means monitoring is always enabled, unless alternate enable conditions have been approved by the Executive Officer in accor-

dance with section (d)(3.1.1), and sampling of the signal used for monitoring occurs at a rate no less than two samples per second. If for control purposes, a computer input component is sampled less frequently, the signal of the component may instead be evaluated each time sampling occurs.

“*Deactivate*” means to turn-off, shutdown, desensitize, or otherwise make inoperable through software programming or other means during the actual life of the vehicle.

“*Diagnostic or emission critical*” electronic powertrain control unit refers to the engine and transmission control unit(s). For the 2005 and subsequent model years, it also includes any other on-board electronic powertrain control unit containing software that has primary control over any of the monitors required by sections (e)(1.0) through (e)(14.0), (e)(16.0), (f)(1) through (f)(14), and (f)(16) or, excluding anti-lock brake system (ABS) control units or stability/traction control units, has primary control over the diagnostics for more than two of the components required to be monitored by sections (e)(15.0) and (f)(15).

“*Diesel engines*” refers to engines using a compression ignition thermodynamic cycle.

“*Driving cycle*” consists of engine startup and engine shutoff and includes the period of engine off time up to the next engine startup. For vehicles that employ engine shutoff strategies (e.g., engine shutoff at idle), the manufacturer may request Executive Officer approval to use an alternate definition for driving cycle (e.g., key on and key off). Executive Officer approval of the alternate definition shall be based on equivalence to engine startup and engine shutoff signaling the beginning and ending of a single driving event for a conventional vehicle. For applications that are used in both medium-duty and heavy-duty classes, the manufacturer may use the driving cycle definition of title 13, CCR, section 1971.1 in lieu of this definition. Engine restarts following an engine shut-off that has been neither commanded by the vehicle operator nor by the engine control strategy but caused by an event such as an engine stall may be considered a new driving cycle or a continuation of the existing driving cycle.

“*Engine misfire*” means lack of combustion in the cylinder due to absence of spark, poor fuel metering, poor compression, or any other cause. This does not include lack of combustion events in non-active cylinders due to default fuel shut-off or cylinder deactivation strategies.

“*Engine start*” is defined as the point when the engine reaches a speed 150 rpm below the normal, warmed-up idle speed (as determined in the drive position for vehicles equipped with an automatic transmission). For hybrid vehicles or for engines employing alternate engine start hardware or strategies (e.g., integrated starter and generators, etc.), the manufacturer may request Executive Officer approval to use an alternate definition for engine start (e.g., ignition key “on”). Executive Officer approval of the alternate definition shall be based on equivalence to an engine start for a conventional vehicle.

“*Family Emission Limit (FEL)*” refers to the exhaust emission levels to which an engine family is certified under the averaging, banking, and trading program incorporated by reference in title 13, CCR section 1956.8.

“*Fault memory*” means information pertaining to malfunctions stored in the onboard computer, including fault codes, stored engine conditions, and MIL status.

“*Federal Test Procedure (FTP) test*” refers to an exhaust emission test conducted according to the test procedures incorporated by reference in title 13, CCR section 1961(d) that is used to determine compliance with the FTP standard to which a vehicle is certified.

“*FTP cycle*”. For passenger vehicles, light-duty trucks, and medium-duty vehicles certified on a chassis dynamometer, FTP cycle refers to the driving schedule in Code of Federal Regulations (CFR) 40, Appendix 1, Part 86, section (a) entitled, “EPA Urban Dynamometer Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks.” For medium-duty engines certified on an engine dynamometer, FTP cycle refers to the engine dynamometer schedule in CFR 40, Appendix 1, Part 86, section (f)(1), entitled, “EPA Engine Dynamometer Schedule for Heavy-Duty

Otto-Cycle Engines,” or section (f)(2), entitled, “EPA Engine Dynamometer Schedule for Heavy-Duty Diesel Engines.”

“*FTP standard*” refers to the certification tailpipe exhaust emission full useful life standards and test procedures applicable to the FTP cycle and to the class to which the vehicle is certified.

“*FTP full useful life standard*” refers to the FTP standard applicable when the vehicle reaches the end of its full useful life as defined in the certification requirements and test procedures incorporated by reference in title 13, CCR section 1961(d).

“*Fuel trim*” refers to feedback adjustments to the base fuel schedule. Short-term fuel trim refers to dynamic or instantaneous adjustments. Long-term fuel trim refers to much more gradual adjustments to the fuel calibration schedule than short-term trim adjustments.

“*Functional check*” for an output component or system means verification of proper response of the component and system to a computer command.

“*Gasoline engine*” refers to an Otto-cycle engine or an alternate-fueled engine.

“*Keep-alive memory (KAM)*,” for the purposes of this regulation, is defined as a type of memory that retains its contents as long as power is provided to the on-board control unit. KAM is not erased upon shutting off the engine but may be erased if power to the on-board control unit is interrupted (e.g., vehicle battery disconnected, fuse to control unit removed). In some cases, portions of KAM may be erased with a scan tool command to reset KAM.

“*Key on, engine off position*” refers to a vehicle with the ignition key in the engine run position (not engine crank or accessory position) but with the engine not running.

“*Light-duty truck*” is defined in title 13, CCR section 1900 (b).

“*Low Emission Vehicle I application*” refers to a vehicle or engine certified in California to the exhaust emission standards defined in title 13, CCR sections 1956.8(g), 1960.1(g)(1), and 1960.1(h)(1) for any of the following vehicle emission categories: Transitional Low Emission Vehicle (TLEV), Low Emission Vehicle (LEV), Ultra Low Emission Vehicle (ULEV), or Super Ultra Low Emission Vehicle (SULEV). Additionally, vehicles certified to Federal emission standards (bins) in California but categorized in a Low Emission Vehicle I vehicle emission category for purposes of calculating NMOG fleet average in accordance with the certification requirements and test procedures incorporated by reference in title 13, CCR section 1961 (d) are subject to all monitoring requirements applicable to Low Emission Vehicle I applications but shall use the Federal tailpipe emission standard (i.e., the Federal bin) for purposes of determining the malfunction thresholds in sections (e) and (f).

“*MDV SULEV vehicles*” refer only to medium-duty Low Emission Vehicle I applications certified to the SULEV vehicle emission category.

“*TLEV vehicles*” refer only to Low Emission Vehicle I applications certified to the TLEV vehicle emission category.

“*LEV vehicles*” refer only to Low Emission Vehicle I applications certified to the LEV vehicle emission category.

“*ULEV vehicles*” refer only to Low Emission Vehicle I applications certified to the ULEV vehicle emission category.

“*Low Emission Vehicle II application*” refers to a vehicle or engine certified in California to the exhaust emission standards defined in title 13, CCR section 1961, or optionally certified to the exhaust emission standards defined in title 13, CCR section 1956.8, for any of the following emission categories: LEV, ULEV, or SULEV. Additionally, except as provided for in sections (e)(17.1.3) and (f)(17.1.2), vehicles certified to Federal emission standards (bins) in California but categorized in a Low Emission Vehicle II vehicle emission category for purposes of calculating NMOG fleet average in accordance with the certification requirements and test procedures incorporated by reference in title 13, CCR section 1961 (d) are subject to all monitoring requirements applicable to Low Emission Vehicle II applications but shall use the Federal tailpipe emission standard (i.e., the Federal bin) for purposes of determining the malfunction thresholds in sections (e) and (f).

"PC/LDT SULEV II vehicles" refer only to passenger car and light-duty truck Low Emission Vehicle II applications certified to the SULEV vehicle emission category.

"MDV SULEV II vehicles" refer only to medium-duty Low Emission Vehicle II applications certified to the SULEV vehicle emission category.

"LEV II vehicles" refer only to Low Emission Vehicle II applications certified to the LEV vehicle emission category.

"ULEV II vehicles" refer only to Low Emission Vehicle II applications certified to the ULEV vehicle emission category.

"Malfunction" means any deterioration or failure of a component that causes the performance to be outside of the applicable limits in sections (e) and (f).

"Medium-duty vehicle" is defined in title 13, CCR section 1900 (b).

"Medium-duty passenger vehicle" or "MDPV" is defined in Title 40, Section 86.1803-01, Code of Federal Regulations.

"Non-volatile random access memory (NVRAM)," for the purposes of this regulation, is defined as a type of memory that retains its contents even when power to the on-board control unit is interrupted (e.g., vehicle battery disconnected, fuse to control unit removed). NVRAM is typically made non-volatile either by use of a back-up battery within the control unit or through the use of an electrically erasable and programmable read-only memory (EEPROM) chip.

"Not-To-Exceed (NTE) control area" refers to the bounded region of the engine's torque and speed map, as defined in 40 CFR 86.1370-2007, where emissions must not exceed a specific emission cap for a given pollutant under the NTE requirement.

"Manufacturer-specific NOx NTE carve-out area" refers to regions within the NTE control area for NOx where the manufacturer has limited NTE testing as allowed by 40 CFR 86.1370-2007(b)(7).

"Manufacturer-specific PM NTE carve-out area" refers to regions within the NTE control area for PM where the manufacturer has limited NTE testing as allowed by 40 CFR 86.1370-2007(b)(7).

"NTE deficiency" refers to regions or conditions within the NTE control area for NOx or PM where the manufacturer has received a deficiency as allowed by 40 CFR 86.007-11(a)(4)(iv).

"Normal production" is the time after the start of production when the manufacturer has produced two percent of the projected volume for the test group or calibration, whichever is being evaluated in accordance with section (j).

"Passenger car" is defined in title 13, CCR section 1900(b).

"Pending fault code" is defined as the diagnostic trouble code stored upon the initial detection of a malfunction (e.g., typically on a single driving cycle) prior to illumination of the MIL in accordance with the requirements of sections (e), (f), and (g)(4.4).

"Percentage of misfire" as used in (e)(3.2) and (f)(3.2) means the percentage of misfires out of the total number of firing events for the specified interval.

"Permanent fault code" is defined as a confirmed fault code that is currently commanding the MIL on and is stored in NVRAM as specified in sections (d)(2) and (g)(4.4).

"Power Take-Off (PTO) unit" refers to an engine driven output provision for the purposes of powering auxiliary equipment (e.g., a dump-truck bed, aerial bucket, or tow-truck winch).

"Rationality fault diagnostic" for an input component means verification of the accuracy of the input signal while in the range of normal operation and when compared to all other available information.

"Redline engine speed" shall be defined by the manufacturer as either the recommended maximum engine speed as normally displayed on instrument panel tachometers or the engine speed at which fuel shutoff occurs.

"Response rate" for exhaust gas sensors refers to the delay from when the sensor is exposed to a different make-up of exhaust gas constituents until it outputs a signal reflecting the different make-up of exhaust gas constituents. For example, for oxygen sensors, response rate is the delay from when the oxygen sensor is exposed to a change in exhaust gas from

richer/leaner than stoichiometric to leaner/richer than stoichiometric to the time when the oxygen sensor indicates the lean/rich condition. Similarly, for wide-range air-fuel (A/F) sensors, response rate is the delay from when the sensor is exposed to a different A/F ratio to the time it indicates the different A/F ratio. For NOx and PM sensors, response rate is the delay from when the sensor is exposed to a different NOx or PM exhaust gas level until it indicates the different NOx or PM exhaust gas level.

"SC03 emission standards" refers to the certification tailpipe exhaust emission standards for the air conditioning (A/C) test of the Supplemental Federal Test Procedure Off-Cycle Emission Standards specified in title 13, CCR section 1961(a) applicable to the class to which the vehicle is certified.

"Secondary air" refers to air introduced into the exhaust system by means of a pump or aspirator valve or other means that is intended to aid in the oxidation of HC and CO contained in the exhaust gas stream.

"Similar conditions" as used in sections (e)(3), (e)(6), (f)(3), and (f)(4) means engine conditions having an engine speed within 375 rpm, load conditions within 20 percent, and the same warm-up status (i.e., cold or hot) as the engine conditions stored pursuant to (e)(3.4.4), (e)(6.4.5), (f)(3.4.2)(C), and (f)(4.4.2)(E). The Executive Officer may approve other definitions of similar conditions based on comparable timeliness and reliability in detecting similar engine operation.

"Small volume manufacturer" is defined in title 13, CCR section 1900(b). However, for a manufacturer that transitions from a small volume manufacturer to a non-small volume manufacturer, the manufacturer is still considered a small volume manufacturer for the first three model years that it no longer meets the definition in title 13, CCR section 1900(b).

"Supplemental Emission Test (SET) cycle" refers to the driving schedule defined as the "supplemental steady state emission test" in 40 CFR 86.1360-2007, as amended July 13, 2005.

"SET standard" refers to the certification exhaust emission standards and test procedures applicable to the SET cycle incorporated by reference in title 13, CCR sections 1956.8(b) and (d) to which the engine is certified.

"Unified cycle" is defined in "Speed Versus Time Data for California's Unified Driving Cycle", dated December 12, 1996, incorporated by reference.

"US06 cycle" refers to the driving schedule in 40 CFR 86, Appendix 1, section (g), as amended July 13, 2005, entitled, "EPA US06 Driving Schedule for Light-Duty Vehicles and Light-Duty Trucks."

"Warm-up cycle" means sufficient vehicle operation such that the coolant temperature has risen by at least 40 degrees Fahrenheit from engine starting and reaches a minimum temperature of at least 160 degrees Fahrenheit (140 degrees Fahrenheit for applications with diesel engines).

(d) General Requirements.

Section (d) sets forth the general requirements of the OBD II system. Specific performance requirements for components and systems that shall be monitored are set forth in sections (e) and (f) below.

(1) The OBD II System.

(1.1) If a malfunction is present as specified in sections (e) and (f), the OBD II system shall detect the malfunction, store a pending or confirmed fault code in the onboard computer's memory, and illuminate the MIL as required.

(1.2) The OBD II system shall be equipped with a standardized data link connector to provide access to the stored fault codes as specified in section (g).

(1.3) The OBD II system shall be designed to operate, without any required scheduled maintenance, for the actual life of the vehicle in which it is installed and may not be programmed or otherwise designed to deactivate based on age and/or mileage of the vehicle during the actual life of the vehicle. This section is not intended to alter existing law and enforcement practice regarding a manufacturer's liability for a vehicle beyond its useful life, except where a vehicle has been programmed or otherwise

designed so that an OBD II system deactivates based on age and/or mileage of the vehicle.

(1.4) Computer-coded engine operating parameters may not be changeable without the use of specialized tools and procedures (e.g. soldered or potted computer components or sealed (or soldered) computer enclosures). Subject to Executive Officer approval, manufacturers may exempt from this requirement those product lines that are unlikely to require protection. Criteria to be evaluated in making an exemption include current availability of performance chips, high performance capability of the vehicle, and sales volume.

(2) *MIL and Fault Code Requirements.*

(2.1) *MIL Specifications.*

(2.1.1) The MIL shall be located on the driver's side instrument panel and be of sufficient illumination and location to be readily visible under all lighting conditions and shall be amber in color when illuminated. The MIL, when illuminated, shall display the phrase "Check Engine" or "Service Engine Soon". The word "Powertrain" may be substituted for "Engine" in the previous phrases. Alternatively, the International Standards Organization (ISO) engine symbol may be substituted for the word "Engine" or for the entire phrase.

(2.1.2) The MIL shall illuminate in the key on, engine off position before engine cranking to indicate that the MIL is functional. For all 2005 and subsequent model year vehicles, the MIL shall continuously illuminate during this functional check for a minimum of 15–20 seconds. During this functional check of the MIL, the data stream value for MIL status shall indicate commanded off (see section (g)(4.2)) unless the MIL has also been commanded on for a detected malfunction. This functional check of the MIL is not required during vehicle operation in the key on, engine off position subsequent to the initial engine cranking of each driving cycle (e.g., due to an engine stall or other non-commanded engine shutoff).

(2.1.3) At the manufacturer's option, the MIL may be used to indicate readiness status in a standardized format (see section (g)(4.1.3)) in the key on, engine off position.

(2.1.4) A manufacturer may request Executive Officer approval to also use the MIL to indicate which, if any, fault codes are currently stored (e.g., to "blink" the stored codes). The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated that the method used to indicate the fault codes will not be activated during a California Inspection and Maintenance test or during routine driver operation.

(2.1.5) The MIL may not be used for any purpose other than specified in this regulation.

(2.2) *MIL Illumination and Fault Code Storage Protocol.*

(2.2.1) Upon detection of a malfunction, the OBD system shall store a pending fault code within ten seconds indicating the likely area of the malfunction.

(2.2.2) After storage of a pending fault code, if the identified malfunction is again detected before the end of the next driving cycle in which monitoring occurs, the MIL shall illuminate continuously and a confirmed fault code shall be stored within 10 seconds. If a malfunction is not detected before the end of the next driving cycle in which monitoring occurs (i.e., there is no indication of the malfunction at any time during the driving cycle), the corresponding pending fault code set according to section (d)(2.2.1) shall be erased at the end of the driving cycle.

(2.2.3) The OBD system shall illuminate the MIL and store a fault code within 10 seconds to inform the vehicle operator whenever the powertrain enters a default or "limp home" mode of operation that can affect emissions or the performance of the OBD II system or in the event of a malfunction of an on-board computer(s) itself that can affect the performance of the OBD II system.

(A) If the default or "limp home" mode of operation is recoverable (i.e., the diagnostic or control strategy that caused the default or "limp home" mode of operation can run on the next driving cycle and confirm the presence of the condition that caused the default or "limp home" operation), the OBD II system may, in lieu of illuminating the MIL within

10 seconds on the first driving cycle where the default or "limp home" mode of operation is entered, delay illumination of the MIL until the condition causing the default or "limp home" mode of operation is again detected before the end of the next driving cycle.

(B) MIL illumination and fault code storage is not required for engine overtemperature default strategies that are only initiated after the temperature gauge indicates a temperature in the red zone, or after an overtemperature "hot" light is illuminated, or due to the verified occurrence of severe operating conditions (e.g., extended trailer towing up a grade).

(2.2.4) For all 2010 and subsequent model year vehicles, the OBD II system shall default to a MIL on state if the instrument panel receives and/or processes instructions or commands from other diagnostic or emission critical electronic powertrain control units to illuminate the MIL and a malfunction occurs (e.g., communication is lost) such that the instrument panel is no longer able to properly receive the MIL illumination requests. Storage of a fault code is not required for this malfunction.

(2.2.5) For 50 percent of all 2010, 75 percent of all 2011, and 100 percent of all 2012 and subsequent model year vehicles (including 2012 model year medium-duty vehicles with 2011 model year engines certified on an engine dynamometer), before the end of an ignition cycle, the OBD II system shall store confirmed fault codes that are currently causing the MIL to be illuminated in NVRAM as permanent fault codes (as defined in section (g)(4.4.6)).

(2.2.6) A manufacturer may request Executive Officer approval to employ alternate statistical MIL illumination and fault code storage protocols to those specified in these requirements. The Executive Officer shall grant approval upon determining that the manufacturer has provided data and/or engineering evaluation that demonstrate that the alternative protocols can evaluate system performance and detect malfunctions in a manner that is equally effective and timely. Except as otherwise provided in section (e) for evaporative system malfunctions, strategies requiring on average more than six driving cycles for MIL illumination may not be accepted.

(2.2.7) A manufacturer shall store and erase "freeze frame" conditions (as defined in section (g)(4.3)) present at the time a malfunction is detected. A manufacturer shall store and erase freeze frame conditions in conjunction with storage and erasure of either pending or confirmed fault codes as required elsewhere in section (d)(2.2).

(2.3) *Extinguishing the MIL.*

Except as otherwise provided in sections (e)(3.4.5), (e)(4.4.2), (e)(6.4.6), (f)(3.4.2)(D), and (f)(4.4.2)(F) for misfire, evaporative system, and fuel system malfunctions, once the MIL has been illuminated it may be extinguished after three subsequent sequential driving cycles during which the monitoring system responsible for illuminating the MIL functions and the previously detected malfunction is no longer present provided no other malfunction has been detected that would independently illuminate the MIL according to the requirements outlined above.

(2.4) Erasing a confirmed fault code. The OBD II system may erase a confirmed fault code if the identified malfunction has not been again detected in at least 40 engine warm-up cycles, and the MIL is presently not illuminated for that malfunction.

(2.5) *Erasing a permanent fault code.*

(2.5.1) If the OBD II system is commanding the MIL on, the OBD II system shall erase a permanent fault code only if the OBD II system itself determines that the malfunction that caused the permanent fault code to be stored is no longer present and is not commanding the MIL on, pursuant to the requirements of section (d)(2.3) (which for purposes of this section shall apply to all monitors).

(2.5.2) If all fault information in the on-board computer other than the permanent fault code has been cleared (i.e., through the use of a scan tool or battery disconnect) and the OBD II system is not commanding the MIL on:

(A) Except as provided for in sections (d)(2.5.2)(C) through (E), if the monitor of the malfunction that caused the permanent fault code to be stored is subject to the minimum ratio requirements of section (d)(3.2) (e.g., catalyst monitor, comprehensive component input component ra-

tional monitors), the OBD II system shall erase the permanent fault code at the end of a driving cycle if the monitor has run and made one or more determinations during a driving cycle that the malfunction of the component or the system is not present and has not made any determinations within the same driving cycle that the malfunction is present.

(B) Except as provided for in sections (d)(2.5.2)(D) and (E), if the monitor of the malfunction that caused the permanent fault code to be stored is not subject to the minimum ratio requirements of section (d)(3.2) (e.g., gasoline misfire monitor, fuel system monitor, comprehensive component circuit continuity monitors), the OBD II system shall erase the permanent fault code at the end of a driving cycle if:

(i) The monitor has run and made one or more determinations during a driving cycle that the malfunction of the component or the system is not present and has not made any determinations within the same driving cycle that the malfunction is present;

(ii) The monitor has not made any determinations that the malfunction is present subsequent to the most recent driving cycle in which the criteria of section (d)(2.5.2)(B)(i) are met; and

(iii) The following criteria are satisfied on any single driving cycle (which may be a different driving cycle than that in which the criteria of section (d)(2.5.2)(B)(i) are satisfied):

a. Cumulative time since engine start is greater than or equal to 600 seconds;

b. Cumulative vehicle operation at or above 25 miles per hour occurs for greater than or equal to 300 seconds (medium-duty vehicles with diesel engines certified on an engine dynamometer may use cumulative operation at or above 15% calculated load in lieu of at or above 25 miles per hour for purposes of this criteria); and

c. Continuous vehicle operation at idle (i.e., accelerator pedal released by driver and vehicle speed less than or equal to one mile per hour) for greater than or equal to 30 seconds.

(iv) Monitors required to use "similar conditions" as defined in section (c) to store and erase pending and confirmed fault codes may not require that the similar conditions be met prior to erasure of the permanent fault code.

(C) For monitors subject to section (d)(2.5.2)(A), the manufacturer may choose to erase the permanent fault code using the criteria under section (d)(2.5.2)(B) in lieu of the criteria under section (d)(2.5.2)(A).

(D) For 2009 and 2010 model year vehicles meeting the permanent fault code requirements of section (d)(2.2.5), manufacturers may request Executive Officer approval to use alternate criteria to erase the permanent fault code. The Executive Officer shall approve alternate criteria that:

(i) Will not likely require driving conditions that are longer and more difficult to meet than those required under section (d)(2.5.2)(B), and

(ii) Do not require access to enhanced scan tools (i.e., tools that are not generic SAE J1978 scan tools) to determine conditions necessary to erase the permanent fault code.

(E) If alternate criteria to erase the permanent fault code are approved by the Executive Officer under section (d)(2.5.2)(D), a manufacturer may continue to use the approved alternate criteria for 2011 model year vehicles previously certified in the 2009 or 2010 model year to the alternate criteria and carried over to the 2011 model year.

(3) Monitoring Conditions.

Section (d)(3) sets forth the general monitoring requirements while sections (e) and (f) set forth the specific monitoring requirements as well as identify which of the following general monitoring requirements in section (d)(3) are applicable for each monitored component or system identified in sections (e) and (f).

(3.1) For all 2004 and subsequent model year vehicles:

(3.1.1) As specifically provided for in sections (e) and (f), manufacturers shall define monitoring conditions, subject to Executive Officer approval, for detecting malfunctions identified in sections (e) and (f). The Executive Officer shall approve manufacturer defined monitoring conditions that are determined (based on manufacturer submitted data and/or other engineering documentation) to be: technically necessary to ensure

robust detection of malfunctions (e.g., avoid false passes and false indications of malfunctions), designed to ensure monitoring will occur under conditions which may reasonably be expected to be encountered in normal urban vehicle operation and use, and designed to ensure monitoring will occur during the FTP cycle or Unified cycle.

(3.1.2) Monitoring shall occur at least once per driving cycle in which the monitoring conditions are met.

(3.1.3) Manufacturers may request Executive Officer approval to define monitoring conditions that are not encountered during the FTP cycle or Unified cycle as required in section (d)(3.1.1). In evaluating the manufacturer's request, the Executive Officer shall consider the degree to which the requirement to run during the FTP or Unified cycle restricts in-use monitoring, the technical necessity for defining monitoring conditions that are not encountered during the FTP or Unified cycle, data and/or an engineering evaluation submitted by the manufacturer which demonstrate that the component/system does not normally function, or monitoring is otherwise not feasible, during the FTP or Unified cycle, and, where applicable in section (d)(3.2), the ability of the manufacturer to demonstrate the monitoring conditions will satisfy the minimum acceptable in-use monitor performance ratio requirement as defined in section (d)(3.2) (e.g., data which show in-use driving meets the minimum requirements).

(3.2) As specifically provided for in sections (e) and (f), manufacturers shall define monitoring conditions in accordance with the criteria in sections (d)(3.2.1) through (3.2.3). The requirements of section (d)(3.2) shall be phased in as follows: 30 percent of all 2005 model year vehicles, 60 percent of all 2006 model year vehicles, and 100 percent of all 2007 and subsequent model year vehicles. Manufacturers may use an alternate phase-in schedule in lieu of the required phase-in schedule if the alternate phase-in schedule provides for equivalent compliance volume as defined in section (c) with the exception that 100 percent of 2007 and subsequent model year vehicles shall comply with the requirements. Small volume manufacturers shall meet the requirements on 100 percent of 2007 and subsequent model year vehicles but shall not be required to meet the specific phase-in requirements for the 2005 and 2006 model years.

(3.2.1) Manufacturers shall define monitoring conditions that, in addition to meeting the criteria in section (d)(3.1), ensure that the monitor yields an in-use performance ratio (as defined in section (d)(4)) that meets or exceeds the minimum acceptable in-use monitor performance ratio on in-use vehicles. For purposes of this regulation, except as provided below in section (d)(3.2.1)(D), the minimum acceptable in-use monitor performance ratio is:

(A) 0.260 for secondary air system monitors and other cold start related monitors utilizing a denominator incremented in accordance with section (d)(4.3.2)(E);

(B) For evaporative system monitors:

(i) 0.260 for monitors designed to detect malfunctions identified in section (e)(4.2.2)(C) (i.e., 0.020 inch leak detection); and

(ii) 0.520 for monitors designed to detect malfunctions identified in section (e)(4.2.2)(A) and (B) (i.e., purge flow and 0.040 inch leak detection);

(C) 0.336 for catalyst, oxygen sensor, EGR, VVT system, and all other monitors specifically required in sections (e) and (f) to meet the monitoring condition requirements of section (d)(3.2);

(D) For introductory years:

(i) through the 2007 model year, for the first three years a vehicle is certified to the in-use performance ratio monitoring requirements of section (d)(3.2), 0.100 for all monitors specified in section (d)(3.2.1)(A) through (C) above. For example, the 0.100 ratio shall apply to the 2004, 2005, and 2006 model years for vehicles first certified in the 2004 model year and to the 2007, 2008, and 2009 model years for vehicles first certified in the 2007 model year.

(ii) through the 2014 model year, for fuel system air-fuel ratio cylinder imbalance monitors, 0.100;

(iii) through the 2011 model year, for secondary exhaust gas sensor monitors specified in (e)(7.2.2)(C), 0.100;

(iv) through the 2012 model year, for vehicles subject to the monitoring requirements of section (f), 0.100 for all monitors specified in section (d)(3.2.1)(C) above.

(3.2.2) In addition to meeting the requirements of section (d)(3.2.1), manufacturers shall implement software algorithms in the OBD II system to individually track and report in-use performance of the following monitors in the standardized format specified in section (d)(5):

- a. Catalyst (section (e)(1.3) or, where applicable, (f)(1.3));
- b. Oxygen/exhaust gas sensor (section (e)(7.3.1)(A) or, where applicable, (f)(5.3.1)(A));
- c. Evaporative system (section (e)(4.3.2));
- d. EGR system (section (e)(8.3.1)) and VVT system (section (e)(13.3) or, where applicable, (f)(6.3.1)(A), (f)(6.3.2), (f)(6.3.4), and, (f)(13.3));
- e. Secondary air system (section (e)(5.3.2)(B));
- f. PM filter (section (f)(9.3));
- g. NOx adsorber (section (f)(8.3.1)) and NOx catalyst (section (f)(2.3.1));
- h. Secondary oxygen sensor (section (e)(7.3.2)(A)); and
- i. Boost pressure control system (sections (f)(7.3.2) and (f)(7.3.3)).

The OBD II system is not required to track and report in-use performance for monitors other than those specifically identified above.

(3.2.3) Manufacturers may not use the calculated ratio (or any element thereof) or any other indication of monitor frequency as a monitoring condition for any monitor (e.g., using a low ratio to enable more frequent monitoring through diagnostic executive priority or modification of other monitoring conditions, or using a high ratio to enable less frequent monitoring).

(4) *In-Use Monitor Performance Ratio Definition.*

(4.1) For monitors required to meet the minimum in-use monitor performance ratio in section (d)(3.2.1), the ratio shall be calculated in accordance with the following specifications for the numerator, denominator, and ratio.

(4.2) Numerator Specifications

(4.2.1) Definition: The numerator is defined as a measure of the number of times a vehicle has been operated such that all monitoring conditions necessary for a specific monitor to detect a malfunction have been encountered.

(4.2.2) Specifications for incrementing:

(A) Except as provided for in sections (d)(4.2.2)(E) and (F), the numerator, when incremented, shall be incremented by an integer of one. The numerator may not be incremented more than once per driving cycle.

(B) The numerator for a specific monitor shall be incremented within ten seconds if and only if the following criteria are satisfied on a single driving cycle:

(i) Every monitoring condition necessary for the monitor of the specific component to detect a malfunction and store a pending fault code has been satisfied, including enable criteria, presence or absence of related fault codes, sufficient length of monitoring time, and diagnostic executive priority assignments (e.g., diagnostic "A" must execute prior to diagnostic "B", etc.). For the purpose of incrementing the numerator, satisfying all the monitoring conditions necessary for a monitor to determine the component is passing may not, by itself, be sufficient to meet this criteria;

(ii) For monitors that require multiple stages or events in a single driving cycle to detect a malfunction, every monitoring condition necessary for all events to have completed must be satisfied;

(iii) For monitors that require intrusive operation of components to detect a malfunction, a manufacturer shall request Executive Officer approval of the strategy used to determine that, had a malfunction been present, the monitor would have detected the malfunction. Executive Officer approval of the request shall be based on the equivalence of the strategy to actual intrusive operation and the ability of the strategy to accurately determine if every monitoring condition necessary for the intrusive event to occur was satisfied.

(iv) In addition to the requirements of section (d)(4.2.2)(B)(i) through (iii) above, the secondary air system monitor numerator(s) shall be incremented if and only if the criteria in section (B) above have been satisfied during normal operation of the secondary air system for vehicles that require monitoring during normal operation (sections (e)(5.2.2) through (5.2.4)). Monitoring during intrusive operation of the secondary air system later in the same driving cycle solely for the purpose of monitoring may not, by itself, be sufficient to meet this criteria.

(C) For monitors that can generate results in a "gray zone" or "non-detection zone" (i.e., results that indicate neither a passing system nor a malfunctioning system) or in a "non-decision zone" (e.g., monitors that increment and decrement counters until a pass or fail threshold is reached), the manufacturer shall submit a plan for appropriate incrementing of the numerator to the Executive Officer for review and approval. In general, the Executive Officer shall not approve plans that allow the numerator to be incremented when the monitor indicates a result in the "non-detection zone" or prior to the monitor reaching a decision. In reviewing the plan for approval, the Executive Officer shall consider data and/or engineering evaluation submitted by the manufacturer demonstrating the expected frequency of results in the "non-detection zone" and the ability of the monitor to accurately determine if a monitor would have detected a malfunction instead of a result in the "non-detection zone" had an actual malfunction been present.

(D) For monitors that run or complete during engine off operation, the numerator shall be incremented within 10 seconds after the monitor has completed during engine off operation or during the first 10 seconds of engine start on the subsequent driving cycle.

(E) Except as specified in section (d)(4.2.2)(F) for exponentially weighted moving averages, manufacturers utilizing alternate statistical MIL illumination protocols as allowed in section (d)(2.2.6) for any of the monitors requiring a numerator shall submit a plan for appropriate incrementing of the numerator to the Executive Officer for review and approval. Executive Officer approval of the plan shall be conditioned upon the manufacturer providing supporting data and/or engineering evaluation for the proposed plan, the equivalence of the incrementing in the manufacturer's plan to the incrementing specified in section (d)(4.2.2) for monitors using the standard MIL illumination protocol, and the overall equivalence of the manufacturer's plan in determining that the minimum acceptable in-use performance ratio in section (d)(3.2.1) is satisfied.

(F) Manufacturers using an exponentially weighted moving average (EWMA) as the alternate statistical MIL illumination protocol approved in accordance with section (d)(2.2.6) shall increment the numerator as follows:

(i) Following a reset or erasure of the EWMA result, the numerator may not be incremented until after the requisite number of decisions necessary for MIL illumination have been fully executed.

(ii) After the number of decisions required in section (d)(4.2.2)(F)(i) above, the numerator, when incremented, shall be incremented by an integer of one and may not be incremented more than once per driving cycle. Incrementing of the numerator shall also be in accordance with sections (d)(4.2.2)(B), (C), and (D).

(4.3) Denominator Specifications

(4.3.1) Definition: The denominator is defined as a measure of the number of times a vehicle has been operated as defined in (d)(4.3.2).

(4.3.2) Specifications for incrementing:

(A) The denominator, when incremented, shall be incremented by an integer of one. The denominator may not be incremented more than once per driving cycle.

(B) The denominator for each monitor shall be incremented within ten seconds if and only if the following criteria are satisfied on a single driving cycle:

(i) Cumulative time since engine start is greater than or equal to 600 seconds while at an elevation of less than 8,000 feet above sea level and

at an ambient temperature of greater than or equal to 20 degrees Fahrenheit;

(ii) Cumulative vehicle operation at or above 25 miles per hour occurs for greater than or equal to 300 seconds while at an elevation of less than 8,000 feet above sea level and at an ambient temperature of greater than or equal to 20 degrees Fahrenheit (medium-duty vehicles with diesel engines certified on an engine dynamometer may use cumulative operation at or above 15% calculated load in lieu of at or above 25 miles per hour for purposes of this criteria);

(iii) Continuous vehicle operation at idle (i.e., accelerator pedal released by driver and vehicle speed less than or equal to one mile per hour) for greater than or equal to 30 seconds while at an elevation of less than 8,000 feet above sea level and at an ambient temperature of greater than or equal to 20 degrees Fahrenheit;

(C) In addition to the requirements of section (d)(4.3.2)(B) above, the secondary air system monitor denominator(s) shall be incremented if and only if commanded "on" operation of the secondary air system occurs for a time greater than or equal to ten seconds. For purposes of determining this commanded "on" time, the OBD II system may not include time during intrusive operation of the secondary air system solely for the purposes of monitoring;

(D) In addition to the requirements of section (d)(4.3.2)(B) above, the evaporative system monitor denominator(s) shall be incremented if and only if:

(i) Cumulative time since engine start is greater than or equal to 600 seconds while at an ambient temperature of greater than or equal to 40 degrees Fahrenheit but less than or equal to 95 degrees Fahrenheit; and

(ii) Engine cold start occurs with engine coolant temperature at engine start greater than or equal to 40 degrees Fahrenheit but less than or equal to 95 degrees Fahrenheit and less than or equal to 12 degrees Fahrenheit higher than ambient temperature at engine start.

(E) In addition to the requirements of section (d)(4.3.2)(B) above, the denominator(s) for the following monitors shall be incremented if and only if the component or strategy is commanded "on" for a time greater than or equal to ten seconds:

(i) Heated catalyst (section (e)(2))

(ii) Cold Start Emission Reduction Strategy (sections (e)(11) and (f)(12))

(iii) Components or systems that operate only at engine start-up (e.g., glow plugs, intake air heaters, etc.) and are subject to monitoring under "other emission control or source devices" (sections (e)(16) and (f)(16)) or comprehensive component output components (sections (e)(15) and (f)(15))

For purposes of determining this commanded "on" time, the OBD II system may not include time during intrusive operation of any of the components or strategies later in the same driving cycle solely for the purposes of monitoring.

(F) In addition to the requirements of section (d)(4.3.2)(B) above, the denominator(s) for the following monitors of output components (except those operated only at engine start-up and subject to the requirements of the previous section (d)(4.3.2)(E)) shall be incremented if and only if the component is commanded to function (e.g., commanded "on", "open", "closed", "locked", etc.) on two or more occasions for greater than two seconds during the driving cycle or for a cumulative time greater than or equal to ten seconds, whichever occurs first:

(i) Air conditioning system (section (e)(12))

(ii) Variable valve timing and/or control system (sections (e)(13) and (f)(13))

(iii) "Other emission control or source device" (sections (e)(16) and (f)(16))

(iv) Comprehensive component output component (sections (e)(15) and (f)(15)) (e.g., turbocharger waste-gates, variable length manifold runners, torque converter clutch lock-up solenoids, etc.)

(G) For the following monitors, the denominator(s) shall be incremented by one if and only if, in addition to meeting the requirements of section (d)(4.3.2)(B) on at least one driving cycle, at least 500 cumulative

miles of vehicle operation have been experienced since the last time the denominator was incremented:

(i) Diesel NMHC converting catalyst (section (f)(1))

(ii) Diesel PM filter (section (f)(9))

(H) For monitors of the following components, the manufacturer may request Executive Officer approval to use alternate or additional criteria to that set forth in section (d)(4.3.2)(B) above for incrementing the denominator. Executive Officer approval of the proposed criteria shall be based on the equivalence of the proposed criteria in measuring the frequency of monitor operation relative to the amount of vehicle operation in accordance with the criteria in section (d)(4.3.2)(B) above:

(i) Engine cooling system input components (sections (e)(10) and (f)(11))

(ii) Air conditioning system input components (section (e)(12))

(iii) Direct ozone reduction systems (section (e)(14))

(iv) "Other emission control or source devices" (sections (e)(16) and (f)(16))

(v) Comprehensive component input components that require extended monitoring evaluation (sections (e)(15) and (f)(15)) (e.g., stuck fuel level sensor rationality)

(vi) Comprehensive component input component temperature sensor rationality monitors (sections (e)(15) and (f)(15)) (e.g., intake air temperature sensor, ambient temperature sensor, fuel temperature sensor)

(I) For hybrid vehicles, vehicles that employ alternate engine start hardware or strategies (e.g., integrated starter and generators), or alternate fuel vehicles (e.g., dedicated, bi-fuel, or dual-fuel applications), the manufacturer may request Executive Officer approval to use alternate criteria to that set forth in section (d)(4.3.2)(B) above for incrementing the denominator. In general, the Executive Officer shall not approve alternate criteria for vehicles that only employ engine shut off at or near idle/vehicle stop conditions. Executive Officer approval of the alternate criteria shall be based on the equivalence of the alternate criteria to determine the amount of vehicle operation relative to the measure of conventional vehicle operation in accordance with the criteria in section (d)(4.3.2)(B) above.

(4.4) Ratio Specifications

(4.4.1) Definition: The ratio is defined as the numerator divided by the denominator.

(4.5) Disablement of Numerators and Denominators

(4.5.1) Within ten seconds of a malfunction that disables a monitor required to meet the monitoring conditions in section (d)(3.2.1) being detected (i.e., a pending or confirmed code is stored), the OBD II system shall disable further incrementing of the corresponding numerator and denominator for each monitor that is disabled. When the malfunction is no longer detected (i.e., the pending code is erased through self-clearing or through a scan tool command), incrementing of all corresponding numerators and denominators shall resume within ten seconds.

(4.5.2) Within ten seconds of the start of a PTO (see section (c)) operation that disables a monitor required to meet the monitoring conditions in section (d)(3.2.1), the OBD II system shall disable further incrementing of the corresponding numerator and denominator for each monitor that is disabled. When the PTO operation ends, incrementing of all corresponding numerators and denominators shall resume within ten seconds.

(4.5.3) The OBD II system shall disable further incrementing of all numerators and denominators within ten seconds if a malfunction of any component used to determine if the criteria in sections (d)(4.3.2)(B) through (D) are satisfied (i.e., vehicle speed, ambient temperature, elevation, idle operation, engine cold start, or time of operation) has been detected and the corresponding pending fault code has been stored. Incrementing of all numerators and denominators shall resume within ten seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(5) *Standardized tracking and reporting of monitor performance.*

(5.1) For monitors required to track and report in-use monitor performance in section (d)(3.2.2), the performance data shall be tracked and reported in accordance with the specifications in sections (d)(4), (d)(5), and

(g)(5). The OBD II system shall separately report an in-use monitor performance numerator and denominator for each of the following components: catalyst bank 1, catalyst bank 2, primary oxygen/exhaust gas sensor bank 1, primary oxygen/exhaust gas sensor bank 2, evaporative 0.020 inch leak detection system, EGR/VVT system, secondary air system, PM filter, NOx aftertreatment (e.g., NOx adsorber, NOx catalyst), secondary oxygen sensor, and boost pressure control system. The OBD II system shall also report a general denominator and an ignition cycle counter in the standardized format specified in sections (d)(5.5), (d)(5.6) and (g)(5).

(5.2) Numerator

(5.2.1) The OBD II system shall report a separate numerator for each of the components listed in section (d)(5.1).

(5.2.2) For specific components or systems that have multiple monitors that are required to be reported under sections (e) or (f) (e.g., oxygen sensor bank 1 may have multiple monitors for sensor response or other sensor characteristics), the OBD II system shall separately track numerators and denominators for each of the specific monitors and report only the corresponding numerator and denominator for the specific monitor that has the lowest numerical ratio. If two or more specific monitors have identical ratios, the corresponding numerator and denominator for the specific monitor that has the highest denominator shall be reported for the specific component.

(5.2.3) The numerator(s) shall be reported in accordance with the specifications in section (g)(5.2.1).

(5.3) Denominator

(5.3.1) The OBD II system shall report a separate denominator for each of the components listed in section (d)(5.1).

(5.3.2) The denominator(s) shall be reported in accordance with the specifications in section (g)(5.2.1).

(5.4) Ratio

(5.4.1) For purposes of determining which corresponding numerator and denominator to report as required in section (d)(5.2.2), the ratio shall be calculated in accordance with the specifications in section (g)(5.2.2).

(5.5) Ignition cycle counter

(5.5.1) Definition:

(A) The ignition cycle counter is defined as a counter that indicates the number of ignition cycles a vehicle has experienced as defined in section (d)(5.5.2)(B).

(B) The ignition cycle counter shall be reported in accordance with the specifications in section (g)(5.2.1).

(5.5.2) Specifications for incrementing:

(A) The ignition cycle counter, when incremented, shall be incremented by an integer of one. The ignition cycle counter may not be incremented more than once per driving cycle.

(B) The ignition cycle counter shall be incremented within ten seconds if and only if the vehicle meets the engine start definition (see section (c)) for at least two seconds plus or minus one second.

(C) The OBD II system shall disable further incrementing of the ignition cycle counter within ten seconds if a malfunction of any component used to determine if the criteria in section (d)(5.5.2)(B) are satisfied (i.e., engine speed or time of operation) has been detected and the corresponding pending fault code has been stored. The ignition cycle counter may not be disabled from incrementing for any other condition. Incrementing of the ignition cycle counter shall resume within ten seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(5.6) General Denominator

(5.6.1) Definition:

(A) The general denominator is defined as a measure of the number of times a vehicle has been operated as defined in section (d)(5.6.2)(B).

(B) The general denominator shall be reported in accordance with the specifications in section (g)(5.2.1).

(5.6.2) Specifications for incrementing:

(A) The general denominator, when incremented, shall be incremented by an integer of one. The general denominator may not be incremented more than once per driving cycle.

(B) The general denominator shall be incremented within ten seconds if and only if the criteria identified in section (d)(4.3.2)(B) are satisfied on a single driving cycle.

(C) The OBD II system shall disable further incrementing of the general denominator within ten seconds if a malfunction of any component used to determine if the criteria in section (d)(4.3.2)(B) are satisfied (i.e., vehicle speed, ambient temperature, elevation, idle operation, or time of operation) has been detected and the corresponding pending fault code has been stored. The general denominator may not be disabled from incrementing for any other condition (e.g., the disablement criteria in sections (d)(4.5.1) and (d)(4.5.2) may not disable the general denominator). Incrementing of the general denominator shall resume within ten seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(6) *Malfunction Criteria Determination for Diesel Vehicles.*

(6.1) For 2010 and subsequent model year medium-duty vehicles certified to an engine dynamometer exhaust emission standard, in determining the malfunction criteria for diesel engine monitors in section (f) that are required to indicate a malfunction before emissions exceed an emission threshold based on the applicable standard, the manufacturer shall:

(6.1.1) Use the emission test cycle and standard (i.e., FTP or SET) determined by the manufacturer, through use of data and/or engineering analysis, to be more stringent (i.e., to result in higher emissions with the same level of monitored component malfunction) as the "applicable standard".

(6.1.2) Identify in the certification documentation required under section (i) the test cycle and standard determined by the manufacturer to be more stringent for each applicable monitor.

(6.1.3) If the Executive Officer reasonably believes that a manufacturer has incorrectly determined the test cycle and standard that is more stringent, the Executive Officer shall require the manufacturer to provide emission data and/or engineering analysis showing that the other test cycle and standard are less stringent.

(6.2) For 2007 and subsequent model year light-duty and medium-duty vehicles equipped with emission controls that experience infrequent regeneration events (e.g., active PM filter regeneration, NOx adsorber desulfation), a manufacturer shall adjust the emission test results that are used to determine the malfunction criterion for monitors that are required to indicate a malfunction before emissions exceed a certain emission threshold. For each monitor on medium-duty vehicles using engines certified on an engine dynamometer, the manufacturer shall adjust the emission result using the procedure described in CFR title 40, part 86.004-28(i) with the component for which the malfunction criteria is being established deteriorated to the malfunction threshold. For light-duty and medium-duty vehicles certified on a chassis dynamometer, the manufacturer shall submit a plan for Executive Officer approval to adjust the emission results using an approach similar to the procedure described in CFR title 40, part 86.004-28(i). Executive Officer approval shall be based on the effectiveness of the proposed plan to quantify the emission impact and frequency of regeneration events. The adjusted emission value shall be used for purposes of determining whether or not the specified emission threshold is exceeded (e.g., a malfunction must be detected before the adjusted emission value exceeds 1.5 times any applicable standard).

(6.2.1) For purposes of section (d)(6.2), "regeneration" means an event during which emission levels change while the emission control performance is being restored by design.

(6.2.2) For purposes of section (d)(6.2), "infrequent" means having an expected frequency of less than once per FTP cycle.

(6.2.3) Except as specified in section (d)(6.2.4) for NMHC catalyst monitoring, for 2007 through 2009 model year vehicles, in lieu of establishing the adjustment factor for each monitor with the component for which the malfunction criteria is being established deteriorated to the malfunction threshold as required in section (d)(6.2), the manufacturer may use the adjustment factor established for certification (e.g., without components deteriorated to the malfunction threshold).

(6.2.4) For NMHC catalyst monitoring (section (f)(1)) on 2008 and subsequent model year vehicles, a manufacturer shall establish the adjustment factor for the NMHC catalyst monitor with the NMHC catalyst deteriorated to the malfunction threshold as required in section (d)(6.2). In lieu of establishing this adjustment factor for 2008 and 2009 model year vehicles, a manufacturer may provide emission data demonstrating that the worst case emission levels from a deteriorated NMHC catalyst are below the malfunction threshold specified in section (f)(1.2.2). The demonstration shall include emission testing with a NMHC catalyst deteriorated to the malfunction threshold or worse and with both the infrequent regeneration event occurring and without it occurring. The manufacturer shall calculate the worst case emission level by applying the frequency factor ("F" as calculated according to CFR, title 40, part 86.004–28(i)) of the infrequent regeneration event used for tailpipe certification to the measured emissions with the infrequent regeneration event occurring and adding that result to the measured emissions without the infrequent regeneration event occurring. This calculated final sum shall be used as the adjusted emission level and compared to the malfunction threshold for purposes of determining compliance with the monitoring requirements. The manufacturer shall submit a test plan for Executive Officer approval describing the emission testing procedure and how the worst case components will be established. The Executive Officer shall approve it upon finding the test procedure and components used will likely generate a worst case emission level.

(6.2.5) For purposes of determining the adjustment factors for each monitor, the manufacturer shall submit engineering data, analysis, and/or emission data to the Executive Officer for approval. The Executive Officer shall approve the factors upon finding the submitted information supports the adjustment factors.

(6.2.6) For purposes of enforcement testing in accordance with section (d)(7) and title 13, CCR section 1968.5, the adjustment factors established for each monitor by the manufacturer according to section (d)(6.2) shall be used when determining compliance with emission thresholds.

(6.3) For every 2007 through 2012 model year light-duty vehicle test group certified to the higher allowable emission thresholds specified in section (f) (e.g., 5.0 or 3.0 times the applicable standards for NMHC converting catalyst monitoring) for vehicles prior to the 2013 model year:

(6.3.1) The manufacturer shall conduct in-use enforcement testing for compliance with the tailpipe emission standards in accordance with title 13, CCR sections 2136 through 2140. Within six months after OBD II certification of a test group, the manufacturer shall submit a plan for conducting the testing to the Executive Officer for approval. The Executive Officer shall approve the plan upon determining that the testing will be done in accordance with the procedures used by ARB when conducting such testing, that the plan will allow for a valid sample of at least 10 vehicles in the mileage range of 30,000 to 40,000 miles for comparison to the FTP intermediate (e.g., 50,000 mile) useful life standard and at least 10 vehicles in the mileage range of 90,000 to 100,000 miles for comparison to the FTP full useful life standard, and that copies of all records and data collected during the program will be provided to ARB. Manufacturers may also submit testing plans and supporting data for Executive Officer approval that differ from compliance testing under title 13, CCR, sections 2136 through 2140. The Executive Officer shall also approve the plans upon determining that the plan provides equivalent assurance in verifying vehicles are meeting the tailpipe emission standards within the useful life. The Executive Officer may use the submitted data in lieu of or in addition to data collected pursuant to title 13, CCR section 2139 for purposes of the notification and use of test results described in title 13, CCR section 2140; and

(6.3.2) The certification shall be conditioned upon the manufacturer agreeing that, for any test group(s) determined to be noncompliant in accordance with title 13, CCR section 2140 or title 13, CCR section 1968.5, the Executive Officer shall determine the excess emissions caused by the noncompliance and the manufacturer shall fund a program(s) that will offset any such excess emissions.

(7) Enforcement Testing.

(7.1) The procedures used to assure compliance with the requirements of title 13, CCR section 1968.2 are set forth in title 13, CCR section 1968.5.

(7.2) Consistent with the requirements of title 13, CCR section 1968.5(b)(4)(A) for enforcement OBD II emission testing, the manufacturer shall make available upon request by the Executive Officer all test equipment (e.g., malfunction simulators, deteriorated "threshold" components, etc.) necessary to determine the malfunction criteria in sections (e) and (f) for major monitors subject to OBD II emission testing as defined in title 13, CCR section 1968.5. To meet the requirements of this section, the manufacturers shall only be required to make available test equipment necessary to duplicate "threshold" testing performed by the manufacturer. This test equipment shall include, but is not limited to, aged "threshold" catalyst systems and computer equipment used to simulate misfire, oxygen sensor, fuel system, VVT system, and cold start reduction strategy system faults. The manufacturer is not required to make available test equipment for vehicles that exceed the applicable full useful life age (e.g., 10 years for vehicles certified to a full useful life of 10 years and 100,000 miles).

(e) Monitoring Requirements for Gasoline/Spark-Ignited Engines.

(1) Catalyst Monitoring

(1.1) Requirement: The OBD II system shall monitor the catalyst system for proper conversion capability.

(1.2) Malfunction Criteria:

(1.2.1) Low Emission Vehicle I applications: The OBD II system shall detect a catalyst system malfunction when the catalyst system's conversion capability decreases to the point that either of the following occurs:

(A) Non-Methane Organic Gas (NMOG) emissions exceed 1.75 times the FTP full useful life standards to which the vehicle has been certified with NMOG emissions multiplied by the certification reactivity adjustment factor for the vehicle;

(B) The average FTP test Non-Methane Hydrocarbon (NMHC) conversion efficiency of the monitored portion of the catalyst system falls below 50 percent (i.e., the cumulative NMHC emissions measured at the outlet of the monitored catalyst(s) are more than 50 percent of the cumulative engine-out emissions measured at the inlet of the catalyst(s)). With Executive Officer approval, manufacturers may use a conversion efficiency malfunction criteria of less than 50 percent if the catalyst system is designed such that the monitored portion of the catalyst system must be replaced along with an adjacent portion of the catalyst system sufficient to ensure that the total portion replaced will meet the 50 percent conversion efficiency criteria. Executive Officer approval shall be based on data and/or engineering evaluation demonstrating the conversion efficiency of the monitored portion and the total portion designed to be replaced, and the likelihood of the catalyst system design to ensure replacement of the monitored and adjacent portions of the catalyst system.

(1.2.2) Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles:

(A) 2004 model year vehicles.

(i) All LEV II, ULEV II, and MDV SULEV II vehicles shall use the malfunction criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1).

(ii) All PC/LDT SULEV II vehicles shall use the malfunction criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1) except the malfunction criterion in paragraph (e)(1.2.1)(A) shall be 2.5 times the applicable FTP full useful life NMOG standard.

(B) Except as provided below in section (e)(1.2.4), for 2005 through 2008 model years, the OBD II system shall detect a catalyst system malfunction when the catalyst system's conversion capability decreases to the point that any of the following occurs:

(i) For all vehicles other than PC/LDT SULEV II vehicles.

a. NMOG emissions exceed the criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1)(A).

b. The average FTP test NMHC conversion efficiency is below the criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1)(B).

c. Oxides of nitrogen (NOx) emissions exceed 3.5 times the FTP full useful life NOx standard to which the vehicle has been certified.

(ii) PC/LDT SULEV II vehicles shall use the same malfunction criteria as 2005 through 2008 model year LEV II, ULEV II, and MDV SULEV II vehicles (section (e)(1.2.2)(B)(i)) except the malfunction criteria in paragraph a. shall be 2.5 times the applicable FTP full useful life NMOG standard.

(C) Except as provided below in section (e)(1.2.5), for 2009 and subsequent model years, the OBD II system shall detect a catalyst system malfunction when the catalyst system's conversion capability decreases to the point that any of the following occurs.

(i) For all vehicles other than PC/LDT SULEV II vehicles.

a. NMOG emissions exceed the criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1)(A).

b. The average FTP test NMHC conversion efficiency is below the criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1)(B).

c. NOx emissions exceed 1.75 times the FTP full useful life NOx standard to which the vehicle has been certified.

(ii) For PC/LDT SULEV II vehicles.

a. NMOG emissions exceed 2.5 times the applicable FTP full useful life NMOG standard to which the vehicle has been certified.

b. The average FTP test NMHC conversion efficiency is below the criteria specified for Low Emission Vehicle I applications in section (e)(1.2.1)(B).

c. NOx emissions exceed 2.5 times the applicable FTP full useful life NOx standard to which the vehicle has been certified.

(1.2.3) 2004 through 2008 model year non-Low Emission Vehicle I or II applications: The OBD II system shall detect a catalyst system malfunction when the catalyst system's conversion capability decreases to the point that NMHC emissions increase by more than 1.5 times the applicable FTP full useful life standards over an FTP test performed with a representative 4000 mile catalyst system.

(1.2.4) In lieu of using the malfunction criteria in section (e)(1.2.2)(B) for all 2005 and 2006 model year Low Emission Vehicle II applications, a manufacturer may phase-in the malfunction criteria on a portion of its Low Emission Vehicle II applications as long as that portion of Low Emission Vehicle II applications comprises at least 30 percent of all 2005 model year vehicles and 60 percent of all 2006 model year vehicles. For 2005 and 2006 model year Low Emission Vehicle II applications not included in the phase-in, the malfunction criteria in section (e)(1.2.2)(A) shall be used.

(1.2.5) In lieu of using the malfunction criteria in section (e)(1.2.2)(C) for all 2009 model year vehicles, for the 2009 model year only, a manufacturer may continue to use the malfunction criteria in section (e)(1.2.2)(B) for any vehicles previously certified in the 2005, 2006, 2007, or 2008 model year to the malfunction criteria in section (e)(1.2.2)(B) and carried over to the 2009 model year.

(1.2.6) For purposes of determining the catalyst system malfunction criteria in sections (e)(1.2.1), (1.2.2)(A), and (1.2.3), the malfunction criteria shall be established by using a catalyst system with all monitored catalysts simultaneously deteriorated to the malfunction criteria while unmonitored catalysts shall be deteriorated to the end of the vehicle's full useful life.

(1.2.7) For purposes of determining the catalyst system malfunction criteria in sections (e)(1.2.2)(B) and (C):

(A) The manufacturer shall use a catalyst system deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning operating conditions.

(B) Except as provided below in section (e)(1.2.7)(C), the malfunction criteria shall be established by using a catalyst system with all monitored and unmonitored (downstream of the sensor utilized for catalyst monitoring) catalysts simultaneously deteriorated to the malfunction criteria.

(C) For vehicles using fuel shutoff to prevent over-fueling during misfire conditions (see section (e)(3.4.1)(D)), the malfunction criteria shall

be established by using a catalyst system with all monitored catalysts simultaneously deteriorated to the malfunction criteria while unmonitored catalysts shall be deteriorated to the end of the vehicle's full useful life.

(1.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(1.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (e)(1.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(1.4) MIL Illumination and Fault Code Storage:

(1.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(1.4.2) The monitoring method for the catalyst(s) shall be capable of detecting when a catalyst fault code has been cleared (except OBD II system self-clearing), but the catalyst has not been replaced (e.g., catalyst overtemperature approaches may not be acceptable).

(2) Heated Catalyst Monitoring

(2.1) Requirement:

(2.1.1) The OBD II system shall monitor all heated catalyst systems for proper heating.

(2.1.2) The efficiency of heated catalysts shall be monitored in conjunction with the requirements of section (e)(1).

(2.2) Malfunction Criteria:

(2.2.1) The OBD II system shall detect a catalyst heating system malfunction when the catalyst does not reach its designated heating temperature within a requisite time period after engine starting. The manufacturer shall determine the requisite time period, but the time period may not exceed the time that would cause emissions from a vehicle equipped with the heated catalyst system to exceed 1.75 times any of the applicable FTP full useful life standards.

(2.2.2) Manufacturers may use other monitoring strategies for the heated catalyst but must submit the alternate plan to the Executive Officer for approval. The Executive Officer shall approve alternate strategies for monitoring heated catalyst systems based on comparable reliability and timeliness to these requirements in detecting a catalyst heating malfunction.

(2.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(2.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(2.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(3) Misfire Monitoring

(3.1) Requirement:

(3.1.1) The OBD II system shall monitor the engine for misfire causing catalyst damage and misfire causing excess emissions.

(3.1.2) The OBD II system shall identify the specific cylinder that is experiencing misfire. Manufacturers may request Executive Officer approval to store a general misfire fault code instead of a cylinder specific fault code under certain operating conditions. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that the misfiring cylinder cannot be reliably identified when the conditions occur.

(3.1.3) If more than one cylinder is misfiring, a separate fault code shall be stored indicating that multiple cylinders are misfiring except as allowed below. When identifying multiple cylinder misfire, the manufacturer is not required to also identify each of the misfiring cylinders individually through separate fault codes. For 2005 and subsequent model year vehicles, if more than 90 percent of the detected misfires occur in a single cylinder, the manufacturer may elect to store the appropriate fault code indicating the specific misfiring cylinder in lieu of the multiple cylinder misfire fault code. If, however, two or more cylinders individually have more than 10 percent of the total number of detected misfires, a multiple cylinder fault code must be stored.

(3.2) Malfunction Criteria: The OBD II system shall detect a misfire malfunction pursuant to the following:

(3.2.1) Misfire causing catalyst damage:

(A) Manufacturers shall determine the percentage of misfire evaluated in 200 revolution increments for each engine speed and load condition that would result in a temperature that causes catalyst damage. The manufacturer shall submit documentation to support this percentage of misfire as required in section (i)(2.5). For every engine speed and load condition that this percentage of misfire is determined to be lower than five percent, the manufacturer may set the malfunction criteria at five percent.

(B) Subject to Executive Officer approval, a manufacturer may employ a longer interval than 200 revolutions but only for determining, on a given driving cycle, the first misfire exceedance as provided in section (e)(3.4.1)(A) below. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that catalyst damage would not occur due to unacceptably high catalyst temperatures before the interval has elapsed.

(C) A misfire malfunction shall be detected if the percentage of misfire established in section (e)(3.2.1)(A) is exceeded.

(D) For purposes of establishing the temperature at which catalyst damage occurs as required in section (e)(3.2.1)(A), on 2005 and subsequent model year vehicles, manufacturers may not define catalyst damage at a temperature more severe than what the catalyst system could be operated at for ten consecutive hours and still meet the applicable FTP full useful life standards.

(3.2.2) Misfire causing emissions to exceed 1.5 times the FTP standards:

(A) Manufacturers shall determine the percentage of misfire evaluated in 1000 revolution increments that would cause emissions from an emission durability demonstration vehicle to exceed 1.5 times any of the applicable FTP standards if the percentage of misfire were present from the beginning of the test. To establish this percentage of misfire, the manufacturer shall utilize misfire events occurring at equally spaced, complete engine cycle intervals, across randomly selected cylinders throughout each 1000-revolution increment. If this percentage of misfire is determined to be lower than one percent, the manufacturer may set the malfunction criteria at one percent.

(B) Subject to Executive Officer approval, a manufacturer may employ other revolution increments. The Executive Officer shall grant approval upon determining that the manufacturer has demonstrated that the strategy would be equally effective and timely in detecting misfire.

(C) A malfunction shall be detected if the percentage of misfire established in section (3.2.2)(A) is exceeded regardless of the pattern of misfire events (e.g., random, equally spaced, continuous, etc.).

(3.3) Monitoring Conditions:

(3.3.1) Manufacturers shall continuously monitor for misfire under the following conditions:

(A) From no later than the end of the second crankshaft revolution after engine start,

(B) Under positive torque conditions during the rise time and settling time for engine speed to reach the desired idle engine speed at engine start-up (i.e., "flare-up" and "flare-down"), and

(C) Under all positive torque engine speeds and load conditions except within the following range: the engine operating region bound by the positive torque line (i.e., engine load with the transmission in neutral), and the two following engine operating points: an engine speed of 3000 rpm with the engine load at the positive torque line, and the redline engine speed (defined in section (c)) with the engine's manifold vacuum at four inches of mercury lower than that at the positive torque line.

(3.3.2) If a monitoring system cannot detect all misfire patterns under all required engine speed and load conditions as required in section (e)(3.3.1) above, the manufacturer may request Executive Officer approval to accept the monitoring system. In evaluating the manufacturer's request, the Executive Officer shall consider the following factors: the

magnitude of the region(s) in which misfire detection is limited, the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events), the frequency with which said region(s) are expected to be encountered in-use, the type of misfire patterns for which misfire detection is troublesome, and demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines). The evaluation shall be based on the following misfire patterns: equally spaced misfire occurring on randomly selected cylinders, single cylinder continuous misfire, and paired cylinder (cylinders firing at the same crank angle) continuous misfire.

(3.3.3) A manufacturer may request Executive Officer approval of a monitoring system that has reduced misfire detection capability during the portion of the first 1000 revolutions after engine start that a cold start emission reduction strategy that reduces engine torque (e.g., spark retard strategies) is active. The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated that the probability of detection is greater than or equal to 75 percent during the worst case condition (i.e., lowest generated torque) for a vehicle operated continuously at idle (park/neutral idle) on a cold start between 50–86 degrees Fahrenheit and that the technology cannot reliably detect a higher percentage of the misfire events during the conditions.

(3.3.4) A manufacturer may request Executive Officer approval to disable misfire monitoring or employ an alternate malfunction criterion when misfire cannot be distinguished from other effects.

(A) Upon determining that the manufacturer has presented documentation that demonstrates the disablement interval or period of use of an alternate malfunction criterion is limited only to that necessary for avoiding false detection, the Executive Officer shall approve the disablement or use of the alternate malfunction criterion for conditions involving:

- (i) rough road,
- (ii) fuel cut,
- (iii) gear changes for manual transmission vehicles,
- (iv) traction control or other vehicle stability control activation such as anti-lock braking or other engine torque modifications to enhance vehicle stability,
- (v) off-board control or intrusive activation of vehicle components or diagnostics during service or assembly plant testing,
- (vi) portions of intrusive evaporative system or EGR diagnostics that can significantly affect engine stability (i.e., while the purge valve is open during the vacuum pull-down of a evaporative system leak check but not while the purge valve is closed and the evaporative system is sealed or while an EGR diagnostic causes the EGR valve to be intrusively cycled on and off during positive torque conditions), or
- (vii) engine speed, load, or torque transients due to throttle movements more rapid than occurs over the US06 cycle for the worst case vehicle within each test group.

(B) Additionally, the Executive Officer will approve a manufacturer's request in accordance with sections (e)(17.3), (17.4), and (17.6) to disable misfire monitoring when fuel level is 15 percent or less of the nominal capacity of the fuel tank, when PTO units are active, or while engine coolant temperature is below 20 degrees Fahrenheit. The Executive Officer will approve a request to continue disablement on engine starts when engine coolant temperature is below 20 degrees Fahrenheit at engine start until engine coolant temperature exceeds 70 degrees Fahrenheit.

(C) In general, for 2005 and subsequent model year vehicles, the Executive Officer shall not approve disablement for conditions involving normal air conditioning compressor cycling from on-to-off or off-to-on, automatic transmission gear shifts (except for shifts occurring during wide open throttle operation), transitions from idle to off-idle, normal engine speed or load changes that occur during the engine speed rise time and settling time (i.e., "flare-up" and "flare-down") immediately after engine starting without any vehicle operator-induced actions (e.g., throttle stabs), or excess acceleration (except for acceleration rates that exceed the maximum acceleration rate obtainable at wide open

throttle while the vehicle is in gear due to abnormal conditions such as slipping of a clutch).

(D) The Executive Officer may approve misfire monitoring disablement or use of an alternate malfunction criterion for any other condition on a case by case basis upon determining that the manufacturer has demonstrated that the request is based on an unusual or unforeseen circumstance and that it is applying the best available computer and monitoring technology.

(3.3.5) For engines with more than eight cylinders that cannot meet the requirements of section (e)(3.3.1), a manufacturer may request Executive Officer approval to use alternative misfire monitoring conditions. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation which demonstrate that misfire detection throughout the required operating region cannot be achieved when employing proven monitoring technology (i.e., a technology that provides for compliance with these requirements on other engines) and provided misfire is detected to the fullest extent permitted by the technology. However, the Executive Officer may not grant the request if the misfire detection system is unable to monitor during all positive torque operating conditions encountered during an FTP cycle.

(3.4) MIL Illumination and Fault Code Storage:

(3.4.1) Misfire causing catalyst damage. Upon detection of the percentage of misfire specified in section (e)(3.2.1) above, the following criteria shall apply for MIL illumination and fault code storage:

(A) Pending fault codes

(i) A pending fault code shall be stored immediately if, during a single driving cycle, the specified percentage of misfire is exceeded three times when operating in the positive torque region encountered during an FTP cycle or is exceeded on a single occasion when operating at any other engine speed and load condition in the positive torque region defined in section (e)(3.3.1).

(ii) Immediately after a pending fault code is stored as specified in section (e)(3.4.1)(A)(i) above, the MIL shall blink once per second at all times while misfire is occurring during the driving cycle.

a. The MIL may be extinguished during those times when misfire is not occurring during the driving cycle.

b. If, at the time a misfire malfunction occurs, the MIL is already illuminated for a malfunction other than misfire, the MIL shall blink as previously specified in section (e)(3.4.1)(A)(ii) while misfire is occurring. If misfiring ceases, the MIL shall stop blinking but remain illuminated as required by the other malfunction.

(B) Confirmed fault codes

(i) If a pending fault code for exceeding the percentage of misfire set forth in section (e)(3.2.1) is stored, the OBD II system shall immediately store a confirmed fault code if the percentage of misfire specified in section (e)(3.2.1) is again exceeded one or more times during either: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(ii) If a pending fault code for exceeding the percentage of misfire set forth in section (e)(3.2.2) is stored from a previous drive cycle, the OBD II system shall immediately store a confirmed fault code if the percentage of misfire specified in section (e)(3.2.1) is exceeded one or more times regardless of the conditions encountered.

(iii) Upon storage of a confirmed fault code, the MIL shall blink as specified in subparagraph (e)(3.4.1)(A)(ii) above as long as misfire is occurring and the MIL shall remain continuously illuminated if the misfiring ceases.

(C) Erasure of pending fault codes

Pending fault codes shall be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without any exceedance of the specified percentage of misfire. The pending code may

also be erased if similar driving conditions are not encountered during the next 80 driving cycles subsequent to the initial detection of a malfunction.

(D) Exemptions for vehicles with fuel shutoff and default fuel control. Notwithstanding sections (e)(3.4.1)(A) and (B) above, in vehicles that provide for fuel shutoff and default fuel control to prevent over fueling during catalyst damage misfire conditions, the MIL need not blink. Instead, the MIL may illuminate continuously in accordance with the requirements for continuous MIL illumination in sections (e)(3.4.1)(B)(iii) above upon detection of misfire, provided that the fuel shutoff and default control are activated as soon as misfire is detected. Fuel shutoff and default fuel control may be deactivated only to permit fueling outside of the misfire range. Manufacturers may also periodically, but not more than once every 30 seconds, deactivate fuel shutoff and default fuel control to determine if the specified percentage of misfire for catalyst damage is still being exceeded. Normal fueling and fuel control may be resumed if the specified percentage of misfire for catalyst damage is no longer being exceeded.

(E) Manufacturers may request Executive Officer approval of strategies that continuously illuminate the MIL in lieu of blinking the MIL during extreme catalyst damage misfire conditions (i.e., catalyst damage misfire occurring at all engine speeds and loads). Executive Officer approval shall be granted upon determining that the manufacturer employs the strategy only when catalyst damage misfire levels cannot be avoided during reasonable driving conditions and the manufacturer has demonstrated that the strategy will encourage operation of the vehicle in conditions that will minimize catalyst damage (e.g., at low engine speeds and loads).

(3.4.2) Misfire causing emissions to exceed 1.5 times the FTP standards. Upon detection of the percentage of misfire specified in section (e)(3.2.2), the following criteria shall apply for MIL illumination and fault code storage:

(A) Misfire within the first 1000 revolutions after engine start.

(i) A pending fault code shall be stored no later than after the first exceedance of the specified percentage of misfire during a single driving cycle if the exceedance occurs within the first 1000 revolutions after engine start (defined in section (c)) during which misfire detection is active.

(ii) If a pending fault code is stored, the OBD II system shall illuminate the MIL and store a confirmed fault code within ten seconds if an exceedance of the specified percentage of misfire is again detected in the first 1000 revolutions during any subsequent driving cycle, regardless of the conditions encountered during the driving cycle.

(iii) The pending fault code shall be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the next 80 driving cycles immediately following the initial detection of the malfunction.

(B) Exceedances after the first 1000 revolutions after engine start.

(i) A pending fault code shall be stored no later than after the fourth exceedance of the percentage of misfire specified in section (e)(3.2.2) during a single driving cycle.

(ii) If a pending fault code is stored, the OBD II system shall illuminate the MIL and store a confirmed fault code within ten seconds if the percentage of misfire specified in section (e)(3.2.2) is again exceeded four times during: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(iii) The pending fault code may be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the

next 80 driving cycles immediately following initial detection of the malfunction.

(3.4.3) Storage of freeze frame conditions.

(A) A manufacturer shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing and erasing a confirmed fault code.

(B) If freeze frame conditions are stored for a malfunction other than misfire or fuel system malfunction (see section (e)(6)) when a fault code is stored as specified in section (e)(3.4) above, the stored freeze frame information shall be replaced with freeze frame information regarding the misfire malfunction.

(3.4.4) Storage of misfire conditions for similar conditions determination. Upon detection of misfire under sections (e)(3.4.1) or (3.4.2), manufacturers shall store the following engine conditions: engine speed, load, and warm-up status of the first misfire event that resulted in the storage of the pending fault code.

(3.4.5) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without an exceedance of the specified percentage of misfire.

(4) *Evaporative System Monitoring*

(4.1) Requirement: The OBD II system shall verify purge flow from the evaporative system and shall monitor the complete evaporative system, excluding the tubing and connections between the purge valve and the intake manifold, for vapor leaks to the atmosphere. Individual components of the evaporative system (e.g. valves, sensors, etc.) shall be monitored in accordance with the comprehensive components requirements in section (e)(15) (e.g., for circuit continuity, out of range values, rationality, proper functional response, etc.). Vehicles not required to be equipped with evaporative emission systems shall be exempt from monitoring of the evaporative system.

(4.2) Malfunction Criteria:

(4.2.1) For purposes of section (e)(4), an orifice shall be defined as an O'Keefe Controls Co. precision metal "Type B" orifice with NPT connections with a diameter of the specified dimension (e.g., part number B-20-SS for a stainless steel 0.020 inch diameter orifice).

(4.2.2) The OBD II system shall detect an evaporative system malfunction when any of the following conditions exist:

(A) No purge flow from the evaporative system to the engine can be detected by the OBD II system;

(B) The complete evaporative system contains a leak or leaks that cumulatively are greater than or equal to a leak caused by a 0.040 inch diameter orifice; or

(C) The complete evaporative system contains a leak or leaks that cumulatively are greater than or equal to a leak caused by a 0.020 inch diameter orifice.

(4.2.3) On vehicles with fuel tank capacity greater than 25.0 gallons, a manufacturer may request the Executive Officer to revise the orifice size in sections (e)(4.2.2)(B) and/or (C) if the most reliable monitoring method available cannot reliably detect a system leak of the magnitudes specified. The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or engineering analysis that demonstrate the need for the request.

(4.2.4) Upon request by the manufacturer and upon determining that the manufacturer has submitted data and/or engineering evaluation which support the request, the Executive Officer shall revise the orifice size in sections (e)(4.2.2)(B) and/or (C) upward to exclude detection of leaks that cannot cause evaporative or running loss emissions to exceed 1.5 times the applicable standards.

(4.2.5) A manufacturer may request Executive Officer approval to revise the orifice size in section (e)(4.2.2)(B) to a 0.090 inch diameter orifice. The Executive Officer shall approve the request upon the manufacturer submitting data and/or engineering analysis and the Executive Officer finding that:

(A) the monitoring strategy for detecting orifices specified in section (e)(4.2.2)(C) meets the monitoring conditions requirements of section (e)(4.3.2); and

(B) the monitoring strategy for detecting 0.090 inch diameter orifices yields an in-use monitor performance ratio (as defined in section (d)(4)) that meets or exceeds 0.620.

(4.2.6) For the 2004 and 2005 model years only, manufacturers that use separate monitors to identify leaks (as specified in (e)(4.2.2)(B) or (C)) in different portions of the complete evaporative system (e.g., separate monitors for the fuel tank to canister portion and for the canister to purge valve portion of the system) may request Executive Officer approval to revise the malfunction criteria in sections (e)(4.2.2)(B) and (C) to identify a malfunction when the separately monitored portion of the evaporative system (e.g., the fuel tank to canister portion) has a leak (or leaks) that is greater than or equal to the specified size in lieu of when the complete evaporative system has a leak (or leaks) that is greater than or equal to the specified size. The Executive Officer shall approve the request upon determining that the manufacturer utilized the same monitoring strategy (e.g., monitoring portions of the complete system with separate monitors) on vehicles prior to the 2004 model year and that the monitoring strategy provides further isolation of the malfunction for repair technicians by utilizing separate fault codes for each monitored portion of the evaporative system.

(4.2.7) For vehicles that utilize more than one purge flow path (e.g., a turbo-charged engine with a low pressure purge line and a high pressure purge line), the OBD II system shall verify the criteria of (e)(4.2.2)(A) (i.e., purge flow to the engine) for both purge flow paths. If a manufacturer demonstrates that blockage, leakage, or disconnection of one of the purge flow paths cannot cause a measurable emission increase during any reasonable in-use driving conditions, monitoring of that flow path is not required.

(4.3) Monitoring Conditions:

(4.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(4.2.2)(A) and (B) (i.e., purge flow and 0.040 inch leak detection) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(4.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(4.2.2)(C) (i.e., 0.020 inch leak detection) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (e)(4.2.2)(C) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(4.3.3) Manufacturers may disable or abort an evaporative system monitor when the fuel tank level is over 85 percent of nominal tank capacity or during a refueling event.

(4.3.4) Manufacturers may request Executive Officer approval to execute the evaporative system monitor only on driving cycles determined by the manufacturer to be cold starts if the condition is needed to ensure reliable monitoring. The Executive Officer may not approve criteria that exclude engine starts from being considered as cold starts solely on the basis that ambient temperature exceeds (i.e., indicates a higher temperature than) engine coolant temperature at engine start. The Executive Officer shall approve the request upon determining that data and/or an engineering evaluation submitted by the manufacturer demonstrate that a reliable check can only be made on driving cycles when the cold start criteria are satisfied.

(4.3.5) Manufacturers may temporarily disable the evaporative purge system to perform an evaporative system leak check.

(4.4) MIL Illumination and Fault Code Storage:

(4.4.1) Except as provided below for fuel cap leaks and alternate statistical MIL illumination protocols, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(4.4.2) If the OBD II system is capable of discerning that a system leak is being caused by a missing or improperly secured fuel cap:

(A) The manufacturer is not required to illuminate the MIL or store a fault code if the vehicle is equipped with an alternative indicator for notifying the vehicle operator of the malfunction. The alternative indicator

shall be of sufficient illumination and location to be readily visible under all lighting conditions.

(B) If the vehicle is not equipped with an alternative indicator and the MIL illuminates, the MIL may be extinguished and the corresponding fault codes erased once the OBD II system has verified that the fuel cap has been securely fastened and the MIL has not been illuminated for any other type of malfunction.

(C) The Executive Officer may approve other strategies that provide equivalent assurance that a vehicle operator will be promptly notified of a missing or improperly secured fuel cap and that corrective action will be undertaken.

(4.4.3) Notwithstanding section (d)(2.2.6), manufacturers may request Executive Officer approval to use alternative statistical MIL illumination and fault code storage protocols that require up to twelve driving cycles on average for monitoring strategies designed to detect malfunctions specified by section (e)(4.2.2)(C). Executive Officer approval shall be granted in accordance with the bases identified in section (d)(2.2.6) and upon determination that the manufacturer has submitted data and/or an engineering analysis demonstrating that the most reliable monitoring method available cannot reliably detect a malfunction of the specified size without the additional driving cycles and that the monitoring system will still meet the monitoring conditions requirements specified in sections (d)(3.1) and (3.2).

(5) Secondary Air System Monitoring

(5.1) Requirement: The OBD II system on vehicles equipped with any form of secondary air delivery system shall monitor the proper functioning of the secondary air delivery system including all air switching valve(s). The individual electronic components (e.g., actuators, valves, sensors, etc.) in the secondary air system shall be monitored in accordance with the comprehensive component requirements in section (e)(15).

(5.2) Malfunction Criteria:

(5.2.1) For purposes of section (e)(5), "air flow" is defined as the air flow delivered by the secondary air system to the exhaust system. For vehicles using secondary air systems with multiple air flow paths/distribution points, the air flow to each bank (i.e., a group of cylinders that share a common exhaust manifold, catalyst, and control sensor) shall be monitored in accordance with the malfunction criteria in sections (e)(5.2.3) and (5.2.4) unless complete blocking of air delivery to one bank does not cause a measurable increase in emissions.

(5.2.2) For all Low Emission Vehicle I applications:

(A) Except as provided in sections (e)(5.2.2)(B) and (e)(5.2.4), the OBD II system shall detect a secondary air system malfunction prior to a decrease from the manufacturer's specified air flow that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards.

(B) Manufacturers may request Executive Officer approval to detect a malfunction when no detectable amount of air flow is delivered in lieu of the malfunction criteria in section (e)(5.2.2)(A). The Executive Office shall grant approval upon determining that deterioration of the secondary air system is unlikely based on data and/or engineering evaluation submitted by the manufacturer demonstrating that the materials used for the secondary air system (e.g., air hoses, tubing, valves, connectors, etc.) are inherently resistant to disconnection, corrosion, or other deterioration.

(5.2.3) For all Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles:

(A) For 2004 and 2005 model year vehicles, manufacturers shall use the malfunction criteria specified for Low Emission Vehicle I applications in section (e)(5.2.2).

(B) For 2006 and subsequent model year vehicles, except as provided in sections (e)(5.2.3)(C) and (e)(5.2.4), the OBD II system shall detect a secondary air system malfunction prior to a decrease from the manufacturer's specified air flow during normal operation that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards. For purposes of sections (e)(5.2) and (5.3), "normal operation" shall be defined as the condition when the secondary air system is acti-

vated during catalyst and/or engine warm-up following engine start and may not include the condition when the secondary air system is intrusively turned on solely for the purpose of monitoring.

(C) For 2006 and 2007 model year vehicles only, a manufacturer may request Executive Officer approval to detect a malfunction when no detectable amount of air flow is delivered during normal operation in lieu of the malfunction criteria in section (e)(5.2.3)(B) (e.g., 1.5 times the standard) during normal operation. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data and/or engineering analysis that demonstrate that the monitoring system is capable of detecting malfunctions prior to a decrease from the manufacturer's specified air flow that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards during an intrusive operation of the secondary air system later in the same driving cycle.

(5.2.4) For vehicles in which no deterioration or failure of the secondary air system would result in a vehicle's emissions exceeding 1.5 times any of the applicable standards, the OBD II system shall detect a malfunction when no detectable amount of air flow is delivered. For vehicles subject to the malfunction criteria in section (e)(5.2.3)(B), this monitoring for no detectable amount of air flow shall occur during normal operation of the secondary air system.

(5.3) Monitoring Conditions:

(5.3.1) For all Low Emission Vehicle I applications: Manufacturers shall define the monitoring conditions in accordance with section (d)(3.1).

(5.3.2) For all Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles:

(A) For 2004 and 2005 model year vehicles, manufacturers shall define the monitoring conditions in accordance with section (d)(3.1).

(B) For 2006 and subsequent model year vehicles, manufacturers shall define the monitoring conditions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (e)(5.2) during normal operation of the secondary air system shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(5.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(6) Fuel System Monitoring

(6.1) Requirement:

(6.1.1) The OBD II system shall monitor the fuel delivery system to determine its ability to provide compliance with emission standards.

(6.2) Malfunction Criteria:

(6.2.1) The OBD II system shall detect a malfunction of the fuel delivery system when:

(A) The fuel delivery system is unable to maintain a vehicle's emissions at or below 1.5 times any of the applicable FTP standards; or

(B) If equipped, the feedback control based on a secondary oxygen or exhaust gas sensor is unable to maintain a vehicle's emissions (except as a result of a malfunction specified in section (e)(6.2.1)(C)) at or below 1.5 times any of the applicable FTP standards; or

(C) Except as required in section (e)(6.2.6), for 25 percent of all 2011 model year vehicles, 50 percent of all 2012 model year vehicles, 75 percent of all 2013 model year vehicles, and 100 percent of all 2014 model year vehicles, an air-fuel ratio cylinder imbalance (e.g., the air-fuel ratio in one or more cylinders is different than the other cylinders due to a cylinder specific malfunction such as an intake manifold leak at a particular cylinder, fuel injector problem, an individual cylinder EGR runner flow delivery problem, an individual variable cam lift malfunction such that an individual cylinder is operating on the wrong cam lift profile, or other similar problems) occurs in one or more cylinders such that the fuel delivery system is unable to maintain a vehicle's emissions at or below: 4.0 times the applicable FTP standards for PC/LDT SULEV II vehicles and 3.0 times the applicable FTP standards for all other vehicles for the 2011 through 2013 model years; and 1.5 times the applicable FTP standards for all 2014 and subsequent model year vehicles. In lieu of using 1.5

times the applicable FTP standards for all 2014 model year applications, for the 2014 model year only, a manufacturer may continue to use 4.0 times the applicable FTP standards for PC/LDT SULEV II vehicles and 3.0 times the applicable FTP standards for other applications previously certified in the 2011, 2012, or 2013 model year to 4.0 times or 3.0 times the applicable FTP standards and carried over to the 2014 model year.

(6.2.2) Except as provided for in section (e)(6.2.3) below, if the vehicle is equipped with adaptive feedback control, the OBD II system shall detect a malfunction when the adaptive feedback control has used up all of the adjustment allowed by the manufacturer.

(6.2.3) If the vehicle is equipped with feedback control that is based on a secondary oxygen (or equivalent) sensor, the OBD II system is not required to detect a malfunction of the fuel system solely when the feedback control based on a secondary oxygen sensor has used up all of the adjustment allowed by the manufacturer. However, if a failure or deterioration results in vehicle emissions that exceed the malfunction criteria in section (e)(6.2.1), the OBD II system is required to detect a malfunction.

(6.2.4) The OBD II system shall detect a malfunction whenever the fuel control system fails to enter closed-loop operation (if employed) within a manufacturer specified time interval.

(6.2.5) Manufacturers may adjust the criteria and/or limit(s) to compensate for changes in altitude, for temporary introduction of large amounts of purge vapor, or for other similar identifiable operating conditions when they occur.

(6.2.6) Notwithstanding the phase-in specified in section (e)(6.2.1)(C), if a vehicle is equipped with separate EGR flow delivery passageways (internal or external) that deliver EGR flow to individual cylinders (e.g., an EGR system with individual delivery pipes to each cylinder), the OBD II system shall monitor the fuel delivery system for malfunctions specified in section (e)(6.2.1)(C) on all 2011 and subsequent model year vehicles so equipped.

(6.3) Monitoring Conditions:

(6.3.1) Except as provided in section (e)(6.3.2), the fuel system shall be monitored continuously for the presence of a malfunction.

(6.3.2) Manufacturers shall define monitoring conditions for malfunctions identified in section (e)(6.2.1)(C) (i.e., air-fuel ratio cylinder imbalance malfunctions) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(6.4) MIL Illumination and Fault Code Storage: For malfunctions described under section (6.2.1)(C) (i.e., air-fuel ratio cylinder imbalance malfunctions), general requirements for MIL illumination and fault code storage are set forth in section (d)(2). For all other fuel system malfunctions, the MIL illumination and fault code storage requirements are set forth in sections (e)(6.4.1) through (6.4.6) below.

(6.4.1) A pending fault code shall be stored immediately upon the fuel system exceeding the malfunction criteria established pursuant to section (e)(6.2).

(6.4.2) Except as provided below, if a pending fault code is stored, the OBD II system shall immediately illuminate the MIL and store a confirmed fault code if a malfunction is again detected during either of the following two events: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to those that occurred when the pending fault code was stored are encountered.

(6.4.3) The pending fault code may be erased at the end of the next driving cycle in which similar conditions have been encountered without an exceedance of the specified fuel system malfunction criteria. The pending code may also be erased if similar conditions are not encountered during the 80 driving cycles immediately after the initial detection of a malfunction for which the pending code was set.

(6.4.4) Storage of freeze frame conditions.

(A) The OBD II system shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing and erasing a confirmed fault code.

(B) If freeze frame conditions are stored for a malfunction other than misfire (see section (e)(3)) or fuel system malfunction when a fault code is stored as specified in section (e)(6.4) above, the stored freeze frame information shall be replaced with freeze frame information regarding the fuel system malfunction.

(6.4.5) Storage of fuel system conditions for determining similar conditions of operation.

(A) Upon detection of a fuel system malfunction under section (e)(6.2), the OBD II system shall store the engine speed, load, and warm-up status of the first fuel system malfunction that resulted in the storage of the pending fault code.

(B) For fuel system faults detected using feedback control that is based on a secondary oxygen (or equivalent) sensor, the manufacturer may request Executive Officer approval to use an alternate definition of similar conditions in lieu of the definition specified in section (c). The Executive Officer shall approve the alternate definition upon the manufacturer providing data or analysis demonstrating that the alternate definition provides for equivalent robustness in detection of fuel system faults that vary in severity depending on engine speed, load, and/or warm-up status.

(6.4.6) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without a malfunction of the fuel system.

(7) Exhaust Gas Sensor Monitoring

(7.1) Requirement:

(7.1.1) The OBD II system shall monitor the output voltage, response rate, and any other parameter which can affect emissions of all primary (fuel control) oxygen sensors (conventional switching sensors and wide range or universal sensors) for malfunction.

(7.1.2) The OBD II system shall also monitor all secondary oxygen sensors (those used for fuel trim control or as a monitoring device) for proper output voltage, activity, and/or response rate.

(7.1.3) For vehicles equipped with heated oxygen sensors, the OBD II system shall monitor the heater for proper performance.

(7.1.4) For other types of sensors (e.g., hydrocarbon sensors, NOx sensors), the manufacturer shall submit a monitoring plan to the Executive Officer for approval. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and an engineering evaluation that demonstrate that the monitoring plan is as reliable and effective as the monitoring plan required for conventional sensors under section (e)(7).

(7.2) Malfunction Criteria:

(7.2.1) Primary Sensors:

(A) The OBD II system shall detect a malfunction prior to any failure or deterioration of the oxygen sensor voltage, response rate, amplitude, or other characteristic(s) (including drift or bias corrected for by secondary sensors) that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards. For response rate (see section (c)), the OBD II system shall detect asymmetric malfunctions (i.e., malfunctions that primarily affect only the lean-to-rich response rate or only the rich-to-lean response rate) and symmetric malfunctions (i.e., malfunctions that affect both the lean-to-rich and rich-to-lean response rates). As defined in section (c), response rate includes delays in the sensor to initially react to a change in exhaust gas composition as well as delays during the transition from a rich-to-lean (or lean-to-rich) sensor output. For 25 percent of 2010, 50 percent of 2011, and 100 percent of 2012 and subsequent model year vehicles, the manufacturer shall submit data and/or engineering analysis to demonstrate that the calibration method used ensures proper detection of all symmetric and asymmetric response rate malfunctions as part of the certification application.

(B) The OBD II system shall detect malfunctions of the oxygen sensor caused by either a lack of circuit continuity or out-of-range values.

(C) The OBD II system shall detect a malfunction of the oxygen sensor when a sensor failure or deterioration causes the fuel system to stop using that sensor as a feedback input (e.g., causes default or open loop opera-

tion) or causes the fuel system to fail to enter closed-loop operation within a manufacturer-specified time interval.

(D) The OBD II system shall detect a malfunction of the oxygen sensor when the sensor output voltage, amplitude, activity, or other characteristics are no longer sufficient for use as an OBD II system monitoring device (e.g., for catalyst monitoring).

(7.2.2) Secondary Sensors:

(A) The OBD II system shall detect a malfunction prior to any failure or deterioration of the oxygen sensor voltage, response rate, amplitude, or other characteristic(s) that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards.

(B) The OBD II system shall detect malfunctions of the oxygen sensor caused by a lack of circuit continuity.

(C) Sufficient sensor performance for other monitors.

(i) The OBD II system shall detect a malfunction of the oxygen sensor when the sensor output voltage, amplitude, activity, or other characteristics are no longer sufficient for use as an OBD II system monitoring device (e.g., for catalyst monitoring). For this requirement, "sufficient" is defined as the capability of the worst performing acceptable sensor to detect the best performing unacceptable other monitored system or component (e.g., catalyst).

(ii) For systems where it is not technically feasible to satisfy the criteria of section (e)(7.2.2)(C)(i) completely, the OBD II system shall, at a minimum, detect a slow rich-to-lean response malfunction during a fuel shut-off event (e.g., deceleration fuel cut event). The rich-to-lean response check shall monitor both the sensor response time from a rich condition (e.g., 0.7 Volts) prior to the start of fuel shut-off to a lean condition (e.g., 0.1 Volts) expected during fuel shut-off conditions and the sensor transition time in the intermediate sensor range (e.g., from 0.55 Volts to 0.3 Volts). Monitoring of the rich-to-lean response shall be phased in on at least 25 percent of the 2009, 50 percent of the 2010, and 100 percent of the 2011 model year vehicles. For purposes of this phase-in, vehicles meeting the criteria of section (e)(7.2.2)(C)(i) shall be counted as vehicles meeting the rich-to-lean response rate monitoring requirement of section (e)(7.2.2)(C)(ii).

(iii) Additionally, for systems where it is not technically feasible to satisfy the criteria in section (e)(7.2.2)(C)(i), prior to certification of 2009 model year vehicles, the manufacturer must submit a comprehensive plan to the Executive Officer demonstrating the manufacturer's efforts to minimize any gap remaining between the worst performing acceptable sensor and a sufficient sensor. The plan should include quantification of the gap and supporting documentation for efforts to close the gap including sensor monitoring improvements, other system component monitor improvements (e.g., changes to make the catalyst monitor less sensitive to oxygen sensor response), and sensor specification changes, if any. The Executive Officer shall approve the plan upon determining the submitted information supports the necessity of the gap and the plan demonstrates that the manufacturer is taking reasonable efforts to minimize or eliminate the gap in a timely manner.

(D) The OBD II system shall detect malfunctions of the oxygen sensor caused by out-of-range values.

(7.2.3) Sensor Heaters:

(A) The OBD II system shall detect a malfunction of the heater performance when the current or voltage drop in the heater circuit is no longer within the manufacturer's specified limits for normal operation (i.e., within the criteria required to be met by the component vendor for heater circuit performance at high mileage). Subject to Executive Officer approval, other malfunction criteria for heater performance malfunctions may be used upon the Executive Officer determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate the monitoring reliability and timeliness to be equivalent to the stated criteria in section (e)(7.2.3)(A).

(B) The OBD II system shall detect malfunctions of the heater circuit including open or short circuits that conflict with the commanded state of the heater (e.g., shorted to 12 Volts when commanded to 0 Volts (ground), etc.).

(7.3) Monitoring Conditions:

(7.3.1) Primary Sensors

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(7.2.1)(A) and (D) (e.g., proper response rate) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections (e)(7.2.1)(A) and (D) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(B) Except as provided in section (e)(7.3.1)(C), monitoring for malfunctions identified in sections (e)(7.2.1)(B) and (C) (i.e., circuit continuity, out-of-range, and open-loop malfunctions) shall be:

(i) Conducted in accordance with title 13, CCR section 1968.1 for Low Emission Vehicle I applications and 2004 and 2005 model year Low Emission Vehicle II applications;

(ii) Conducted continuously for all 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles.

(C) A manufacturer may request Executive Officer approval to disable continuous oxygen sensor monitoring when an oxygen sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(7.3.2) Secondary Sensors

(A) Manufacturers shall define monitoring conditions for malfunctions identified in sections (e)(7.2.2)(A) and (C) (e.g., proper sensor activity) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For all 2010 and subsequent model year vehicles meeting the monitoring requirements of section (e)(7.2.2)(C)(i) or (ii), for purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections (e)(7.2.2)(A) and (C) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(B) Except as provided in section (e)(7.3.2)(C), monitoring for malfunctions identified in sections (e)(7.2.2)(B) and (D) (i.e., open circuit, out-of-range malfunctions) shall be:

(i) Conducted in accordance with title 13, CCR section 1968.1 for Low Emission Vehicle I applications and 2004 and 2005 model year Low Emission Vehicle II applications;

(ii) Conducted continuously for all 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles.

(C) A manufacturer may request Executive Officer approval to disable continuous oxygen sensor monitoring when an oxygen sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(7.3.3) Sensor Heaters

(A) Manufacturers shall define monitoring conditions for malfunctions identified in section (e)(7.2.3)(A) (e.g., sensor heater performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(B) Monitoring for malfunctions identified in section (e)(7.2.3)(B) (e.g., circuit malfunctions) shall be:

(i) Conducted in accordance with title 13, CCR section 1968.1 for 2004 and 2005 model year vehicles;

(ii) Conducted continuously for all 2006 and subsequent model year vehicles.

(7.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(8) *Exhaust Gas Recirculation (EGR) System Monitoring*

(8.1) Requirement: The OBD II system shall monitor the EGR system on vehicles so-equipped for low and high flow rate malfunctions. The individual electronic components (e.g., actuators, valves, sensors, etc.) that are used in the EGR system shall be monitored in accordance with the comprehensive component requirements in section (e)(15).

(8.2) Malfunction Criteria:

(8.2.1) The OBD II system shall detect a malfunction of the EGR system prior to an increase or decrease from the manufacturer's specified EGR flow rate that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards.

(8.2.2) For vehicles in which no failure or deterioration of the EGR system could result in a vehicle's emissions exceeding 1.5 times any of the applicable standards, the OBD II system shall detect a malfunction when the system has no detectable amount of EGR flow.

(8.3) Monitoring Conditions:

(8.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(8.2) (e.g., flow rate) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (e)(8.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(8.3.2) Manufacturers may request Executive Officer approval to temporarily disable the EGR system check under specific conditions (e.g., when freezing may affect performance of the system). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation which demonstrate that a reliable check cannot be made when these conditions exist.

(8.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(9) *Positive Crankcase Ventilation (PCV) System Monitoring*

(9.1) Requirement:

(9.1.1) On all 2004 and subsequent model year vehicles, manufacturers shall monitor the PCV system on vehicles so-equipped for system integrity. A manufacturer may use an alternate phase-in schedule in lieu of meeting the requirements of section (e)(9) on all 2004 model year vehicles if the alternate phase-in schedule provides for equivalent compliance volume (as defined in section (c)) to the phase-in schedule specified in title 13, CCR section 1968.1(b)(10.1). Vehicles not required to be equipped with PCV systems shall be exempt from monitoring of the PCV system.

(9.2) Malfunction Criteria:

(9.2.1) For the purposes of section (e)(9), "PCV system" is defined as any form of crankcase ventilation system, regardless of whether it utilizes positive pressure. "PCV valve" is defined as any form of valve or orifice used to restrict or control crankcase vapor flow. Further, any additional external PCV system tubing or hoses used to equalize crankcase pressure or to provide a ventilation path between various areas of the engine (e.g., crankcase and valve cover) are considered part of the PCV system "between the crankcase and the PCV valve" and subject to the malfunction criteria in section (e)(9.2.2) below.

(9.2.2) Except as provided below, the OBD II system shall detect a malfunction of the PCV system when a disconnection of the system occurs between either the crankcase and the PCV valve, or between the PCV valve and the intake manifold.

(9.2.3) If the PCV system is designed such that the PCV valve is fastened directly to the crankcase in a manner which makes it significantly more difficult to remove the valve from the crankcase rather than disconnect the line between the valve and the intake manifold (taking aging effects into consideration), the Executive Officer shall exempt the manufacturer from detection of disconnection between the crankcase and the PCV valve.

(9.2.4) Subject to Executive Officer approval, system designs that utilize tubing between the valve and the crankcase shall also be exempted from the portion of the monitoring requirement for detection of disconnection between the crankcase and the PCV valve. The manufacturer shall file a request and submit data and/or engineering evaluation in support of the request. The Executive Officer shall approve the request upon determining that the connections between the valve and the crankcase are: (i) resistant to deterioration or accidental disconnection, (ii) significantly more difficult to disconnect than the line between the valve and the intake manifold, and (iii) not subject to disconnection per manufacturer's repair procedures for non-PCV system repair work.

(9.2.5) Manufacturers are not required to detect disconnections between the PCV valve and the intake manifold if said disconnection (1) causes the vehicle to stall immediately during idle operation; or (2) is unlikely to occur due to a PCV system design that is integral to the induction system (e.g., machined passages rather than tubing or hoses).

(9.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(9.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(9.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2). The stored fault code need not specifically identify the PCV system (e.g., a fault code for idle speed control or fuel system monitoring can be stored) if the manufacturer demonstrates that additional monitoring hardware would be necessary to make this identification, and provided the manufacturer's diagnostic and repair procedures for the detected malfunction include directions to check the integrity of the PCV system.

(10) *Engine Cooling System Monitoring*

(10.1) Requirement:

(10.1.1) The OBD II system shall monitor the thermostat on vehicles so-equipped for proper operation.

(10.1.2) The OBD II system shall monitor the engine coolant temperature (ECT) sensor for circuit continuity, out-of-range values, and rationality faults.

(10.2) Malfunction Criteria:

(10.2.1) Thermostat

(A) The OBD II system shall detect a thermostat malfunction if, within an Executive Officer approved time interval after starting the engine, either of the following two conditions occur:

(i) The coolant temperature does not reach the highest temperature required by the OBD II system to enable other diagnostics;

(ii) The coolant temperature does not reach a warmed-up temperature within 20 degrees Fahrenheit of the manufacturer's nominal thermostat regulating temperature. Subject to Executive Officer approval, a manufacturer may utilize lower temperatures for this criterion upon the Executive Officer determining that the manufacturer has demonstrated that the fuel, spark timing, and/or other coolant temperature-based modifications to the engine control strategies would not cause an emission increase of 50 or more percent of any of the applicable standards (e.g., 50 degree Fahrenheit emission test, etc.).

(B) Executive Officer approval of the time interval after engine start shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(C) With Executive Officer approval, a manufacturer may use alternate malfunction criteria and/or monitoring conditions (see section (e)(10.3)) that are a function of temperature at engine start on vehicles that do not reach the temperatures specified in the malfunction criteria when the thermostat is functioning properly. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data that demonstrate that a properly operating system does not reach the specified temperatures, that the monitor is capable of meeting the specified malfunction criteria at engine start temperatures greater than 50°F, and that the overall effectiveness of the monitor is comparable to a moni-

tor meeting these thermostat monitoring requirements at lower temperatures.

(D) With Executive Officer approval, manufacturers may omit this monitor. Executive Officer approval shall be granted upon determining that the manufacturer has demonstrated that a malfunctioning thermostat cannot cause a measurable increase in emissions during any reasonable driving condition nor cause any disablement of other monitors.

(10.2.2) ECT Sensor

(A) Circuit Continuity. The OBD II system shall detect a malfunction when a lack of circuit continuity or out-of-range values occur.

(B) Time to Reach Closed-Loop Enable Temperature.

(i) The OBD II system shall detect a malfunction if the ECT sensor does not achieve the stabilized minimum temperature which is needed for the fuel control system to begin closed-loop operation (closed-loop enable temperature) within an Executive Officer approved time interval after starting the engine.

(ii) The time interval shall be a function of starting ECT and/or a function of intake air temperature and, except as provided below in section (e)(10.2.2)(B)(iii), may not exceed:

a. two minutes for engine start temperatures at or above 50 degrees Fahrenheit and five minutes for engine start temperatures at or above 20 degrees Fahrenheit and below 50 degrees Fahrenheit for Low Emission Vehicle I applications and 2004 and 2005 model year Low Emission Vehicle II applications;

b. two minutes for engine start temperatures up to 15 degrees Fahrenheit below the closed-loop enable temperature and five minutes for engine start temperatures between 15 and 35 degrees Fahrenheit below the closed-loop enable temperature for all 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles.

(iii) Executive Officer approval of the time interval shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times. The Executive Officer shall allow longer time intervals upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that the vehicle requires a longer time to warm up under normal conditions.

(iv) The Executive Officer shall exempt manufacturers from the requirement of section (e)(10.2.2)(B) if the manufacturer does not utilize ECT to enable closed loop fuel control.

(C) Stuck in Range Below the Highest Minimum Enable Temperature. To the extent feasible when using all available information, the OBD II system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature below the highest minimum enable temperature required by the OBD II system to enable other diagnostics (e.g., an OBD II system that requires ECT to be greater than 140 degrees Fahrenheit to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature below 140 degrees Fahrenheit). Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (e)(10.2.1) or (e)(10.2.2)(B) will detect ECT sensor malfunctions as defined in section (e)(10.2.2)(C).

(D) Stuck in Range Above the Lowest Maximum Enable Temperature.

(i) To the extent feasible when using all available information, the OBD II system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature above the lowest maximum enable temperature required by the OBD II system to enable other diagnostics (e.g., an OBD II system that requires ECT to be less than 90 degrees Fahrenheit at engine start to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature above 90 degrees Fahrenheit).

(ii) Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (e)(10.2.1), (e)(10.2.2)(B), or (e)(10.2.2)(C) (i.e., ECT sensor or thermostat malfunctions) will detect ECT sensor malfunctions as defined in section

(e)(10.2.2)(D) or in which the MIL will be illuminated under the requirements of section (d)(2.2.3) for default mode operation (e.g., overtemperature protection strategies).

(iii) For Low Emission Vehicle I applications and 2004 and 2005 model year Low Emission Vehicle II applications only, manufacturers are also exempted from the requirements of section (e)(10.2.2)(D) for vehicles that have a temperature gauge (not a warning light) on the instrument panel and utilize the same ECT sensor for input to the OBD II system and the temperature gauge.

(iv) For 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles, manufacturers are also exempted from the requirements of section (e)(10.2.2)(D) for temperature regions where the temperature gauge indicates a temperature in the red zone (engine overheating zone) for vehicles that have a temperature gauge (not a warning light) on the instrument panel and utilize the same ECT sensor for input to the OBD II system and the temperature gauge.

(10.3) Monitoring Conditions:

(10.3.1) Thermostat

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(10.2.1)(A) in accordance with section (d)(3.1) except as provided for in section (e)(10.3.1)(D). Additionally, except as provided for in sections (e)(10.3.1)(B) and (C), monitoring for malfunctions identified in section (e)(10.2.1)(A) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates, at engine start, a temperature lower than the temperature established as the malfunction criteria in section (e)(10.2.1)(A).

(B) Manufacturers may disable thermostat monitoring at ambient temperatures below 20 degrees Fahrenheit.

(C) Manufacturers may request Executive Officer approval to suspend or disable thermostat monitoring if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 percent of the warm-up time, hot restart conditions, etc.). In general, the Executive Officer shall not approve disablement of the monitor on engine starts where the ECT at engine start is more than 35 degrees Fahrenheit lower than the thermostat malfunction threshold temperature determined under section (e)(10.2.1)(A). The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or engineering analysis that demonstrate the need for the request.

(D) With respect to defining enable conditions that are encountered during the FTP or Unified cycle as required in (d)(3.1.1) for malfunctions identified in section (e)(10.2.1)(A), the FTP cycle or Unified cycle shall refer to on-road driving following the FTP or Unified cycle in lieu of testing on a chassis dynamometer.

(10.3.2) ECT Sensor

(A) Except as provided below in section (e)(10.3.2)(E), monitoring for malfunctions identified in section (e)(10.2.2)(A) (i.e., circuit continuity and out-of-range) shall be conducted continuously.

(B) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(10.2.2)(B) in accordance with section (d)(3.1). Additionally, except as provided for in section (e)(10.3.2)(D), monitoring for malfunctions identified in section (e)(10.2.2)(B) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates a temperature lower than the closed loop enable temperature at engine start (i.e., all engine start temperatures greater than the ECT sensor out of range low temperature and less than the closed loop enable temperature).

(C) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(10.2.2)(C) and (D) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(D) Manufacturers may suspend or delay the time to reach closed loop enable temperature diagnostic if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 to 75 percent of the warm-up time).

(E) A manufacturer may request Executive Officer approval to disable continuous ECT sensor monitoring when an ECT sensor malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or engineering evaluation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(10.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(11) *Cold Start Emission Reduction Strategy Monitoring*

(11.1) Requirement:

(11.1.1) For all 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year applications, if a vehicle incorporates a specific engine control strategy to reduce cold start emissions, the OBD II system shall monitor the commanded elements for proper function (e.g., increased engine idle speed, commanded ignition timing retard, etc.), other than secondary air, while the control strategy is active to ensure proper operation of the control strategy. Secondary air systems shall be monitored under the provisions of section (e)(5).

(11.1.2) In lieu of meeting the requirements of section (e)(11) on all 2006 through 2008 model year Low Emission Vehicle II applications, a manufacturer may phase in the requirements on a portion of its Low Emission Vehicle II applications as long as that portion of Low Emission Vehicle II applications comprises at least 30 percent of all 2006 model year vehicles, 60 percent of all 2007 model year vehicles, and 100 percent of all 2008 and subsequent model year vehicles.

(11.2) Malfunction Criteria:

(11.2.1) For vehicles not included in the phase-in specified in section (e)(11.2.2):

(A) The OBD II system shall detect a malfunction prior to any failure or deterioration of the individual components associated with the cold start emission reduction control strategy that would cause a vehicle's emissions to exceed 1.5 times the applicable FTP standards. Manufacturers shall:

(i) Establish the malfunction criteria based on data from one or more representative vehicle(s).

(ii) Provide an engineering evaluation for establishing the malfunction criteria for the remainder of the manufacturer's product line. The Executive Officer shall waive the evaluation requirement each year if, in the judgement of the Executive Officer, technological changes do not affect the previously determined malfunction criteria.

(B) For components where no failure or deterioration of the component used for the cold start emission reduction strategy could result in a vehicle's emissions exceeding 1.5 times the applicable standards, the individual component shall be monitored for proper functional response in accordance with the malfunction criteria in section (e)(15.2) while the control strategy is active.

(11.2.2) For 25 percent of 2010, 50 percent of 2011, and 100 percent of 2012 and subsequent model year vehicles, the OBD II system shall, to the extent feasible, detect a malfunction if either of the following occurs:

(A) Any single commanded element does not properly respond to the commanded action while the cold start strategy is active. For elements involving spark timing (e.g., retarded spark timing), the monitor may verify final commanded spark timing in lieu of verifying actual delivered spark timing. For purposes of this section, "properly respond" is defined as when the element responds:

(i) by a robustly detectable amount; and

(ii) in the direction of the desired command; and

(iii) above and beyond what the element would achieve on start-up without the cold start strategy active (e.g., if the cold start strategy commands a higher idle engine speed, a fault must be detected if there is no

detectable amount of engine speed increase above what the system would achieve without the cold start strategy active);

(B) Any failure or deterioration of the cold start emission reduction control strategy that would cause a vehicle's emissions to be equal to or above 1.5 times the applicable FTP standards. For this requirement, the OBD II system shall either monitor elements of the system as a whole (e.g., measuring air flow and modeling overall heat into the exhaust) or the individual elements (e.g., increased engine speed, commanded final spark timing) for failures that cause vehicle emissions to exceed 1.5 times the applicable FTP standards.

(11.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(11.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(11.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(12) *Air Conditioning (A/C) System Component Monitoring*

(12.1) Requirement: If a vehicle incorporates an engine control strategy that alters off-idle fuel and/or spark control when the A/C system is on, the OBD II system shall monitor all electronic air conditioning system components for malfunctions that cause the system to fail to invoke the alternate control while the A/C system is on or cause the system to invoke the alternate control while the A/C system is off. Additionally, the OBD II system shall monitor for malfunction all electronic air conditioning system components that are used as part of the diagnostic strategy for any other monitored system or component. The requirements of section (e)(12) shall be phased in as follows: 30 percent of all 2006 model year vehicles, 60 percent of all 2007 model year vehicles, and 100 percent of all 2008 and subsequent model year vehicles.

(12.2) Malfunction Criteria:

(12.2.1) The OBD II system shall detect a malfunction prior to any failure or deterioration of an electronic component of the air conditioning system that would cause a vehicle's emissions to exceed 1.5 times any of the appropriate applicable emission standards or would, through software, effectively disable any other monitored system or component covered by this regulation. For malfunctions that result in the alternate control being erroneously invoked while the A/C system is off, the appropriate emission standards shall be the FTP standards. For malfunctions that result in the alternate control failing to be invoked while the A/C system is on, the appropriate emission standards shall be the SC03 emission standards.

(12.2.2) If no single electronic component failure or deterioration causes emissions to exceed 1.5 times any of the appropriate applicable emission standards as defined above in section (e)(12.2.1) nor is used as part of the diagnostic strategy for any other monitored system or component, manufacturers are not required to monitor any air conditioning system component for purposes of section (e)(12).

(12.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(12.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(12.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(13) *Variable Valve Timing and/or Control (VVT) System Monitoring*

(13.1) Requirement: On all 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles, the OBD II system shall monitor the VVT system on vehicles so equipped for target error and slow response malfunctions. The individual electronic components (e.g., actuators, valves, sensors, etc.) that are used in the VVT system shall be monitored in accordance with the comprehensive components requirements in section (e)(15). VVT systems on Low Emission Vehicle I applications and 2004 and 2005 model year Low

Emission Vehicle II applications shall be monitored in accordance with the comprehensive components requirements in section (e)(15).

(13.2) Malfunction Criteria:

(13.2.1) Target Error. The OBD II system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a crank angle and/or lift tolerance that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards.

(13.2.2) Slow Response. The OBD II system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a time that would cause a vehicle's emissions to exceed 1.5 times any of the applicable FTP standards.

(13.2.3) For vehicles in which no failure or deterioration of the VVT system could result in a vehicle's emissions exceeding 1.5 times any of the applicable standards, the VVT system shall be monitored for proper functional response in accordance with the malfunction criteria in section (e)(15.2).

(13.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for VVT system malfunctions identified in section (e)(13.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). Additionally, manufacturers shall track and report VVT system monitor performance under section (d)(3.2.2). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (e)(13.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(13.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(14) *Direct Ozone Reduction (DOR) System Monitoring*

(14.1) Requirement:

(14.1.1) The OBD II system shall monitor the DOR system on vehicles so-equipped for malfunctions that reduce the ozone reduction performance of the system.

(14.1.2) For 2003, 2004, and 2005 model year vehicles subject to the malfunction criteria of section (e)(14.2.1) below, manufacturers may request to be exempted from DOR system monitoring. The Executive Officer shall approve the exemption upon the manufacturer:

(A) Agreeing that the DOR system receive only 50 percent of the NMOG credit assigned to the DOR system as calculated under Air Resources Board (ARB) Manufacturers Advisory Correspondence (MAC) No. 99-06, December 20, 1999, which is hereby incorporated by reference herein.

(B) Identifying the DOR system component(s) as an emission control device on both the underhood emission control label and a separate label as specified below. The DOR system shall be included in the list of emission control devices on the underhood emission control label and be identified as a "DOR system" or other equivalent term from SAE J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms - Equivalent to ISO/TR 15031-2: April 30, 2002 (SAE 1930)", incorporated by reference. A separate label shall be located on or near the DOR system component(s) in a location that is visible to repair technicians prior to the removal of any parts necessary to replace the DOR system component(s) and shall identify the components as a "DOR system" or other equivalent SAE J1930 term.

(14.2) Malfunction Criteria:

(14.2.1) For vehicles in which the NMOG credit assigned to the DOR system, as calculated in accordance with ARB MAC No. 99-06, is less than or equal to 50 percent of the applicable FTP NMOG standard, the OBD II system shall detect a malfunction when the DOR system has no detectable amount of ozone reduction.

(14.2.2) For vehicles in which the NMOG credit assigned to the DOR system, as calculated in accordance with ARB MAC No. 99-06, is great-

er than 50 percent of the applicable FTP NMOG standard, the OBD II system shall detect a malfunction when the ozone reduction performance of the DOR system deteriorates to a point where the difference between the NMOG credit assigned to the properly operating DOR system and the NMOG credit calculated for a DOR system performing at the level of the malfunctioning system exceeds 50 percent of the applicable FTP NMOG standard.

(14.2.3) For vehicles equipped with a DOR system, the manufacturer may modify any of the applicable NMOG malfunction criteria in sections (e)(1)-(3), (e)(5)-(8), (e)(11)-(e)(13), and (e)(16) by adding the NMOG credit received by the DOR system to the required NMOG malfunction criteria (e.g., a malfunction criteria of 1.5 x NMOG standard would be modified to (1.5 x NMOG standard) + DOR system NMOG credit).

(14.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(14.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(14.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(15) *Comprehensive Component Monitoring*

(15.1) Requirement:

(15.1.1) Except as provided in sections (e)(15.1.3), (e)(15.1.4), and (e)(16), the OBD II system shall monitor for malfunction any electronic powertrain component/system not otherwise described in sections (e)(1) through (e)(14) that either provides input to (directly or indirectly) or receives commands from the on-board computer(s), and: (1) can affect emissions during any reasonable in-use driving condition, or (2) is used as part of the diagnostic strategy for any other monitored system or component.

(A) Input Components: Input components required to be monitored may include the vehicle speed sensor, crank angle sensor, knock sensor, throttle position sensor, cam position sensor, fuel composition sensor (e.g. flexible fuel vehicles), and transmission electronic components such as sensors, modules, and solenoids which provide signals to the powertrain control system.

(B) Output Components/Systems: Output components/systems required to be monitored may include the idle speed control system, automatic transmission solenoids or controls, variable length intake manifold runner systems, supercharger or turbocharger electronic components, heated fuel preparation systems, and a warm-up catalyst bypass valve.

(15.1.2) For purposes of criteria (1) in section (e)(15.1.1) above, the manufacturer shall determine whether a powertrain input or output component/system can affect emissions. If the Executive Officer reasonably believes that a manufacturer has incorrectly determined that a component/system cannot affect emissions, the Executive Officer shall require the manufacturer to provide emission data showing that the component/system, when malfunctioning and installed in a suitable test vehicle, does not have an emission effect. The Executive Officer may request emission data for any reasonable driving condition.

(15.1.3) Manufacturers shall monitor for malfunction electronic powertrain input or output components/systems associated with an electronic transfer case, electronic power steering system, or other components that are driven by the engine and not related to the control of fueling, air handling, or emissions only if the component or system is used as part of the diagnostic strategy for any other monitored system or component.

(15.1.4) Except as specified for hybrids in section (e)(15.1.5), manufacturers shall monitor for malfunction electronic powertrain input or output components/systems associated with components that only affect emissions by causing additional electrical load to the engine and are not related to the control of fueling, air handling, or emissions only if the component or system is used as part of the diagnostic strategy for any other monitored system or component.

(15.1.5) For hybrids, manufacturers shall submit a plan to the Executive Officer for approval of the hybrid components determined by the manufacturer to be subject to monitoring in section (e)(15.1.1). In gener-

al, the Executive Officer shall approve the plan if it includes monitoring of all components/systems used as part of the diagnostic strategy for any other monitored system or component, monitoring of all energy input devices to the electrical propulsion system, monitoring of battery and charging system performance, monitoring of electric motor performance, and monitoring of regenerative braking performance.

(15.2) Malfunction Criteria:

(15.2.1) Input Components:

(A) The OBD II system shall detect malfunctions of input components caused by a lack of circuit continuity, out of range values, and, where feasible, rationality faults. To the extent feasible, the rationality fault diagnostics shall verify that a sensor output is neither inappropriately high nor inappropriately low (e.g., "two-sided" diagnostics).

(B) To the extent feasible on all 2005 and subsequent model year vehicles, rationality faults shall be separately detected and store different fault codes than the respective lack of circuit continuity and out of range diagnostics. Additionally, input component lack of circuit continuity and out of range faults shall be separately detected and store different fault codes for each distinct malfunction (e.g., out-of-range low, out-of-range high, open circuit, etc.). Manufacturers are not required to store separate fault codes for lack of circuit continuity faults that cannot be distinguished from other out-of-range circuit faults.

(C) For vehicles that require precise alignment between the camshaft and the crankshaft, the OBD II system shall monitor the crankshaft position sensor(s) and camshaft position sensor(s) to verify proper alignment between the camshaft and crankshaft in addition to monitoring the sensors for circuit continuity and rationality malfunctions. Proper alignment monitoring between a camshaft and a crankshaft shall only be required in cases where both are equipped with position sensors. For 2006 through 2008 model year Low Emission Vehicle II applications and all 2009 and subsequent model year vehicles equipped with VVT systems and a timing belt or chain, the OBD II system shall detect a malfunction if the alignment between the camshaft and crankshaft is off by one or more cam/crank sprocket cogs (e.g., the timing belt/chain has slipped by one or more teeth/cogs). If a manufacturer demonstrates that a single tooth/cog misalignment cannot cause a measurable increase in emissions during any reasonable driving condition, the manufacturer shall detect a malfunction when the minimum number of teeth/cogs misalignment needed to cause a measurable emission increase has occurred. For the 2006 through 2009 model years only, a manufacturer may also request Executive Officer approval to use a larger threshold than one tooth/cog. The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated that hardware modifications are necessary to meet the one tooth/cog threshold and that further software modifications are not able to reduce the larger threshold.

(15.2.2) Output Components/Systems:

(A) The OBD II system shall detect a malfunction of an output component/system when proper functional response of the component and system to computer commands does not occur. If a functional check is not feasible, the OBD II system shall detect malfunctions of output components/systems caused by a lack of circuit continuity or circuit fault (e.g., short to ground or high voltage). For output component lack of circuit continuity faults and circuit faults, manufacturers are not required to store different fault codes for each distinct malfunction (e.g., open circuit, shorted low, etc.). Manufacturers are not required to activate an output component/system when it would not normally be active for the purposes of performing functional monitoring of output components/systems as required in section (e)(15).

(B) The idle speed control system shall be monitored for proper functional response to computer commands. For strategies based on deviation from target idle speed, a malfunction shall be detected when either of the following conditions occur:

(i) The idle speed control system cannot achieve the target idle speed within 200 revolutions per minute (rpm) above the target speed or 100 rpm below the target speed. The Executive Officer shall allow larger engine speed tolerances upon determining that a manufacturer has sub-

mitted data and/or an engineering evaluation which demonstrate that the tolerances can be exceeded without a malfunction being present.

(ii) The idle speed control system cannot achieve the target idle speed within the smallest engine speed tolerance range required by the OBD II system to enable any other monitor.

(15.3) Monitoring Conditions:

(15.3.1) Input Components:

(A) Except as provided in section (e)(15.3.1)(C), input components shall be monitored continuously for proper range of values and circuit continuity.

(B) For rationality monitoring (where applicable):

(i) For 2004 model year vehicles, manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with section (d)(3.1).

(ii) For 2005 and subsequent model year vehicles, manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that rationality monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(C) A manufacturer may request Executive Officer approval to disable continuous input component proper range of values or circuit continuity monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning input component cannot be distinguished from a malfunctioning input component and that the disablement interval is limited only to that necessary for avoiding false detection.

(15.3.2) Output Components/Systems:

(A) Except as provided in section (e)(15.3.2)(D), monitoring for circuit continuity and circuit faults shall be conducted continuously.

(B) Except as provided in section (e)(15.3.2)(C), for functional monitoring, manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(C) For the idle speed control system on all 2005 and subsequent model year vehicles, manufacturers shall define the monitoring conditions for functional monitoring in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that functional monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(D) A manufacturer may request Executive Officer approval to disable continuous output component circuit continuity or circuit fault monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning output component cannot be distinguished from a malfunctioning output component and that the disablement interval is limited only to that necessary for avoiding false detection.

(15.4) MIL Illumination and Fault Code Storage:

(15.4.1) Except as provided in section (e)(15.4.2) below, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(15.4.2) Exceptions to general requirements for MIL illumination. MIL illumination is not required in conjunction with storing a confirmed fault code for any comprehensive component if:

(A) the component or system, when malfunctioning, could not cause vehicle emissions to increase by:

- (i) 25 percent or more for PC/LDT SULEV II vehicles, or
- (ii) 15 percent or more for all other vehicles, and

(B) the component or system is not used as part of the diagnostic strategy for any other monitored system or component.

(15.4.3) For purposes of determining the emission increase in section (e)(15.4.2)(A), the manufacturer shall request Executive Officer approval of the test cycle/vehicle operating conditions for which the emission increase will be determined. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data and/or engineering evaluation that demonstrate that the testing conditions represent in-use driving conditions where emissions are likely to be most affected by the malfunctioning component. For purposes of determining whether the specified percentages in section (e)(15.4.2)(A) are exceeded, if the approved testing conditions are comprised of an emission test cycle with an emission standard, the measured increase shall be compared to a percentage of the emission standard (e.g., if the increase is equal to or more than 15 percent of the emission standard for that test cycle). If the approved testing conditions are comprised of a test cycle or vehicle operating condition that does not have an emission standard, the measured increase shall be calculated as a percentage of the baseline test (e.g., if the increase from a back-to-back test sequence between normal and malfunctioning condition is equal to or more than 15 percent of the baseline test results from the normal condition).

(16) Other Emission Control or Source System Monitoring

(16.1) Requirement: For other emission control or source systems that are: (1) not identified or addressed in sections (e)(1) through (e)(15) (e.g., hydrocarbon traps, homogeneous charge compression ignition (HCCI) controls, NO_x storage devices, fuel-fired passenger compartment heaters, etc.), or (2) identified or addressed in section (e)(15) but not corrected or compensated for by the adaptive fuel control system (e.g., swirl control valves), manufacturers shall submit a plan for Executive Officer approval of the monitoring strategy, malfunction criteria, and monitoring conditions prior to introduction on a production vehicle intended for sale in California. Executive Officer approval shall be based on the effectiveness of the monitoring strategy, the malfunction criteria utilized, the monitoring conditions required by the diagnostic, and, if applicable, the determination that the requirements of section (e)(16.3) below are satisfied.

(16.2) For purposes of section (e)(16), emission source systems are components or devices that emit pollutants subject to vehicle evaporative and exhaust emission standards (e.g., NMOG, CO, NO_x, PM, etc.) and include non-electronic components and non-powertrain components (e.g., fuel-fired passenger compartment heaters, on-board reformers, etc.).

(16.3) Except as provided below in this paragraph, for 2005 and subsequent model year vehicles that utilize emission control systems that alter intake air flow or cylinder charge characteristics by actuating valve(s), flap(s), etc. in the intake air delivery system (e.g., swirl control valve systems), the manufacturers, in addition to meeting the requirements of section (e)(16.1) above, may elect to have the OBD II system monitor the shaft to which all valves in one intake bank are physically attached in lieu of monitoring the intake air flow, cylinder charge, or individual valve(s)/flap(s) for proper functional response. For non-metal shafts or segmented shafts, the monitor shall verify all shaft segments for proper functional response (e.g., by verifying the segment or portion of the shaft furthest from the actuator properly functions). For systems that have more than one shaft to operate valves in multiple intake banks, manufacturers are not required to add more than one set of detection hardware (e.g., sensor, switch, etc.) per intake bank to meet this requirement. Vehicles utilizing these emission control systems designed and certified for 2004 or earlier model year vehicles and carried over to the 2005 through 2009 model year shall be not be required to meet the provisions of section (e)(16.3) until the engine or intake air delivery system is redesigned.

(17) Exceptions to Monitoring Requirements

(17.1) Except as provided in sections (e)(17.1.1) through (17.1.3) below, upon request of a manufacturer or upon the best engineering judgment of the ARB, the Executive Officer may revise the emission threshold for a malfunction on any diagnostic required in section (e) the most reliable monitoring method developed requires a higher threshold to prevent significant errors of commission in detecting a malfunction.

(17.1.1) For PC/LDT SULEV II vehicles, the Executive Officer shall approve a malfunction criteria of 2.5 times the applicable FTP standards in lieu of 1.5 wherever required in section (e).

(17.1.2) For 2004 model year PC/LDT SULEV II vehicles only, the Executive Officer shall approve monitors with thresholds that exceed 2.5 times the applicable FTP standard if the manufacturer demonstrates that a higher threshold is needed given the state of development of the vehicle and that the malfunction criteria and monitoring approach and technology (e.g., fuel system limits, percent misfire, monitored catalyst volume, etc.) are at least as stringent as comparable ULEV (not ULEV II) vehicles.

(17.1.3) For vehicles certified to Federal Bin 3 or Bin 4 emission standards, manufacturers shall utilize the ULEV II vehicle NMOG and CO malfunction criteria (e.g., 1.5 times the Bin 3 or Bin 4 NMOG and CO standards) and the PC/LDT SULEV II vehicle NO_x malfunction criteria (e.g., 2.5 times the Bin 3 or Bin 4 NO_x standards).

(17.1.4) For medium-duty vehicles certified to an engine dynamometer tailpipe emission standard, the manufacturer shall request Executive Officer approval of a malfunction criterion that is equivalent to that proposed for each monitor in section (e). The Executive Officer shall approve the request upon finding that the manufacturer has used good engineering judgment in determining the equivalent malfunction criterion and that the criterion will provide for similar timeliness in detection of malfunctioning components.

(17.2) Whenever the requirements in section (e) of this regulation require a manufacturer to meet a specific phase-in schedule (e.g., (e)(11) cold start emission reduction strategy monitoring requires 30 percent in 2006 model year, 60 percent in 2007 model year, and 100 percent in 2008 model year):

(17.2.1) The phase-in percentages shall be based on the manufacturer's projected sales volume for all vehicles subject to the requirements of title 13, CCR section 1968.2 unless specifically stated otherwise in section (e).

(17.2.2) Manufacturers may use an alternate phase-in schedule in lieu of the required phase-in schedule if the alternate phase-in schedule provides for equivalent compliance volume as defined in section (c) except as specifically noted for the phase in of in-use monitor performance ratio monitoring conditions in section (d)(3.2).

(17.2.3) Small volume manufacturers may use an alternate phase-in schedule in accordance with section (e)(17.2.2) in lieu of the required phase-in schedule or may meet the requirement on all vehicles by the final year of the phase-in in lieu of meeting the specific phase-in requirements for each model year (e.g., in the example in section (e)(17.2), small volume manufacturers are required to meet 100 percent in the 2008 model year for cold start emission reduction strategy monitoring, but not 30 percent in the 2006 model year or 60 percent in the 2007 model year).

(17.3) Manufacturers may request Executive Officer approval to disable an OBD II system monitor at ambient temperatures below twenty degrees Fahrenheit (20°F) (low ambient temperature conditions may be determined based on intake air or engine coolant temperature) or at elevations above 8000 feet above sea level. The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or an engineering evaluation that demonstrate that monitoring during the conditions would be unreliable. A manufacturer may further request, and the Executive Officer shall approve, that an OBD II system monitor be disabled at other ambient temperatures upon determining that the manufacturer has demonstrated with data and/or an engineering evaluation that misdiagnosis would occur at the ambient temperatures because of its effect on the component itself (e.g., component freezing).

(17.4) Manufacturers may request Executive Officer approval to disable monitoring systems that can be affected by low fuel level or running out of fuel (e.g., misfire detection) when the fuel level is 15 percent or less of the nominal capacity of the fuel tank. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the fuel levels would be unreliable.

(17.5) Manufacturers may disable monitoring systems that can be affected by vehicle battery or system voltage levels.

(17.5.1) For monitoring systems affected by low vehicle battery or system voltages, manufacturers may disable monitoring systems when the battery or system voltage is below 11.0 Volts. Manufacturers may request Executive Officer approval to utilize a voltage threshold higher than 11.0 Volts to disable system monitoring. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the voltages would be unreliable and that either operation of a vehicle below the disablement criteria for extended periods of time is unlikely or the OBD II system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(17.5.2) For monitoring systems affected by high vehicle battery or system voltages, manufacturers may request Executive Officer approval to disable monitoring systems when the battery or system voltage exceeds a manufacturer-defined voltage. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring above the manufacturer-defined voltage would be unreliable and that either the electrical charging system/alternator warning light is illuminated (or voltage gauge is in the "red zone") or that the OBD II system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(17.6) A manufacturer may disable affected monitoring systems in vehicles designed to accommodate the installation of Power Take-Off (PTO) units (as defined in section (c)), provided disablement occurs only while the PTO unit is active, and the OBD II readiness status is cleared by the on-board computer (i.e., all monitors set to indicate "not complete") while the PTO unit is activated (see section (g)(4.1)). If the disablement occurs, the readiness status may be restored to its state prior to PTO activation when the disablement ends.

(17.7) A manufacturer may request Executive Officer approval to disable affected monitoring systems in vehicles equipped with tire pressure monitoring systems that cause a vehicle to enter a default mode of operation (e.g., reduced top speed) when a tire pressure problem is detected. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that the default mode can affect monitoring system performance, that the tire pressure monitoring system will likely result in action by the consumer to correct the problem, and that the disablement will not prevent or hinder effective testing in an Inspection and Maintenance program.

(17.8) Whenever the requirements in section (e) of this regulation require monitoring "to the extent feasible", the manufacturer shall submit its proposed monitor(s) for Executive Officer approval. The Executive Officer shall approve the proposal upon determining that the proposed monitor(s) meets the criteria of "to the extent feasible" by considering the best available monitoring technology to the extent that it is known or should have been known to the manufacturer and given the limitations of the manufacturer's existing hardware, the extent and degree to which the monitoring requirements are met in full, the limitations of monitoring necessary to prevent significant errors of commission and omission, and the extent to which the manufacturer has considered and pursued alternative monitoring concepts to meet the requirements in full. The manufacturer's consideration and pursuit of alternative monitoring concepts shall include evaluation of other modifications to the proposed monitor(s), the monitored components themselves, and other monitors that use the monitored components (e.g., altering other monitors to lessen the sensitivity and reliance on the component or characteristic of the component subject to the proposed monitor(s)).

(17.9) For 2004 model year vehicles certified to run on alternate fuels, manufacturers may request the Executive Officer to waive specific monitoring requirements in section (e) for which monitoring may not be reliable with respect to the use of alternate fuels. The Executive Officer shall

grant the request upon determining that the manufacturer has demonstrated that the use of the alternate fuel could cause false illumination of the MIL even when using the best available monitoring technologies.

(17.10) For 2004 model year vehicles only, wherever the requirements of section (e) reflect a substantive change from the requirements of title 13, CCR section 1968.1(b) for 2003 model year vehicles, the manufacturer may request Executive Officer approval to continue to use the requirements of section 1968.1 in lieu of the requirements of section (e). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or engineering evaluation that demonstrate that software or hardware changes would be required to comply with the requirements of section (e) and that the system complies with the requirements of section 1968.1(b).

(f) *Monitoring Requirements for Diesel/Compression-Ignition Engines.*

(1) *Non-Methane Hydrocarbon (Nmhc) Converting Catalyst Monitoring*

(1.1) Requirement: The OBD II system shall monitor the NMHC converting catalyst(s) for proper NMHC conversion capability. For vehicles equipped with catalyzed PM filters that convert NMHC emissions, the catalyst function of the PM filter shall be monitored in accordance with the PM filter requirements in section (f)(9).

(1.2) Malfunction Criteria:

(1.2.1) For purposes of section (f)(1), each catalyst in a series configuration that converts NMHC shall be monitored either individually or in combination with others.

(1.2.2) Conversion Efficiency:

(A) The OBD II system shall detect an NMHC catalyst malfunction when the catalyst conversion capability decreases to the point that NMHC emissions exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 5.0 times the applicable FTP standards for 2004 through 2009 model year vehicles;

b. 3.0 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

c. 1.75 times the applicable FTP standards for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 2.5 times the applicable standards for 2007 through 2012 model year vehicles; and

b. 2.0 times the applicable standards for 2013 and subsequent model year vehicles.

(B) Except as provided below in section (f)(1.2.2)(C), if no failure or deterioration of the catalyst NMHC conversion capability could result in NMHC emissions exceeding the applicable malfunction criteria of section (f)(1.2.2)(A), the OBD II system shall detect a malfunction when the catalyst has no detectable amount of NMHC conversion capability.

(C) For 2004 through 2009 model year vehicles, a manufacturer may request to be exempted from the requirements for NMHC catalyst conversion efficiency monitoring. The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated, through data and/or engineering evaluation, that the average FTP test NMHC conversion efficiency of the system is less than 30 percent (i.e., the cumulative NMHC emissions measured at the outlet of the catalyst are more than 70 percent of the cumulative engine-out NMHC emissions measured at the inlet of the catalyst(s)).

(1.2.3) Other Aftertreatment Assistance Functions. Additionally, for 2010 and subsequent model year vehicles, the catalyst(s) shall be monitored for other aftertreatment assistance functions:

(A) For catalysts used to generate an exotherm to assist PM filter regeneration, the OBD II system shall detect a malfunction when the catalyst is unable to generate a sufficient exotherm to achieve regeneration of the PM filter.

(B) For catalysts used to generate a feedgas constituency to assist SCR systems (e.g., to increase NO₂ concentration upstream of an SCR system), the OBD II system shall detect a malfunction when the catalyst is unable to generate the necessary feedgas constituents for proper SCR system operation.

(C) For catalysts located downstream of a PM filter and used to convert NMHC emissions during PM filter regeneration, the OBD II system shall detect a malfunction when the catalyst has no detectable amount of NMHC conversion capability.

(D) For catalysts located downstream of an SCR system and used to prevent ammonia slip, the OBD II system shall detect a malfunction when the catalyst has no detectable amount of NMHC, CO, NO_x, or PM conversion capability. Monitoring of the catalyst shall not be required if there is no measurable emission impact on the criteria pollutants (i.e., NMHC, CO, NO_x, and PM) during any reasonable driving condition where the catalyst is most likely to affect criteria pollutants (e.g., during conditions most likely to result in ammonia generation or excessive reductant delivery).

(1.2.4) Catalyst System Aging and Monitoring

(A) For purposes of determining the catalyst malfunction criteria in sections (f)(1.2.2) and (1.2.3) for individually monitored catalysts, the manufacturer shall use a catalyst(s) deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning engine operating conditions. If the catalyst system contains catalysts in parallel (e.g., a two bank exhaust system where each bank has its own catalyst), the malfunction criteria shall be determined with the "parallel" catalysts equally deteriorated.

(B) For purposes of determining the catalyst malfunction criteria in sections (f)(1.2.2) and (1.2.3) for catalysts monitored in combination with others, the manufacturer shall submit a catalyst system aging and monitoring plan to the Executive Officer for review and approval. The plan shall include the description, emission control purpose, and location of each component, the monitoring strategy for each component and/or combination of components, and the method for determining the malfunction criteria of sections (f)(1.2.2) and (1.2.3) including the deterioration/aging process. If the catalyst system contains catalysts in parallel (e.g., a two bank exhaust system where each bank has its own catalyst), the malfunction criteria shall be determined with the "parallel" catalysts equally deteriorated. Executive Officer approval of the plan shall be based on the representativeness of the aging to real world catalyst system component deterioration under normal and malfunctioning engine operating conditions, the effectiveness of the method used to determine the malfunction criteria of section (f)(1.2), the ability of the component monitor(s) to pinpoint the likely area of malfunction and ensure the correct components are repaired/replaced in-use, and the ability of the component monitor(s) to accurately verify that each catalyst component is functioning as designed and as required in sections (f)(1.2.2) and (1.2.3).

(1.3) Monitoring Conditions:

(1.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(1.2.2) and (1.2.3) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections (f)(1.2.2) and (1.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(1.4) MIL Illumination and Fault Code Storage:

(1.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(1.4.2) The monitoring method for the catalyst(s) shall be capable of detecting all instances, except diagnostic self-clearing, when a catalyst fault code has been cleared but the catalyst has not been replaced (e.g., catalyst overtemperature histogram approaches are not acceptable).

(2) *Oxides of Nitrogen (NO_x) Converting Catalyst Monitoring*

(2.1) Requirement: The OBD II system shall monitor the NO_x converting catalyst(s) for proper conversion capability. For vehicles

equipped with selective catalytic reduction (SCR) systems or other catalyst systems that utilize an active/intrusive reductant injection (e.g., active lean NO_x catalysts utilizing diesel fuel injection), the OBD II system shall monitor the SCR or active/intrusive reductant injection system for proper performance. The individual electronic components (e.g., actuators, valves, sensors, heaters, pumps) in the SCR or active/intrusive reductant injection system shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(2.2) Malfunction Criteria:

(2.2.1) For purposes of section (f)(2), each catalyst in a series configuration that converts NO_x shall be monitored either individually or in combination with others.

(2.2.2) Conversion Efficiency:

(A) The OBD II system shall detect a NO_x catalyst malfunction when the catalyst conversion capability decreases to the point that NO_x or NMHC emissions exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP standards for 2004 through 2009 model year vehicles;

b. 2.5 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

c. 1.75 times the applicable FTP standards for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. the applicable NO_x standard by more than 0.5 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.7 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 3.5 times the applicable NMHC standard for 2007 through 2009 model year vehicles;

b. the applicable NO_x standard by more than 0.3 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 2.5 times the applicable NMHC standard for 2010 through 2012 model year vehicles; and

c. the applicable NO_x standard by more than 0.2 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 2.0 times the applicable NMHC standard for 2013 and subsequent model year vehicles.

(B) Except as provided below in section (f)(2.2.2)(C), if no failure or deterioration of the catalyst NO_x or NMHC conversion capability could result in NO_x or NMHC emissions exceeding the applicable malfunction criteria of section (f)(2.2.2), the OBD II system shall detect a malfunction when the catalyst has no detectable amount of NO_x or NMHC conversion capability.

(C) For 2004 through 2009 model year vehicles, a manufacturer may request to be exempted from the requirements for NO_x catalyst conversion efficiency monitoring. The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated, through data and/or engineering evaluation, that the average FTP test NO_x conversion efficiency of the system is less than 30 percent (i.e., the cumulative NO_x emissions measured at the outlet of the catalyst are more than 70 percent of the cumulative engine-out NO_x emissions measured at the inlet of the catalyst(s)).

(2.2.3) Selective Catalytic Reduction (SCR) or Other Active/Intrusive Reductant Injection System Performance:

(A) Reductant Delivery Performance:

(i) For 2007 and subsequent model year vehicles, the OBD II system shall detect a system malfunction prior to any failure or deterioration of the system to properly regulate reductant delivery (e.g., urea injection, separate injector fuel injection, post injection of fuel, air assisted injection/mixing) that would cause a vehicle's NO_x or NMHC emissions to exceed the applicable emission levels specified in sections (f)(2.2.2)(A).

(ii) If no failure or deterioration of the reductant delivery system could result in a vehicle's NOx or NMHC emissions exceeding the applicable malfunction criteria specified in section (f)(2.2.3)(A)(i), the OBD II system shall detect a malfunction when the system has reached its control limits such that it is no longer able to deliver the desired quantity of reductant.

(B) If the catalyst system uses a reductant other than the fuel used for the engine or uses a reservoir/tank for the reductant that is separate from the fuel tank used for the engine, the OBD II system shall detect a malfunction when there is no longer sufficient reductant available to properly operate the reductant system (e.g., the reductant tank is empty).

(C) If the catalyst system uses a reservoir/tank for the reductant that is separate from the fuel tank used for the vehicle, the OBD II system shall detect a malfunction when an improper reductant is used in the reductant reservoir/tank (e.g., the reductant tank is filled with something other than the reductant).

(D) Feedback control: Except as provided for in section (f)(2.2.3)(E), if the vehicle is equipped with feedback control of the reductant injection, the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(E) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(2.2.3)(D)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(F) In lieu of detecting the malfunctions specified in sections (f)(2.2.3)(D)(i) and (ii) with a reductant injection system-specific monitor, the OBD II system may monitor the individual parameters or components that are used as inputs for reductant injection feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(2.2.3)(D)(i) and (ii).

(2.2.4) Catalyst System Aging and Monitoring

(A) For purposes of determining the catalyst malfunction criteria in section (f)(2.2.2) for individually monitored catalysts, the manufacturer shall use a catalyst deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning engine operating conditions. If the catalyst system contains catalysts in parallel (e.g., a two bank exhaust system where each bank has its own catalyst), the malfunction criteria shall be determined with the "parallel" catalysts equally deteriorated.

(B) For purposes of determining the catalyst malfunction criteria in section (f)(2.2.2) for catalysts monitored in combination with others, the manufacturer shall submit a catalyst system aging and monitoring plan to the Executive Officer for review and approval. The plan shall include the description, emission control purpose, and location of each component, the monitoring strategy for each component and/or combination of components, and the method for determining the malfunction criteria of section (f)(2.2.2) including the deterioration/aging process. If the catalyst system contains catalysts in parallel (e.g., a two bank exhaust system where each bank has its own catalyst), the malfunction criteria shall be determined with the "parallel" catalysts equally deteriorated. Executive Officer approval of the plan shall be based on the representativeness of the aging to real world catalyst system component deterioration under normal and malfunctioning engine operating conditions, the effectiveness of the method used to determine the malfunction criteria of section (f)(2.2.2), the ability of the component monitor(s) to pinpoint the likely area of malfunction and ensure the correct components are repaired/re-

placed in-use, and the ability of the component monitor(s) to accurately verify that each catalyst component is functioning as designed and as required in section (f)(2.2.2).

(2.3) Monitoring Conditions:

(2.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(2.2.2) (i.e., catalyst efficiency) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(2.2.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(2.3.2) The OBD II system shall monitor continuously for malfunctions identified in section (f)(2.2.3) (e.g., SCR performance).

(2.4) MIL Illumination and Fault Code Storage:

(2.4.1) Except as provided below for reductant faults, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(2.4.2) If the OBD II system is capable of discerning that a system fault is being caused by an empty reductant tank:

(A) The manufacturer may request Executive Officer approval to delay illumination of the MIL if the vehicle is equipped with an alternative indicator for notifying the vehicle operator of the malfunction. The Executive Officer shall approve the request upon determining the alternative indicator is of sufficient illumination and location to be readily visible under all lighting conditions and provides equivalent assurance that a vehicle operator will be promptly notified and that corrective action will be undertaken.

(B) If the vehicle is not equipped with an alternative indicator and the MIL illuminates, the MIL may be immediately extinguished and the corresponding fault codes erased once the OBD II system has verified that the reductant tank has been properly refilled and the MIL has not been illuminated for any other type of malfunction.

(C) The Executive Officer may approve other strategies that provide equivalent assurance that a vehicle operator will be promptly notified and that corrective action will be undertaken.

(2.4.3) The monitoring method for the catalyst(s) shall be capable of detecting all instances, except diagnostic self-clearing, when a catalyst fault code has been cleared but the catalyst has not been replaced (e.g., catalyst overtemperature histogram approaches are not acceptable).

(3) Misfire Monitoring

(3.1) Requirement:

(3.1.1) The OBD II system shall monitor the engine for misfire causing excess emissions. The OBD II system shall be capable of detecting misfire occurring in one or more cylinders. To the extent possible without adding hardware for this specific purpose, the OBD II system shall also identify the specific misfiring cylinder.

(3.1.2) If more than one cylinder is misfiring, a separate fault code shall be stored indicating that multiple cylinders are misfiring. When identifying multiple cylinder misfire, the OBD II system is not required to also identify each of the misfiring cylinders individually through separate fault codes.

(3.2) Malfunction Criteria:

(3.2.1) The OBD II system shall detect a misfire malfunction when one or more cylinders are continuously misfiring.

(3.2.2) Additionally, for 2010 and subsequent model year vehicles equipped with sensors that can detect combustion or combustion quality (e.g., for use in homogeneous charge compression ignition (HCCI) control systems):

(A) The OBD II system shall detect a misfire malfunction that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard, 1.5 times any of the applicable FTP standards.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard, 2.0 times any of the appli-

cable NMHC, CO, and NO_x standards or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test.

(B) Manufacturers shall determine the percentage of misfire evaluated in 1000 revolution increments that would cause NMHC, CO, NO_x, or PM emissions from an emission durability demonstration vehicle to exceed the levels specified in section (f)(3.2.2)(A) if the percentage of misfire were present from the beginning of the test. To establish this percentage of misfire, the manufacturer shall utilize misfire events occurring at equally spaced, complete engine cycle intervals, across randomly selected cylinders throughout each 1000-revolution increment. If this percentage of misfire is determined to be lower than one percent, the manufacturer may set the malfunction criteria at one percent.

(C) Subject to Executive Officer approval, a manufacturer may employ other revolution increments. The Executive Officer shall grant approval upon determining that the manufacturer has demonstrated that the strategy would be equally effective and timely in detecting misfire.

(3.2.3) A malfunction shall be detected if the percentage of misfire established in section (f)(3.2.2)(B) is exceeded regardless of the pattern of misfire events (e.g., random, equally spaced, continuous).

(3.3) Monitoring Conditions:

(3.3.1) The OBD II system shall monitor for misfire during engine idle conditions at least once per driving cycle in which the monitoring conditions for misfire are met. A manufacturer shall submit monitoring conditions to the Executive Officer for approval. The Executive Officer shall approve manufacturer-defined monitoring conditions that are determined (based on manufacturer-submitted data and/or other engineering documentation) to: (i) be technically necessary to ensure robust detection of malfunctions (e.g., avoid false passes and false detection of malfunctions), (ii) require no more than 1000 cumulative engine revolutions, and (iii) do not require any single continuous idle operation of more than 15 seconds to make a determination that a malfunction is present (e.g., a decision can be made with data gathered during several idle operations of 15 seconds or less); or satisfy the requirements of (d)(3.1) with alternative engine operating conditions.

(3.3.2) Manufacturers may request Executive Officer approval to use alternate monitoring conditions (e.g., off-idle). The Executive Officer shall approve alternate monitoring conditions that are determined (based on manufacturer-submitted data and/or other engineering documentation) to ensure equivalent robust detection of malfunctions and equivalent timeliness in detection of malfunctions.

(3.3.3) Additionally, for 2010 and subsequent model year vehicles subject to (f)(3.2.2):

(A) The OBD II system shall continuously monitor for misfire under all positive torque engine speeds and load conditions.

(B) If a monitoring system cannot detect all misfire patterns under all required engine speed and load conditions as required in section (f)(3.3.3)(A), the manufacturer may request Executive Officer approval to accept the monitoring system. In evaluating the manufacturer's request, the Executive Officer shall consider the following factors: the magnitude of the region(s) in which misfire detection is limited, the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events), the frequency with which said region(s) are expected to be encountered in-use, the type of misfire patterns for which misfire detection is troublesome, and demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines). The evaluation shall be based on the following misfire patterns: equally spaced misfire occurring on randomly selected cylinders, single cylinder continuous misfire, and paired cylinder (cylinders firing at the same crank angle) continuous misfire.

(3.4) MIL Illumination and Fault Code Storage:

(3.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(3.4.2) Additionally, for 2010 and subsequent model year vehicles subject to (f)(3.2.2):

(A) Upon detection of the percentage of misfire specified in section (f)(3.2.2)(B), the following criteria shall apply for MIL illumination and fault code storage:

(i) A pending fault code shall be stored no later than after the fourth exceedance of the percentage of misfire specified in section (f)(3.2.2)(B) during a single driving cycle.

(ii) If a pending fault code is stored, the OBD II system shall illuminate the MIL and store a confirmed fault code within 10 seconds if the percentage of misfire specified in section (f)(3.2.2)(B) is again exceeded four times during: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(iii) The pending fault code may be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the next 80 driving cycles immediately following initial detection of the malfunction.

(B) Storage of freeze frame conditions.

(i) The OBD II system shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing a confirmed fault code and erasing a confirmed fault code.

(ii) If freeze frame conditions are stored for a malfunction other than a misfire malfunction when a fault code is stored as specified in section (f)(3.4.2), the stored freeze frame information shall be replaced with freeze frame information regarding the misfire malfunction.

(C) Storage of misfire conditions for similar conditions determination. Upon detection of misfire under section (f)(3.4.2), the OBD II system shall store the following engine conditions: engine speed, load, and warm-up status of the first misfire event that resulted in the storage of the pending fault code.

(D) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without an exceedance of the specified percentage of misfire.

(4) Fuel System Monitoring

(4.1) Requirement:

The OBD II system shall monitor the fuel delivery system to determine its ability to comply with emission standards. The individual electronic components (e.g., actuators, valves, sensors, pumps) that are used in the fuel system and not specifically addressed in this section shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(4.2) Malfunction Criteria:

(4.2.1) Fuel system pressure control:

(A) The OBD II system shall detect a malfunction of the fuel system pressure control system (e.g., fuel, hydraulic fluid) prior to any failure or deterioration that would cause a vehicle's NMHC, CO, NO_x, or PM emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP standards for 2004 through 2009 model year vehicles;

b. 2.0 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

c. 1.5 times the applicable FTP NMHC, CO, or NO_x standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 1.5 times any of the applicable NMHC, CO, and NO_x standards or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for

2007 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of greater than 0.50 g/bhp–hr NOx;

b. 2.5 times any of the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp–hr (e.g., cause NOx emissions to exceed 0.5 g/bhp–hr if the emission standard is 0.2 g/bhp–hr) as measured from an applicable cycle emission test, or 0.03 g/bhp–hr PM as measured from an applicable cycle emission test for 2007 through 2012 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp–hr NOx; and

c. 2.0 times any of the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp–hr (e.g., cause NOx emissions to exceed 0.4 g/bhp–hr if the emission standard is 0.2 g/bhp–hr) as measured from an applicable cycle emission test, or 0.03 g/bhp–hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp–hr NOx;

(B) For vehicles in which no failure or deterioration of the fuel system pressure control could result in a vehicle's emissions exceeding the applicable malfunction criteria specified in section (f)(4.2.1)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that the commanded fuel system pressure cannot be delivered.

(4.2.2) Injection quantity. Additionally, for all 2010 and subsequent model year vehicles, the fuel system shall be monitored for injection quantity:

(A) The OBD II system shall detect a malfunction of the fuel injection system when the system is unable to deliver the commanded quantity of fuel necessary to maintain a vehicle's NMHC, CO, NOx and PM emissions at or below:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

b. 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard, the applicable emission levels specified in sections (f)(4.2.1)(A)(ii).

(B) For vehicles in which no failure or deterioration of the fuel injection quantity could result in a vehicle's emissions exceeding the applicable malfunction criteria specified in section (f)(4.2.2)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that the commanded fuel quantity cannot be delivered.

(4.2.3) Injection Timing. Additionally, for all 2010 and subsequent model year vehicles, the fuel system shall be monitored for injection timing:

(A) The OBD II system shall detect a malfunction of the fuel injection system when the system is unable to deliver fuel at the proper crank angle/timing (e.g., injection timing too advanced or too retarded) necessary to maintain a vehicle's NMHC, CO, NOx, and PM emissions at or below the applicable emission levels specified in sections (f)(4.2.2)(A).

(B) For vehicles in which no failure or deterioration of the fuel injection timing could result in a vehicle's emissions exceeding the applicable malfunction criteria specified in section (f)(4.2.3)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that the commanded fuel injection timing cannot be achieved.

(4.2.4) Feedback control:

(A) Except as provided for in section (f)(4.2.4)(B), if the vehicle is equipped with feedback control of the fuel system (e.g., feedback control of pressure or pilot injection quantity), the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(B) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(4.2.4)(A)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(C) In lieu of detecting the malfunctions specified in sections (f)(4.2.4)(A)(i) and (ii) with a fuel system-specific monitor, the OBD II system may monitor the individual parameters or components that are used as inputs for fuel system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(4.2.4)(A)(i) and (ii).

(4.3) Monitoring Conditions:

(4.3.1) The OBD II system shall monitor continuously for malfunctions identified in sections (f)(4.2.1) and (f)(4.2.4) (i.e., fuel pressure control and feedback operation).

(4.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(4.2.2) and (f)(4.2.3) (i.e., injection quantity and timing) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(4.4) MIL Illumination and Fault Code Storage:

(4.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(4.4.2) Additionally, for malfunctions identified in section (f)(4.2.1) (i.e., fuel pressure control) on all 2010 and subsequent model year vehicles:

(A) A pending fault code shall be stored immediately upon the fuel system exceeding the malfunction criteria established pursuant to section (f)(4.2.1).

(B) Except as provided below, if a pending fault code is stored, the OBD II system shall immediately illuminate the MIL and store a confirmed fault code if a malfunction is again detected during either of the following two events: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to those that occurred when the pending fault code was stored are encountered.

(C) The pending fault code may be erased at the end of the next driving cycle in which similar conditions have been encountered without an exceedance of the specified fuel system malfunction criteria. The pending code may also be erased if similar conditions are not encountered during the 80 driving cycles immediately after the initial detection of a malfunction for which the pending code was set.

(D) Storage of freeze frame conditions.

(i) A manufacturer shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing and erasing a confirmed fault code.

(ii) If freeze frame conditions are stored for a malfunction other than misfire (see section (f)(3)) or fuel system malfunction when a fault code is stored as specified in section (f)(4.4.2) above, the stored freeze frame information shall be replaced with freeze frame information regarding the fuel system malfunction.

(E) Storage of fuel system conditions for determining similar conditions of operation. Upon detection of a fuel system malfunction under section (f)(4.4.2), the OBD II system shall store the engine speed, load, and warm-up status of the first fuel system malfunction that resulted in the storage of the pending fault code.

(F) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without a malfunction of the fuel system.

(5) *Exhaust Gas Sensor Monitoring*

(5.1) Requirement:

(5.1.1) The OBD II system shall monitor all exhaust gas sensors (e.g., oxygen, air-fuel ratio, NOx) used for emission control system feedback (e.g., EGR control/feedback, SCR control/feedback, NOx adsorber control/feedback) or as a monitoring device for proper output signal, activity, response rate, and any other parameter that can affect emissions.

(5.1.2) For vehicles equipped with heated exhaust gas sensors, the OBD II system shall monitor the heater for proper performance.

(5.2) Malfunction Criteria:

(5.2.1) Air-Fuel Ratio Sensors:

(A) For sensors located upstream of the exhaust aftertreatment:

(i) Sensor performance faults: The OBD II system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

a. For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

1. 2.5 times the applicable FTP standards for 2004 through 2009 model year vehicles;

2. 2.0 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

3. 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

b. For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

1. 1.5 times the applicable NMHC, CO, and NOx standards or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of greater than 0.50 g/bhp-hr NOx;

2. 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 through 2012 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx; and

3. 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx.

(ii) Circuit faults: The OBD II system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(iii) Feedback faults: The OBD II system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NOx adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(iv) Monitoring capability: To the extent feasible, the OBD II system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD II system monitoring device (e.g., for catalyst, EGR, SCR, or NOx adsorber monitoring).

(B) For sensors located downstream of the exhaust aftertreatment:

(i) Sensor performance faults: The OBD II system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other char-

acteristic(s) that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

a. For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

1. 3.5 times the applicable FTP NMHC, CO, or NOx standards or 5.0 times the applicable FTP PM standard for 2004 through 2009 model year vehicles;

2. 2.5 times the applicable FTP NMHC, CO, or NOx standards or 4.0 times the applicable FTP PM standard for 2010 through 2012 model year vehicles;

3. 1.5 times the applicable FTP NMHC or CO standards, 1.75 times the applicable FTP NOx standard, or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

b. For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

1. 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.5 g/bhp-hr (e.g., cause NOx emissions to exceed 0.7 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.05 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 through 2009 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of greater than 0.50 g/bhp-hr NOx;

2. 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.05 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 through 2012 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx; and

3. 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx.

(ii) Circuit faults: The OBD II system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(iii) Feedback faults: The OBD II system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NOx adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(iv) Monitoring capability: To the extent feasible, the OBD II system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD II system monitoring device (e.g., for catalyst, EGR, SCR, or NOx adsorber monitoring).

(5.2.2) NOx and PM sensors:

(A) Sensor performance faults: The OBD II system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause a vehicle's emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

1. 3.5 times the applicable FTP NMHC, CO, or NOx standards or 5.0 times the applicable FTP PM standard for 2004 through 2009 model year vehicles;

2. 2.5 times the applicable FTP NMHC, CO, or NOx standards, or 4.0 times the applicable FTP PM standard for 2010 through 2012 model year vehicles;

3. 1.5 times the applicable FTP NMHC or CO standards, 1.75 times the applicable FTP NOx standard, or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 2.5 times the applicable NMHC standards, the applicable NOx standard by more than 0.5 g/bhp-hr (e.g., cause NOx emissions to exceed 0.7 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 0.05 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 through 2009 model year vehicles;

b. 2.5 times the applicable NMHC standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 0.05 g/bhp-hr PM as measured from an applicable cycle emission test for 2010 through 2012 model year vehicles; and

c. 2.0 times the applicable NMHC standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles.

(B) Circuit faults: The OBD II system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(C) Feedback faults: The OBD II system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NOx adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(D) Monitoring capability: To the extent feasible, the OBD II system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD II system monitoring device (e.g., for catalyst, EGR, PM filter, SCR, or NOx adsorber monitoring).

(5.2.3) Other exhaust gas sensors:

(A) For other exhaust gas sensors, the manufacturer shall submit a monitoring plan to the Executive Officer for approval. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and an engineering evaluation that demonstrate that the monitoring plan is as reliable and effective as the monitoring plan required for air-fuel ratio sensors and NOx sensors under sections (f)(5.2.1) and (f)(5.2.2).

(5.2.4) Sensor Heaters:

(A) The OBD II system shall detect a malfunction of the heater performance when the current or voltage drop in the heater circuit is no longer within the manufacturer's specified limits for normal operation (i.e., within the criteria required to be met by the component vendor for heater circuit performance at high mileage). Subject to Executive Officer approval, other malfunction criteria for heater performance malfunctions may be used upon the Executive Officer determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate the monitoring reliability and timeliness to be equivalent to the stated criteria in section (f)(5.2.4)(A).

(B) The OBD II system shall detect malfunctions of the heater circuit including open or short circuits that conflict with the commanded state of the heater (e.g., shorted to 12 Volts when commanded to 0 Volts (ground)).

(5.3) Monitoring Conditions:

(5.3.1) Exhaust Gas Sensors

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(5.2.1)(A)(i), (5.2.1)(B)(i), and (5.2.2)(A) (e.g., sensor performance faults) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For all 2010 and subsequent model year vehicles, for purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections (f)(5.2.1)(A)(i), (5.2.1)(B)(i), and (5.2.2)(A) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(B) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(5.2.1)(A)(iv), (5.2.1)(B)(iv), and (5.2.2)(D) (e.g., monitoring capability) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements) with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(C) Except as provided in section (f)(5.3.1)(D), monitoring for malfunctions identified in sections (f)(5.2.1)(A)(ii), (5.2.1)(A)(iii), (5.2.1)(B)(ii), (5.2.1)(B)(iii), (5.2.2)(B), and (5.2.2)(C) (i.e., circuit continuity, out-of-range, and open-loop malfunctions) shall be conducted continuously.

(D) A manufacturer may request Executive Officer approval to disable continuous exhaust gas sensor monitoring when an exhaust gas sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(5.3.2) Sensor Heaters

(A) Manufacturers shall define monitoring conditions for malfunctions identified in section (f)(5.2.4)(A) (i.e., sensor heater performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(B) Monitoring for malfunctions identified in section (f)(5.2.4)(B) (i.e., circuit malfunctions) shall be conducted continuously.

(5.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(6) Exhaust Gas Recirculation (EGR) System Monitoring

(6.1) Requirement: The OBD II system shall monitor the EGR system on vehicles so-equipped for low flow rate, high flow rate, and slow response malfunctions. For vehicles equipped with EGR coolers (e.g., heat exchangers), the OBD II system shall monitor the cooler for insufficient cooling malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the EGR system shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(6.2) Malfunction Criteria:

(6.2.1) Low Flow:

(A) The OBD II system shall detect a malfunction of the EGR system at or prior to a decrease from the manufacturer's specified EGR flow rate that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP standards for 2004 through 2009 model year vehicles;

b. 2.5 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

c. 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 1.5 times the applicable FTP standards for 2004 through 2006 model year vehicles;

b. 1.5 times the applicable NMHC, CO, and NOx standards or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of greater than 0.50 g/bhp-hr NOx;

c. 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to

exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2007 through 2012 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx; and

d. 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx.

(B) For vehicles in which no failure or deterioration of the EGR system that causes a decrease in flow could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(6.2.1)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that it cannot increase EGR flow to achieve the commanded flow rate.

(6.2.2) High Flow:

(A) The OBD II system shall detect a malfunction of the EGR system, including a leaking EGR valve (i.e., exhaust gas flowing through the valve when the valve is commanded closed), at or prior to an increase from the manufacturer's specified EGR flow rate that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(6.2.1)(A):

(B) For vehicles in which no failure or deterioration of the EGR system that causes an increase in flow could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(6.2.2)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that it cannot reduce EGR flow to achieve the commanded flow rate.

(6.2.3) Slow Response. Additionally, for 2010 and subsequent model year vehicles, the EGR system shall be monitored for slow response:

(A) The OBD II system shall detect a malfunction of the EGR system at or prior to any failure or deterioration in the capability of the EGR system to achieve the commanded flow rate within a manufacturer-specified time that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(6.2.1)(A).

(B) The OBD II system shall monitor the capability of the EGR system to respond to both a commanded increase in flow and a commanded decrease in flow.

(6.2.4) Feedback control:

(A) Except as provided for in section (f)(6.2.4)(B), if the vehicle is equipped with feedback control of the EGR system (e.g., feedback control of flow, valve position, pressure differential across the valve via intake throttle or exhaust backpressure), the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(B) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(6.2.4)(A)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(C) In lieu of detecting the malfunctions specified in sections (f)(6.2.4)(A)(i) and (ii) with an EGR system-specific monitor, the OBD II system may monitor the individual parameters or components that are

used as inputs for EGR system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(6.2.4)(A)(i) and (ii).

(6.2.5) EGR Cooler Performance:

(A) The OBD II system shall detect a malfunction of the EGR system cooler at or prior to a reduction from the manufacturer's specified cooling performance that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(6.2.1)(A):

(B) For vehicles in which no failure or deterioration of the EGR system cooler could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(6.2.5)(A), the OBD II system shall detect a malfunction when the system has no detectable amount of EGR cooling.

(6.3) Monitoring Conditions:

(6.3.1) For malfunctions identified in sections (f)(6.2.1) and (f)(6.2.2) (i.e., EGR low and high flow), manufacturers shall define monitoring conditions:

(A) For 2004 through 2009 model year vehicles, in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections (f)(6.2.1) and (f)(6.2.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2);

(B) Conducted continuously for all 2010 and subsequent model year vehicles.

(6.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(6.2.3) (i.e., slow response) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(6.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(6.3.3) The OBD II system shall monitor continuously for malfunctions identified in section (f)(6.2.4) (i.e., EGR feedback control).

(6.3.4) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(6.2.5) (i.e., cooler performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(6.2.5) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(6.3.5) Manufacturers may request Executive Officer approval to temporarily disable the EGR system check under specific conditions (e.g., when freezing may affect performance of the system). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation which demonstrate that a reliable check cannot be made when these conditions exist.

(6.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(7) Boost Pressure Control System Monitoring

(7.1) Requirement: For 2010 and subsequent model year vehicles, the OBD II system shall monitor the boost pressure control system (e.g., turbocharger) on vehicles so-equipped for under and over boost malfunctions. For vehicles equipped with variable geometry turbochargers (VGT), the OBD II system shall monitor the VGT system for slow response malfunctions. For vehicles equipped with charge air cooler systems, the OBD II system shall monitor the charge air cooler system for cooling system performance malfunctions. For 2004 and subsequent model year vehicles, the individual electronic components (e.g., actuators, valves, sensors) that are used in the boost pressure control system shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(7.2) Malfunction Criteria:

(7.2.1) Underboost:

(A) The OBD II system shall detect a malfunction of the boost pressure control system at or prior to a decrease from the manufacturer's commanded boost pressure that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 2.0 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

b. 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2010 through 2012 model year vehicles; and

b. 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles.

(B) For vehicles in which no failure or deterioration of the boost pressure control system that causes a decrease in boost could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(7.2.1)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that it cannot increase boost to achieve the commanded boost pressure.

(7.2.2) Overboost:

(A) The OBD II system shall detect a malfunction of the boost pressure control system at or prior to an increase from the manufacturer's commanded boost pressure that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(7.2.1)(A).

(B) For vehicles in which no failure or deterioration of the boost pressure control system that causes an increase in boost could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(7.2.2)(A), the OBD II system shall detect a malfunction when the system has reached its control limits such that it cannot decrease boost to achieve the commanded boost pressure.

(7.2.3) VGT slow response:

(A) The OBD II system shall detect a malfunction at or prior to any failure or deterioration in the capability of the VGT system to achieve the commanded turbocharger geometry within a manufacturer-specified time that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(7.2.1)(A).

(B) For vehicles in which no failure or deterioration of the VGT system response could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(7.2.3)(A), the OBD II system shall detect a malfunction of the VGT system when proper functional response of the system to computer commands does not occur.

(7.2.4) Charge Air Undercooling:

(A) The OBD II system shall detect a malfunction of the charge air cooling system at or prior to a decrease from the manufacturer's specified cooling rate that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed the applicable emission levels specified in sections (f)(7.2.1)(A).

(B) For vehicles in which no failure or deterioration of the charge air cooling system that causes a decrease in cooling performance could result in a vehicle's emissions exceeding the malfunction criteria specified in section (f)(7.2.4)(A), the OBD II system shall detect a malfunction when the system has no detectable amount of charge air cooling.

(7.2.5) Feedback control:

(A) Except as provided for in section (f)(7.2.5)(B), if the vehicle is equipped with feedback control of the boost pressure system (e.g., control of VGT position, turbine speed, manifold pressure) the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(B) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(7.2.5)(A)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(C) In lieu of detecting the malfunctions specified in sections (f)(7.2.5)(A)(i) and (ii) with a boost pressure system-specific monitor, the OBD II system may monitor the individual parameters or components that are used as inputs for boost pressure system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(7.2.5)(A)(i) and (ii).

(7.3) Monitoring Conditions:

(7.3.1) The OBD II system shall monitor continuously for malfunctions identified in sections (f)(7.2.1), (7.2.2), and (7.2.5) (i.e., over and under boost, feedback control).

(7.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(7.2.3) (i.e., VGT slow response) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For all 2010 and subsequent model year vehicles, for purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(7.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(7.3.3) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(7.2.4) (i.e., charge air cooler performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(7.2.4) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(7.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(8) NOx Adsorber Monitoring

(8.1) Requirement: The OBD II system shall monitor the NOx adsorber on vehicles so-equipped for proper performance. For vehicles equipped with active/intrusive injection (e.g., in-exhaust fuel and/or air injection) to achieve desorption of the NOx adsorber, the OBD II system shall monitor the active/intrusive injection system for proper performance. The individual electronic components (e.g., injectors, valves, sensors) that are used in the active/intrusive injection system shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(8.2) Malfunction Criteria:

(8.2.1) NOx adsorber capability:

(A) The OBD II system shall detect a NOx adsorber system malfunction when the NOx adsorber capability decreases to the point that would cause a vehicle's NOx or NMHC emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP standards for 2004 through 2009 model year vehicles;

b. 2.5 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

c. 1.75 times the applicable FTP standards for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. the applicable NO_x standard by more than 0.5 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.7 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 3.5 times the applicable NMHC standard for 2007 through 2009 model year vehicles;

b. the applicable NO_x standard by more than 0.3 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 2.5 times the applicable NMHC standard for 2010 through 2012 model year vehicles; and

c. the applicable NO_x standard by more than 0.2 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test or 2.0 times the applicable NMHC standard for 2013 and subsequent model year vehicles.

(B) If no failure or deterioration of the NO_x adsorber capability could result in a vehicle's NO_x emissions exceeding the applicable malfunction criteria specified in section (f)(8.2.1)(A), the OBD II system shall detect a malfunction when the system has no detectable amount of NO_x adsorber capability.

(8.2.2) For systems that utilize active/intrusive injection (e.g., in-cylinder post fuel injection, in-exhaust air-assisted fuel injection) to achieve desorption of the NO_x adsorber, the OBD II system shall detect a malfunction if any failure or deterioration of the injection system's ability to properly regulate injection causes the system to be unable to achieve desorption of the NO_x adsorber.

(8.2.3) Feedback control:

(A) Except as provided for in section (f)(8.2.3)(B), if the vehicle is equipped with feedback control of the NO_x adsorber or active/intrusive injection system (e.g., feedback control of injection quantity, time), the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(B) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(8.2.3)(A)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(C) In lieu of detecting the malfunctions specified in sections (f)(8.2.3)(A)(i) and (ii) with a NO_x adsorber-specific monitor, the OBD II system may monitor the individual parameters or components that are used as inputs for NO_x adsorber or active/intrusive injection system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(8.2.3)(A)(i) and (ii).

(8.3) Monitoring Conditions:

(8.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(8.2.1) (i.e., adsorber capability) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in sections

(f)(8.2.1) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(8.3.2) The OBD II system shall monitor continuously for malfunctions identified in sections (f)(8.2.2) and (8.2.3) (e.g., injection function, feedback control).

(8.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(9) Particulate Matter (PM) Filter Monitoring

(9.1) Requirement: The OBD II system shall monitor the PM filter on vehicles so-equipped for proper performance. For vehicles equipped with active regeneration systems that utilize an active/intrusive injection (e.g., in-exhaust fuel injection, in-exhaust fuel/air burner), the OBD II system shall monitor the active/intrusive injection system for proper performance. The individual electronic components (e.g., injectors, valves, sensors) that are used in the active/intrusive injection system shall be monitored in accordance with the comprehensive component requirements in section (f)(15).

(9.2) Malfunction Criteria:

(9.2.1) Filtering Performance:

(A) The OBD II system shall detect a malfunction prior to a decrease in the filtering capability of the PM filter that would cause a vehicle's PM emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 5.0 times the applicable FTP standard for 2004 through 2009 model year vehicles;

b. 4.0 times the applicable FTP standard for 2010 through 2012 model year vehicles; and

c. 1.75 times the applicable FTP standard for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 0.09 g/bhp-hr PM as measured from an applicable cycle emission test for 2004 through 2009 model year vehicles;

b. 0.05 g/bhp-hr PM as measured from an applicable cycle emission test for 2010 through 2012 model year vehicles; and

c. 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles.

(B) If no failure or deterioration of the PM filtering performance could result in a vehicle's PM emissions exceeding the applicable malfunction criteria specified in section (f)(9.2.1)(A), the OBD II system shall detect a malfunction when no detectable amount of PM filtering occurs.

(9.2.2) Frequent Regeneration:

(A) For 2010 and subsequent model year vehicles, the OBD II system shall detect a malfunction when PM filter regeneration occurs more frequently than (i.e., occurs more often than) the manufacturer's specified regeneration frequency such that it would cause a vehicle's emissions to exceed:

(i) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

a. 3.0 times the applicable FTP NMHC, CO, or NO_x standards for 2010 through 2012 model year vehicles; and

b. 1.5 times the applicable FTP NMHC, CO, or NO_x standards for 2013 and subsequent model year vehicles.

(ii) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

a. 2.5 times the applicable NMHC standards or the applicable NO_x standard by more than 0.3 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test for 2010 through 2012 model year vehicles; and

b. 2.0 times the applicable NMHC standards or the applicable NO_x standard by more than 0.2 g/bhp-hr (e.g., cause NO_x emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles.

(B) If no failure or deterioration causes an increase in the PM filter regeneration frequency that could result in a vehicle's NMHC, CO, or NOx emissions exceeding the applicable malfunction criteria specified in section (f)(9.2.2)(A), the OBD II system shall detect a malfunction when the PM filter regeneration frequency exceeds the manufacturer's specified design limits for allowable regeneration frequency.

(9.2.3) Incomplete regeneration: For 2010 and subsequent model year vehicles, the OBD II system shall detect a regeneration malfunction when the PM filter does not properly regenerate under manufacturer-defined conditions where regeneration is designed to occur.

(9.2.4) NMHC conversion: For 2010 and subsequent model year vehicles with catalyzed PM filters that convert NMHC emissions, the OBD II system shall monitor the catalyst function of the PM filter and detect a malfunction when the NMHC conversion capability decreases to the point that NMHC emissions exceed the applicable emission levels specified in section (f)(9.2.2)(A). If no failure or deterioration of the NMHC conversion capability could result in a vehicle's NMHC emissions exceeding these emission levels, the OBD II system shall detect a malfunction when the system has no detectable amount of NMHC conversion capability.

(9.2.5) Missing substrate: The OBD II system shall detect a malfunction if either the PM filter substrate is completely destroyed, removed, or missing, or if the PM filter assembly is replaced with a muffler or straight pipe.

(9.2.6) Active/Intrusive Injection: For systems that utilize active/intrusive injection (e.g., in-cylinder post fuel injection, in-exhaust air-assisted fuel injection) to achieve regeneration of the PM filter, the OBD II system shall detect a malfunction if any failure or deterioration of the injection system's ability to properly regulate injection causes the system to be unable to achieve regeneration of the PM filter.

(9.2.7) Feedback Control:

(A) Except as provided for in section (f)(9.2.7)(B), if the vehicle is equipped with feedback control of the PM filter regeneration (e.g., feedback control of oxidation catalyst inlet temperature, PM filter inlet or outlet temperature, in-cylinder or in-exhaust fuel injection), the OBD II system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer and cannot achieve the feedback target.

(B) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (f)(9.2.7)(A)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on a vehicle with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(C) In lieu of detecting the malfunctions specified in sections (f)(9.2.7)(A)(i) and (ii) with a PM filter-specific monitor, the OBD II system may monitor the individual parameters or components that are used as inputs for PM filter regeneration feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (f)(9.2.7)(A)(i) and (ii).

(9.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(9.2.1) through (9.2.7) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For all 2010 and subsequent model year vehicles, for purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunc-

tions identified in section (f)(9.2.1) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(9.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(10) Crankcase Ventilation (CV) System Monitoring

(10.1) Requirement: Manufacturers shall monitor the CV system on vehicles so-equipped for system integrity. Vehicles not subject to crankcase emission control requirements shall be exempt from monitoring of the CV system.

(10.2) Malfunction Criteria:

(10.2.1) For the purposes of section (f)(10), "CV system" is defined as any form of crankcase ventilation system, regardless of whether it utilizes positive pressure or whether it vents to the atmosphere, the intake, or the exhaust. "CV valve" is defined as any form of valve, orifice, or filter/separator used to restrict, control, or alter the composition (e.g., remove oil vapor or particulate matter) of the crankcase vapor flow. Further, any additional external CV system tubing or hoses used to equalize crankcase pressure or to provide a ventilation path between various areas of the engine (e.g., crankcase and valve cover) are considered part of the CV system "between the crankcase and the CV valve" and subject to the malfunction criteria in section (f)(10.2.2) below.

(10.2.2) Except as provided below, the OBD II system shall detect a malfunction of the CV system when a disconnection of the system occurs between either the crankcase and the CV valve, or between the CV valve and the intake ducting.

(10.2.3) If disconnection in the system results in a rapid loss of oil or other overt indication of a CV system malfunction such that the vehicle operator is certain to respond and have the vehicle repaired, the Executive Officer shall exempt the manufacturer from detection of that disconnection.

(10.2.4) Detection of a disconnection is not required if the disconnection cannot be made without first disconnecting a monitored portion of the system (e.g., the CV system is designed such that the CV valve is fastened directly to the crankcase in a manner which makes it significantly more difficult to remove the valve from the crankcase before disconnecting the line between the valve and the intake ducting (taking aging effects into consideration) and the line between the valve and the intake ducting is monitored for disconnection).

(10.2.5) Subject to Executive Officer approval, system designs that utilize tubing between the valve and the crankcase shall also be exempted from the monitoring requirement for detection of disconnection between the crankcase and the CV valve. The manufacturer shall file a request and submit data and/or engineering evaluation in support of the request. The Executive Officer shall approve the request upon determining that the connections between the valve and the crankcase are: (i) resistant to deterioration or accidental disconnection, (ii) significantly more difficult to disconnect than the line between the valve and the intake ducting, and (iii) not subject to disconnection per manufacturer's maintenance, service, and/or repair procedures for non-CV system repair work.

(10.2.6) Manufacturers are not required to detect disconnections that are unlikely to occur due to a CV system design that is integral to the induction system (e.g., internal machined passages rather than tubing or hoses).

(10.2.7) For medium-duty vehicles with engines certified on an engine dynamometer having an open CV system (i.e., a system that releases crankcase emissions to the atmosphere without routing them to the intake ducting or to the exhaust upstream of the aftertreatment), the manufacturer shall submit a plan for Executive Officer approval of the monitoring strategy, malfunction criteria, and monitoring conditions prior to OBD certification. Executive Officer approval shall be based on the effectiveness of the monitoring strategy to (i) monitor the performance of the CV system to the extent feasible with respect to the malfunction criteria in section (f)(10.2.1) through (f)(10.2.4) and the monitoring conditions required by the diagnostic, and (ii) monitor the ability of the CV system to control crankcase vapor emitted to the atmosphere relative to the

manufacturer's design and performance specifications for a properly functioning system (e.g., if the system is equipped with a filter to reduce crankcase emissions to the atmosphere, the OBD II system shall monitor the integrity of the filter).

(10.3) **Monitoring Conditions:** Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(10.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(10.4) **MIL Illumination and Fault Code Storage:** General requirements for MIL illumination and fault code storage are set forth in section (d)(2). The stored fault code need not specifically identify the CV system (e.g., a fault code for EGR or intake air mass flow rationality monitoring can be stored) if the manufacturer demonstrates that additional monitoring hardware would be necessary to make this identification and provided that the manufacturer's diagnostic and repair procedures for the detected malfunction include directions to check the integrity of the CV system.

(11) *Engine Cooling System Monitoring*

(11.1) **Requirement:**

(11.1.1) The OBD II system shall monitor the thermostat on vehicles so-equipped for proper operation.

(11.1.2) The OBD II system shall monitor the engine coolant temperature (ECT) sensor for circuit continuity, out-of-range values, and rationality faults.

(11.2) **Malfunction Criteria:**

(11.2.1) **Thermostat**

(A) The OBD II system shall detect a thermostat malfunction (e.g., leaking or early-to-open thermostat) if, within an Executive Officer approved time interval after starting the engine, either of the following two conditions occur:

(i) The coolant temperature does not reach the highest temperature required by the OBD II system to enable other diagnostics;

(ii) The coolant temperature does not reach a warmed-up temperature within 20 degrees Fahrenheit of the manufacturer's nominal thermostat regulating temperature. Subject to Executive Officer approval, a manufacturer may utilize lower temperatures for this criterion upon the Executive Officer determining that the manufacturer has demonstrated that the fuel, injection timing, and/or other coolant temperature-based modifications to the engine control strategies would not cause an emission increase of 50 or more percent of any of the applicable standards.

(B) Executive Officer approval of the time interval after engine start shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(C) With Executive Officer approval, a manufacturer may use alternate malfunction criteria and/or monitoring conditions (see section (f)(11.3)) that are a function of temperature at engine start on vehicles that do not reach the temperatures specified in the malfunction criteria when the thermostat is functioning properly. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data that demonstrate that a properly operating system does not reach the specified temperatures, that the monitor is capable of meeting the specified malfunction criteria at engine start temperatures greater than 50 degrees Fahrenheit, and that the overall effectiveness of the monitor is comparable to a monitor meeting these thermostat monitoring requirements at lower temperatures.

(D) With Executive Officer approval, manufacturers may omit this monitor. Executive Officer approval shall be granted upon determining that the manufacturer has demonstrated that a malfunctioning thermostat cannot cause a measurable increase in emissions during any reasonable driving condition nor cause any disablement of other monitors.

(11.2.2) **ECT Sensor**

(A) **Circuit Continuity.** The OBD II system shall detect a malfunction when a lack of circuit continuity or out-of-range value occurs.

(B) **Time to Reach Closed-Loop Enable Temperature.**

(i) The OBD II system shall detect a malfunction if the ECT sensor does not achieve the stabilized minimum temperature which is needed to

begin closed-loop or feedback operation of emission-related engine controls (e.g., feedback control of fuel pressure, EGR flow, boost pressure) within an Executive Officer approved time interval after starting the engine. The time interval shall be a function of starting ECT and/or a function of intake or ambient temperature.

(ii) Executive Officer approval of the time interval shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(iii) The Executive Officer shall exempt manufacturers from the requirement of section (f)(11.2.2)(B) if the manufacturer does not utilize ECT to enable closed loop or feedback operation of emission-related engine controls.

(C) **Stuck in Range Below the Highest Minimum Enable Temperature.** To the extent feasible when using all available information, the OBD II system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature below the highest minimum enable temperature required by the OBD II system to enable other diagnostics (e.g., an OBD II system that requires ECT to be greater than 140 degrees Fahrenheit to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature below 140 degrees Fahrenheit). Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (f)(11.2.1) or (f)(11.2.2)(B) will detect ECT sensor malfunctions as defined in section (f)(11.2.2)(C).

(D) **Stuck in Range Above the Lowest Maximum Enable Temperature.**

(i) To the extent feasible when using all available information, the OBD II system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature above the lowest maximum enable temperature required by the OBD II system to enable other diagnostics (e.g., an OBD II system that requires ECT to be less than 90 degrees Fahrenheit at engine start to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature above 90 degrees Fahrenheit).

(ii) Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (f)(11.2.1), (f)(11.2.2)(B), or (f)(11.2.2)(C) (i.e., ECT sensor or thermostat malfunctions) will detect ECT sensor malfunctions as defined in section (f)(11.2.2)(D) or in which the MIL will be illuminated under the requirements of section (d)(2.2.3) for default mode operation (e.g., overtemperature protection strategies).

(iii) For 2006 and subsequent model year applications, manufacturers are also exempted from the requirements of section (f)(11.2.2)(D) for temperature regions where the temperature gauge indicates a temperature in the red zone (engine overheating zone) or an overtemperature warning light is illuminated for vehicles that have a temperature gauge or warning light on the instrument panel and utilize the same ECT sensor for input to the OBD II system and the temperature gauge/warning light.

(11.3) **Monitoring Conditions:**

(11.3.1) **Thermostat**

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(11.2.1)(A) in accordance with section (d)(3.1) except as provided for in section (f)(11.3.1)(D). Additionally, except as provided for in sections (f)(11.3.1)(B) and (C), monitoring for malfunctions identified in section (f)(11.2.1)(A) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates, at engine start, a temperature lower than the temperature established as the malfunction criteria in section (f)(11.2.1)(A).

(B) Manufacturers may disable thermostat monitoring at ambient temperatures below 20 degrees Fahrenheit.

(C) Manufacturers may request Executive Officer approval to suspend or disable thermostat monitoring if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 percent of the warm-up time, hot restart conditions, etc.). In general, the Executive Officer shall not approve disablement of the monitor on engine starts where the ECT at engine start is more than 35

degrees Fahrenheit lower than the thermostat malfunction threshold temperature determined under section (f)(11.2.1)(A). The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or engineering analysis that demonstrate the need for the request.

(D) With respect to defining enable conditions that are encountered during the FTP or Unified cycle as required in (d)(3.1.1) for malfunctions identified in section (f)(11.2.1)(A), the FTP cycle shall refer to on-road driving following the FTP cycle in lieu of testing on a chassis or engine dynamometer.

(11.3.2) ECT Sensor

(A) Except as provided below in section (f)(11.3.2)(E), monitoring for malfunctions identified in section (f)(11.2.2)(A) (i.e., circuit continuity and out-of-range) shall be conducted continuously.

(B) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(11.2.2)(B) in accordance with section (d)(3.1). Additionally, except as provided for in section (f)(11.3.2)(D), monitoring for malfunctions identified in section (f)(11.2.2)(B) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates a temperature lower than the closed-loop enable temperature at engine start (i.e., all engine start temperatures greater than the ECT sensor out-of-range low temperature and less than the closed-loop enable temperature).

(C) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(11.2.2)(C) and (D) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(D) Manufacturers may suspend or delay the time to reach closed-loop enable temperature diagnostic if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 to 75 percent of the warm-up time).

(E) A manufacturer may request Executive Officer approval to disable continuous ECT sensor monitoring when an ECT sensor malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or engineering evaluation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(11.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(12) Cold Start Emission Reduction Strategy Monitoring

(12.1) Requirement:

(12.1.1) For all 2010 and subsequent model year vehicles, if a vehicle incorporates a specific engine control strategy to reduce cold start emissions, the OBD II system shall monitor the commanded elements for proper function (e.g., injection timing, increased engine idle speed, increased engine load via intake or exhaust throttle activation) while the control strategy is active to ensure proper operation of the control strategy.

(12.2) Malfunction Criteria: The OBD II system shall, to the extent feasible, detect a malfunction if either of the following occurs:

(12.2.1) Any single commanded element does not properly respond to the commanded action while the cold start strategy is active. For purposes of this section, "properly respond" is defined as when the element responds:

(A) by a robustly detectable amount by the monitor; and

(B) in the direction of the desired command; and

(C) above and beyond what the element would achieve on start-up without the cold start strategy active (e.g., if the cold start strategy commands a higher idle engine speed, a fault must be detected if no detectable amount of engine speed increase above what the system would achieve without the cold start strategy active);

(12.2.2) Any failure or deterioration of the cold start emission reduction control strategy that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

(A) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

(i) 2.5 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

(ii) 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(B) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

(i) 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles.

(12.2.3) For section (f)(12.2.2), the OBD II system shall either monitor the combined effect of the elements of the system as a whole or the individual elements (e.g., increased engine speed, increased engine load from restricting an exhaust throttle) for failures that cause emissions to exceed the applicable emission levels specified in section (f)(12.2.2).

(12.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(12.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(12.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(13) Variable Valve Timing And/Or Control (VVT) System Monitoring

(13.1) Requirement: On all 2006 and subsequent model year applications, the OBD II system shall monitor the VVT system on vehicles so-equipped for target error and slow response malfunctions. The individual electronic components (e.g., actuators, valves, sensors, etc.) that are used in the VVT system shall be monitored in accordance with the comprehensive components requirements in section (f)(15).

(13.2) Malfunction Criteria:

(13.2.1) Target Error: The OBD II system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a crank angle or lift tolerance that would cause a vehicle's NMHC, CO, NOx, or PM emissions to exceed:

(A) For passenger cars, light-duty trucks, and MDPVs certified to a chassis dynamometer tailpipe emission standard:

(i) 3.0 times the applicable FTP standards for 2006 through 2009 model year vehicles;

(ii) 2.5 times the applicable FTP standards for 2010 through 2012 model year vehicles; and

(iii) 1.5 times the applicable FTP NMHC, CO, or NOx standards or 2.0 times the applicable FTP PM standard for 2013 and subsequent model year vehicles.

(B) For medium-duty vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard:

(i) 1.5 times the applicable NMHC, CO, and NOx standards or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2006 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of greater than 0.50 g/bhp-hr NOx;

(ii) 2.5 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.3 g/bhp-hr (e.g., cause NOx emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2006 through 2012 model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx; and

(iii) 2.0 times the applicable NMHC or CO standards, the applicable NOx standard by more than 0.2 g/bhp-hr (e.g., cause NOx emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as mea-

sured from an applicable cycle emission test, or 0.03 g/bhp-hr PM as measured from an applicable cycle emission test for 2013 and subsequent model year vehicles certified to an engine dynamometer tailpipe NOx emission standard of less than or equal to 0.50 g/bhp-hr NOx.

(13.2.2) **Slow Response:** The OBD II system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a time that would cause a vehicle's emissions to exceed the applicable emission levels specified in sections (f)(13.2.1).

(13.2.3) For vehicles in which no failure or deterioration of the VVT system could result in a vehicle's emissions exceeding the levels specified in sections (f)(13.2.1), the VVT system shall be monitored for proper functional response in accordance with the malfunction criteria in section (f)(15.2).

(13.3) **Monitoring Conditions:** Manufacturers shall define the monitoring conditions for VVT system malfunctions identified in section (f)(13.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). Additionally, manufacturers shall track and report VVT system monitor performance under section (d)(3.2.2). For purposes of tracking and reporting as required in section (d)(3.2.2), all monitors used to detect malfunctions identified in section (f)(13.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(13.4) **MIL Illumination and Fault Code Storage:** General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(14) [Reserved]

(15) *Comprehensive Component Monitoring*

(15.1) **Requirement:**

(15.1.1) Except as provided in sections (f)(15.1.3), (f)(15.1.4), and (f)(16), the OBD II system shall monitor for malfunction any electronic powertrain component/system not otherwise described in sections (f)(1) through (f)(14) that either provides input to (directly or indirectly) or receives commands from the on-board computer(s), and: (1) can affect emissions during any reasonable in-use driving condition, or (2) is used as part of the diagnostic strategy for any other monitored system or component.

(A) **Input Components:** Input components required to be monitored may include the vehicle speed sensor, crank angle sensor, pedal position sensor, mass air flow sensor, cam position sensor, fuel pressure sensor, intake air temperature sensor, exhaust temperature sensor, and transmission electronic components such as sensors, modules, and solenoids which provide signals to the powertrain control system.

(B) **Output Components/Systems:** Output components/systems required to be monitored may include the idle governor, fuel injectors, automatic transmission solenoids or controls, turbocharger electronic components, the wait-to-start lamp, and cold start aids (e.g., glow plugs, intake air heaters).

(15.1.2) For purposes of criteria (1) in section (f)(15.1.1) above, the manufacturer shall determine whether a powertrain input or output component/system can affect emissions. If the Executive Officer reasonably believes that a manufacturer has incorrectly determined that a component/system cannot affect emissions, the Executive Officer shall require the manufacturer to provide emission data showing that the component/system, when malfunctioning and installed in a suitable test vehicle, does not have an emission effect. The Executive Officer may request emission data for any reasonable driving condition.

(15.1.3) Manufacturers shall monitor for malfunction electronic powertrain input or output components/systems associated with an electronic transfer case, electronic power steering system, two speed axle, or other components that are driven by the engine and not related to the control of fueling, air handling, or emissions only if the component or system is used as part of the diagnostic strategy for any other monitored system or component.

(15.1.4) Except as specified for hybrids in section (f)(15.1.5), manufacturers shall monitor for malfunction electronic powertrain input or output components/systems associated with components that only affect emissions by causing additional electrical load to the engine and are not related to the control of fueling, air handling, or emissions only if the component or system is used as part of the diagnostic strategy for any other monitored system or component.

(15.1.5) For hybrids, manufacturers shall submit a plan to the Executive Officer for approval of the hybrid components determined by the manufacturer to be subject to monitoring in section (f)(15.1.1). In general, the Executive Officer shall approve the plan if it includes monitoring of all components/systems used as part of the diagnostic strategy for any other monitored system or component, monitoring of all energy input devices to the electrical propulsion system, monitoring of battery and charging system performance, monitoring of electric motor performance, and monitoring of regenerative braking performance.

(15.2) **Malfunction Criteria:**

(15.2.1) **Input Components:**

(A) The OBD II system shall detect malfunctions of input components caused by a lack of circuit continuity, out-of-range values, and, where feasible, rationality faults. To the extent feasible, the rationality fault diagnostics shall verify that a sensor output is neither inappropriately high nor inappropriately low (e.g., "two-sided" diagnostics).

(B) To the extent feasible, rationality faults shall be separately detected and store different fault codes than the respective lack of circuit continuity and out of range diagnostics. Additionally, input component lack of circuit continuity and out of range faults shall be separately detected and store different fault codes for each distinct malfunction (e.g., out-of-range low, out-of-range high, open circuit, etc.). Manufacturers are not required to store separate fault codes for lack of circuit continuity faults that cannot be distinguished from other out-of-range circuit faults.

(15.2.2) **Output Components/Systems:**

(A) The OBD II system shall detect a malfunction of an output component/system when proper functional response of the component and system to computer commands does not occur. If a functional check is not feasible, the OBD II system shall detect malfunctions of output components/systems caused by a lack of circuit continuity or circuit fault (e.g., short to ground or high voltage). For output component lack of circuit continuity faults and circuit faults, manufacturers are not required to store different fault codes for each distinct malfunction (e.g., open circuit, shorted low, etc.). Manufacturers are not required to activate an output component/system when it would not normally be active for the purposes of performing functional monitoring of output components/systems as required in section (f)(15).

(B) The idle fuel control system shall be monitored for proper functional response to computer commands. A malfunction shall be detected when either of the following conditions occur:

(i) The idle fuel control system cannot achieve the target idle speed or fuel injection quantity within ± 30 percent of the manufacturer-specified fuel quantity and engine speed tolerances.

(ii) The idle fuel control system cannot achieve the target idle speed or fuel injection quantity within the smallest engine speed or fueling quantity tolerance range required by the OBD II system to enable any other monitor.

(C) Glow plugs/intake air heaters shall be monitored for proper functional response to computer commands. The glow plug/intake air heater circuit(s) shall be monitored for proper current and voltage drop. The Executive Officer shall approve other monitoring strategies based on manufacturer's data and/or engineering analysis demonstrating equally reliable and timely detection of malfunctions. If a manufacturer demonstrates that a single glow plug failure cannot cause a measurable increase in emissions during any reasonable driving condition, the manufacturer shall detect a malfunction for the minimum number of glow plugs needed to cause an emission increase. Further, to the extent feasible on existing engine designs (without adding additional hardware for this purpose) and on all new design engines, the stored fault code shall identify the specific

malfunctioning glow plug(s). For 2010 and subsequent model year vehicles, manufacturers shall detect a malfunction when a single glow plug/intake air heater no longer operates within the manufacturer's specified limits for normal operation (e.g., within specifications established by the manufacturer with the part supplier for acceptable part performance at high mileage).

(D) The wait-to-start lamp circuit shall be monitored for malfunctions that cause the lamp to fail to illuminate when commanded on (e.g., burned out bulb).

(E) For 2013 and subsequent model year vehicles that utilize fuel control system components (e.g., injectors, fuel pump) that have tolerance compensation features implemented in hardware or software during production or repair procedures (e.g., individually coded injectors for flow characteristics that are programmed into an electronic control unit to compensate for injector to injector tolerances, fuel pumps that use in-line resistors to correct for differences in fuel pump volume output), the components shall be monitored to ensure the proper compensation is being used. The system shall detect a fault if the compensation being used by the control system does not match the compensation designated for the installed component (e.g., the flow characteristic coding designated on a specific injector does not match the compensation being used by the fuel control system for that injector). If a manufacturer demonstrates that a single component (e.g., injector) using the wrong compensation cannot cause a measurable increase in emissions during any reasonable driving condition, the manufacturer shall detect a malfunction for the minimum number of components using the wrong compensation needed to cause an emission increase. Further, the stored fault code shall identify the specific component that does not match the compensation.

(15.3) Monitoring Conditions:

(15.3.1) Input Components:

(A) Except as provided in section (f)(15.3.1)(C), input components shall be monitored continuously for proper range of values and circuit continuity.

(B) For rationality monitoring (where applicable), manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that rationality monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2):

(C) A manufacturer may request Executive Officer approval to disable continuous input component proper range of values or circuit continuity monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning input component cannot be distinguished from a malfunctioning input component and that the disablement interval is limited only to that necessary for avoiding false detection.

(15.3.2) Output Components/Systems:

(A) Except as provided in section (f)(15.3.2)(D), monitoring for circuit continuity and circuit faults shall be conducted continuously.

(B) Except as provided in section (f)(15.3.2)(C), for functional monitoring, manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(C) For the idle fuel control system, manufacturers shall define the monitoring conditions for functional monitoring in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that functional monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(D) A manufacturer may request Executive Officer approval to disable continuous output component circuit continuity or circuit fault monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that dem-

onstrate a properly functioning output component cannot be distinguished from a malfunctioning output component and that the disablement interval is limited only to that necessary for avoiding false detection.

(15.4) MIL Illumination and Fault Code Storage:

(15.4.1) Except as provided in section (f)(15.4.2) below, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(15.4.2) Exceptions to general requirements for MIL illumination. MIL illumination is not required in conjunction with storing a confirmed fault code for any comprehensive component if:

(A) the component or system, when malfunctioning, could not cause vehicle emissions to increase by:

- (i) 25 percent or more for PC/LDT SULEV II vehicles, or
- (ii) 15 percent or more for all other vehicles, and

(B) the component or system is not used as part of the diagnostic strategy for any other monitored system or component.

(15.4.3) For purposes of determining the emission increase in section (f)(15.4.2)(A), the manufacturer shall request Executive Officer approval of the test cycle/vehicle operating conditions for which the emission increase will be determined. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data and/or engineering evaluation that demonstrate that the testing conditions represent in-use driving conditions where emissions are likely to be most affected by the malfunctioning component. For purposes of determining whether the specified percentages in section (f)(15.4.2)(A) are exceeded, if the approved testing conditions are comprised of an emission test cycle with an emission standard, the measured increase shall be compared to a percentage of the emission standard (e.g., if the increase is equal to or more than 15 percent of the emission standard for that test cycle). If the approved testing conditions are comprised of a test cycle or vehicle operating condition that does not have an emission standard, the measured increase shall be calculated as a percentage of the baseline test (e.g., if the increase from a back-to-back test sequence between normal and malfunctioning condition is equal to or more than 15 percent of the baseline test results from the normal condition).

(16) Other Emission Control or Source System Monitoring

(16.1) Requirement: For other emission control or source systems that are not identified or addressed in sections (f)(1) through (f)(15) (e.g., homogeneous charge compression ignition (HCCI) controls, hydrocarbon traps, fuel-fired passenger compartment heaters), manufacturers shall submit a plan for Executive Officer approval of the monitoring strategy, malfunction criteria, and monitoring conditions prior to introduction on a production vehicle intended for sale in California. Executive Officer approval shall be based on the effectiveness of the monitoring strategy, the malfunction criteria utilized, and the monitoring conditions required by the diagnostic.

(16.2) For purposes of section (f)(16), emission source systems are components or devices that emit pollutants subject to vehicle evaporative and exhaust emission standards (e.g., NMOG, CO, NOx, PM) and include non-electronic components and non-powertrain components (e.g., fuel-fired passenger compartment heaters, on-board reformers).

(16.3) Except as provided below in this paragraph, for 2005 and subsequent model year vehicles that utilize emission control systems that alter intake air flow or cylinder charge characteristics by actuating valve(s), flap(s), etc. in the intake air delivery system (e.g., swirl control valve systems), the manufacturers, in addition to meeting the requirements of section (f)(16.1) above, may elect to have the OBD II system monitor the shaft to which all valves in one intake bank are physically attached in lieu of monitoring the intake air flow, cylinder charge, or individual valve(s)/flap(s) for proper functional response. For non-metal shafts or segmented shafts, the monitor shall verify all shaft segments for proper functional response (e.g., by verifying the segment or portion of the shaft furthest from the actuator properly functions). For systems that have more than one shaft to operate valves in multiple intake banks, manufacturers are not required to add more than one set of detection hardware

(e.g., sensor, switch, etc.) per intake bank to meet this requirement. Vehicles utilizing these emission control systems designed and certified for 2004 or earlier model year vehicles and carried over to the 2005 through 2009 model year shall not be required to meet the provisions of section (f)(16.3) until the engine or intake air delivery system is redesigned.

(17) Exceptions to Monitoring Requirements

(17.1) Except as provided in sections (f)(17.1.1) through (17.1.4) below, upon request of a manufacturer or upon the best engineering judgment of the ARB, the Executive Officer may revise the emission threshold for a malfunction on any diagnostic required in section (f) for medium-duty vehicles if the most reliable monitoring method developed requires a higher threshold to prevent significant errors of commission in detecting a malfunction. Additionally, for 2007 through 2009 model year light-duty vehicles and 2007 through 2012 model year medium-duty vehicles, the Executive Officer may revise the PM filter malfunction criteria of section (f)(9.2.1) to exclude detection of specific failure modes (e.g., combined failure of partially melted and partially cracked substrates) if the most reliable monitoring method developed requires the exclusion of specific failure modes to prevent significant errors of commission in detecting a malfunction.

(17.1.1) For PC/LDT SULEV II vehicles, the Executive Officer shall approve a malfunction criterion of 2.5 times the applicable FTP standards in lieu of 1.5 or 1.75 wherever required in section (f).

(17.1.2) For vehicles certified to Federal Bin 3 or Bin 4 emission standards, manufacturers shall utilize the ULEV II vehicle NMOG and CO malfunction criteria (e.g., 1.5 times the Bin 3 or Bin 4 NMOG and CO standards) and the PC/LDT SULEV II vehicle NOx malfunction criteria (e.g., 2.5 times the Bin 3 or Bin 4 NOx standards).

(17.1.3) For medium-duty diesel vehicles (including MDPVs) certified to an engine dynamometer tailpipe emission standard, the Executive Officer shall approve a malfunction criteria of "the applicable PM standard plus 0.02 g/bhp-hr PM (e.g., unable to maintain PM emissions at or below 0.03 g/bhp-hr if the emission standard is 0.01 g/bhp-hr) as measured from an applicable cycle emission test" in lieu of "0.03 g/bhp-hr PM as measured from an applicable cycle emission test" wherever required in section (f). The Executive Officer shall also approve a malfunction criteria of "the applicable PM standard plus 0.04 g/bhp-hr PM (e.g., unable to maintain PM emissions at or below 0.05 g/bhp-hr if the emission standard is 0.01 g/bhp-hr) as measured from an applicable cycle emission test" in lieu of "0.05 g/bhp-hr PM as measured from an applicable cycle emission test" wherever required in section (f).

(17.1.4) For 2007 through 2009 medium-duty diesel vehicles (including MDPVs) certified to an engine dynamometer FTP tailpipe PM emission standard of greater than or equal 0.08 g/bhp-hr, the Executive Officer shall approve a malfunction of criteria of 1.5 times the applicable PM standard in lieu of the applicable PM malfunction criteria required for any monitor in section (f).

(17.1.5) For medium-duty diesel vehicles (except MDPVs) certified to a chassis dynamometer tailpipe emission standard, the monitoring requirements and malfunction criteria in section (f) applicable to medium-duty diesel vehicles certified to an engine dynamometer tailpipe emission standard shall apply. However, the manufacturer shall request Executive Officer approval of manufacturer-proposed medium-duty chassis dynamometer-based malfunction criteria in lieu of the engine dynamometer-based malfunction criteria required for each monitor in section (f). The Executive Officer shall approve the request upon finding that:

(A) the manufacturer has used good engineering judgment in determining the malfunction criteria,

(B) the malfunction criteria will provide for similar timeliness in detection of malfunctioning components with respect to detection of malfunctions on medium-duty diesel vehicles certified to an engine dynamometer tailpipe emission standard,

(C) the malfunction criteria are set as stringently as technologically feasible with respect to indicating a malfunction at the lowest possible tailpipe emission levels (but not lower than 1.5 times the chassis dy-

namometer tailpipe emission standard the vehicle is certified to), considering the best available monitoring technology to the extent that it is known or should have been known to the manufacturer,

(D) the malfunction criteria will prevent detection of a malfunction when the monitored component is within the performance specifications for components aged to the end of the full useful life, and

(E) the manufacturer has provided emission data showing the emission levels at which the malfunctions are detected.

(17.2) Whenever the requirements in section (f) of this regulation require a manufacturer to meet a specific phase-in schedule:

(17.2.1) The phase-in percentages shall be based on the manufacturer's projected sales volume for all vehicles subject to the requirements of title 13, CCR section 1968.2 unless specifically stated otherwise in section (f).

(17.2.2) Manufacturers may use an alternate phase-in schedule in lieu of the required phase-in schedule if the alternate phase-in schedule provides for equivalent compliance volume as defined in section (c) except as specifically noted for the phase in of in-use monitor performance ratio monitoring conditions in section (d)(3.2).

(17.2.3) Small volume manufacturers may use an alternate phase-in schedule in accordance with section (f)(17.2.2) in lieu of the required phase-in schedule or may meet the requirement on all vehicles by the final year of the phase-in in lieu of meeting the specific phase-in requirements for each model year.

(17.3) Manufacturers may request Executive Officer approval to disable an OBD II system monitor at ambient temperatures below twenty degrees Fahrenheit (20°F) (low ambient temperature conditions may be determined based on intake air or engine coolant temperature) or at elevations above 8000 feet above sea level. The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or an engineering evaluation that demonstrate that monitoring during the conditions would be unreliable. A manufacturer may further request, and the Executive Officer shall approve, that an OBD II system monitor be disabled at other ambient temperatures upon determining that the manufacturer has demonstrated with data and/or an engineering evaluation that misdiagnosis would occur at the ambient temperatures because of its effect on the component itself (e.g., component freezing).

(17.4) Manufacturers may request Executive Officer approval to disable monitoring systems that can be affected by low fuel level or running out of fuel (e.g., misfire detection) when the fuel level is 15 percent or less of the nominal capacity of the fuel tank. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the fuel levels would be unreliable.

(17.5) Manufacturers may disable monitoring systems that can be affected by vehicle battery or system voltage levels.

(17.5.1) For monitoring systems affected by low vehicle battery or system voltages, manufacturers may disable monitoring systems when the battery or system voltage is below 11.0 Volts. Manufacturers may request Executive Officer approval to utilize a voltage threshold higher than 11.0 Volts to disable system monitoring. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the voltages would be unreliable and that either operation of a vehicle below the disablement criteria for extended periods of time is unlikely or the OBD II system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(17.5.2) For monitoring systems affected by high vehicle battery or system voltages, manufacturers may request Executive Officer approval to disable monitoring systems when the battery or system voltage exceeds a manufacturer-defined voltage. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring above the manufacturer-defined voltage would be unreliable and that either the electrical charging system/alternator warning light is illuminated

(or voltage gauge is in the “red zone”) or that the OBD II system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(17.6) A manufacturer may disable affected monitoring systems in vehicles designed to accommodate the installation of Power Take-Off (PTO) units (as defined in section (c)), provided disablement occurs only while the PTO unit is active, and the OBD II readiness status is cleared by the on-board computer (i.e., all monitors set to indicate “not complete”) while the PTO unit is activated (see section (g)(4.1) below). If the disablement occurs, the readiness status may be restored to its state prior to PTO activation when the disablement ends.

(17.7) Whenever the requirements in section (f) of this regulation require monitoring “to the extent feasible”, the manufacturer shall submit its proposed monitor(s) for Executive Officer approval. The Executive Officer shall approve the proposal upon determining that the proposed monitor(s) meets the criteria of “to the extent feasible” by considering the best available monitoring technology to the extent that it is known or should have been known to the manufacturer and given the limitations of the manufacturer’s existing hardware, the extent and degree to which the monitoring requirements are met in full, the limitations of the monitoring necessary to prevent significant errors of commission and omission, and the extent to which the manufacturer has considered and pursued alternative monitoring concepts to meet the requirements in full. The manufacturer’s consideration and pursuit of alternative monitoring concepts shall include evaluation of other modifications to the proposed monitor(s), the monitored components themselves, and other monitors that use the monitored components (e.g., altering other monitors to lessen the sensitivity and reliance on the component or characteristic of the component subject to the proposed monitor(s)).

(g) *Standardization Requirements*

(1) *Reference Documents:*

The following Society of Automotive Engineers (SAE) and International Organization for Standardization (ISO) documents are incorporated by reference into this regulation:

(1.1) SAE J1930 “Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms – Equivalent to ISO/TR 15031–2:April 30, 2002”, April 2002 (SAE J1930).

(1.2) SAE J1962 “Diagnostic Connector – Equivalent to ISO/DIS 15031–3:December 14, 2001”, April 2002 (SAE J1962).

(1.3) SAE J1978 “OBD II Scan Tool – Equivalent to ISO/DIS 15031–4:December 14, 2001”, April 2002 (SAE J1978).

(1.4) SAE J1979 “E/E Diagnostic Test Modes, May 2007 (SAE J1979).

(1.5) SAE J1850 “Class B Data Communications Network Interface”, May 2001 (SAE 1850).

(1.6) SAE J2012 “Diagnostic Trouble Code Definitions – Equivalent to ISO/DIS 15031–6:April 30, 2002”, April 2002 (SAE J2012).

(1.7) ISO 9141–2:1994 “Road Vehicles–Diagnostic Systems–CARB Requirements for Interchange of Digital Information”, February 1994 (ISO 9141–2).

(1.8) ISO 14230–4:2000 “Road Vehicles–Diagnostic Systems–KWP 2000 Requirements for Emission–related Systems”, June 2000 (ISO 14230–4).

(1.9) ISO 15765–4:2005 “Road Vehicles–Diagnostics on Controller Area Network (CAN) – Part 4: Requirements for emissions–related systems”, January 2005 (ISO 15765–4).

(1.10) SAE J1939 March 2005–“Recommended Practice for a Serial Control and Communications Vehicle Network” and the associated subparts included in SAE HS–1939, “Truck and Bus Control and Communications Network Standards Manual”, 2005 Edition (SAE J1939).

(1.10.1) SAE J1939–73 “Application Layer – Diagnostics”, September 2006.

(1.11) SAE J1699–3 – “OBD II Compliance Test Cases”, May 2006 (SAE J1699–3).

(1.12) SAE J2534–1 – “Recommended Practice for Pass–Thru Vehicle Programming”, December 2004 (SAE J2534–1).

(2) *Diagnostic Connector:*

A standard data link connector conforming to SAE J1962 specifications (except as specified in section (g)(2.3)) shall be incorporated in each vehicle.

(2.1) The connector shall be located in the driver’s side foot–well region of the vehicle interior in the area bound by the driver’s side of the vehicle and the driver’s side edge of the center console (or the vehicle centerline if the vehicle does not have a center console) and at a location no higher than the bottom of the steering wheel when in the lowest adjustable position. The connector may not be located on or in the center console (i.e., neither on the horizontal faces near the floor–mounted gear selector, parking brake lever, or cup–holders nor on the vertical faces near the car stereo, climate system, or navigation system controls). The location of the connector shall be capable of being easily identified by a “crouched” technician entering the vehicle from the driver’s side.

(2.2) If the connector is covered, the cover must be removable by hand without the use of any tools and be labeled to aid technicians in identifying the location of the connector. Access to the diagnostic connector may not require opening or the removal of any storage accessory (e.g., ash-tray, coinbox, etc.). The label shall be submitted to the Executive Officer for review and approval, at or before the time the manufacturer submits its certification application. The Executive Officer shall approve the label upon determining that it clearly identifies that the connector is located behind the cover and is consistent with language and/or symbols commonly used in the automotive industry.

(2.3) Any pins in the connector that provide electrical power shall be properly fused to protect the integrity and usefulness of the connector for diagnostic purposes and may not exceed 20.0 Volts DC regardless of the nominal vehicle system or battery voltage (e.g., 12V, 24V, 42V, etc.).

(3) *Communications to a Scan Tool:*

Manufacturers shall use one of the following standardized protocols for communication of all required emission related messages from on-board to off-board network communications to a scan tool meeting SAE J1978 specifications:

(3.1) SAE J1850. All required emission related messages using this protocol shall use the Cyclic Redundancy Check and the three byte header, may not use inter-byte separation or checksums, and may not require a minimum delay of 100 ms between SAE J1978 scan tool requests. This protocol may not be used on any 2008 or subsequent model year vehicle.

(3.2) ISO 9141–2. This protocol may not be used on any 2008 or subsequent model year vehicle.

(3.3) ISO 14230–4. This protocol may not be used on any 2008 or subsequent model year vehicle.

(3.4) ISO 15765–4. This protocol shall be allowed on any 2003 and subsequent model year vehicle and required on all 2008 and subsequent model year vehicles. All required emission–related messages using this protocol shall use a 500 kbps baud rate.

(4) *Required Emission Related Functions:* The following standardized functions shall be implemented in accordance with the specifications in SAE J1979 to allow for access to the required information by a scan tool meeting SAE J1978 specifications:

(4.1) Readiness Status: In accordance with SAE J1979 specifications, the OBD II system shall indicate “complete” or “not complete” since the fault memory was last cleared for each of the installed monitored components and systems identified in sections (e)(1) through (e)(8), (e)(15), (f)(1) through (f)(4), (f)(6), (f)(8), and (f)(15). All 2010 and subsequent model year diesel vehicles shall additionally indicate the appropriate readiness status for monitors identified in sections (f)(5), (f)(7), and (f)(9). All 2010 subsequent model year vehicles equipped with VVT system monitoring and subject to the test results requirements specified in section (g)(4.5.4)(C) shall additionally indicate the appropriate readiness status for VVT system monitors identified in sections (e)(13) and (f)(13). All components or systems that are monitored continuously shall always indicate “complete”. Those components or systems that are not subject to continuous monitoring shall immediately indicate “complete” upon the respective diagnostic(s) being fully executed and determining that the

component or system is not malfunctioning. A component or system shall also indicate "complete" if after the requisite number of decisions necessary for determining MIL status have been fully executed, the monitor indicates a malfunction for the component or system. The status for each of the monitored components or systems shall indicate "not complete" whenever fault memory has been cleared or erased by a means other than that allowed in section (d)(2). Normal vehicle shut down (i.e., key off, engine off) may not cause the status to indicate "not complete".

(4.1.1) Subject to Executive Officer approval, if monitoring is disabled for a multiple number of driving cycles due to the continued presence of extreme operating conditions (e.g., cold ambient temperatures, high altitudes, etc), readiness status for the subject monitoring system may be set to indicate "complete" without monitoring having been completed. Executive Officer approval shall be based on the conditions for monitoring system disablement and the number of driving cycles specified without completion of monitoring before readiness is indicated as "complete".

(4.1.2) For the evaporative system monitor:

(A) Except as provided below in section (g)(4.1.2)(B), the readiness status shall be set in accordance with section (g)(4.1) when both the functional check of the purge valve and the leak detection monitor of the orifice size specified in either section (e)(4.2.2)(B) or (C) (e.g., 0.040 inch or 0.020 inch) indicate that they are complete.

(B) For vehicles that utilize a 0.090 inch (in lieu of 0.040 inch) leak detection monitor in accordance with section (e)(4.2.5), the readiness status shall be set in accordance with section (g)(4.1) when both the functional check of the purge valve and the leak detection monitor of the orifice size specified in section (e)(4.2.2)(C) (e.g., 0.020 inch) indicate that they are complete.

(4.1.3) If the manufacturer elects to additionally indicate readiness status through the MIL in the key on, engine off position as provided for in section (d)(2.1.3), the readiness status shall be indicated in the following manner: If the readiness status for all monitored components or systems is "complete", the MIL shall remain continuously illuminated in the key on, engine off position for at least 15–20 seconds. If the readiness status for one or more of the monitored components or systems is "not complete", after 15–20 seconds of operation in the key on, engine off position with the MIL illuminated continuously, the MIL shall blink once per second for 5–10 seconds. The data stream value for MIL status (section (g)(4.2)) shall indicate "commanded off" during this sequence unless the MIL has also been "commanded on" for a detected fault.

(4.2) Data Stream: The following signals shall be made available on demand through the standardized data link connector in accordance with SAE J1979 specifications. The actual signal value shall always be used instead of a default or limp home value.

(4.2.1) For all vehicles: calculated load value, number of stored confirmed fault codes, engine coolant temperature, engine speed, absolute throttle position (if equipped with a throttle), vehicle speed, OBD requirements to which the engine is certified (e.g., California OBD II, EPA OBD, European OBD, non-OBD) and MIL status (i.e., commanded-on or commanded-off).

(4.2.2) For all vehicles so equipped: fuel control system status (e.g., open loop, closed loop, etc.), fuel trim, fuel pressure, ignition timing advance, intake air temperature, manifold absolute pressure, air flow rate from mass air flow sensor, secondary air status (upstream, downstream, or atmosphere), oxygen sensor output, air/fuel ratio sensor output.

(4.2.3) For all 2005 and subsequent model year vehicles using the ISO 15765–4 protocol for the standardized functions required in section (g), the following signals shall also be made available: absolute load, fuel level (if used to enable or disable any other diagnostics), relative throttle position (if equipped with a throttle), barometric pressure (directly measured or estimated), engine control module system voltage, commanded equivalence ratio, catalyst temperature (if directly measured or estimated for purposes of enabling the catalyst monitor(s)), monitor status (i.e., disabled for the rest of this driving cycle, complete this driving cycle, or not complete this driving cycle) since last engine shut-off for each monitor

used for readiness status, time elapsed since engine start, distance traveled while MIL activated, distance traveled since fault memory last cleared, and number of warm-up cycles since fault memory last cleared.

(4.2.4) For all 2005 and subsequent model year vehicles so equipped and using the ISO 15765–4 protocol for the standardized functions required in section (g): ambient air temperature, evaporative system vapor pressure, commanded purge valve duty cycle/position, commanded EGR valve duty cycle/position, EGR error between actual and commanded, PTO status (active or not active), redundant absolute throttle position (for electronic throttle or other systems that utilize two or more sensors), absolute pedal position, redundant absolute pedal position, and commanded throttle motor position.

(4.2.5) Additionally, for all 2010 and subsequent model year vehicles with a diesel engine:

(A) Calculated load (engine torque as a percentage of maximum torque available at the current engine speed), driver's demand engine torque (as a percentage of maximum engine torque), actual engine torque (as a percentage of maximum engine torque), engine oil temperature (if used for emission control or any OBD diagnostics), time elapsed since engine start; and

(B) Fuel level (if used to enable or disable any other diagnostics), barometric pressure (directly measured or estimated), engine control module system voltage; and

(C) Monitor status (i.e., disabled for the rest of this driving cycle, complete this driving cycle, or not complete this driving cycle) since last engine shut-off for each monitor used for readiness status, distance traveled (or engine run time for engines not utilizing vehicle speed information) while MIL activated, distance traveled (or engine run time for engines not utilizing vehicle speed information) since fault memory last cleared, and number of warm-up cycles since fault memory last cleared; and

(D) For all engines so equipped: absolute throttle position, relative throttle position, fuel injection timing, intake manifold temperature, intercooler temperature, ambient air temperature, commanded EGR valve duty cycle/position, actual EGR valve duty cycle/position, EGR error between actual and commanded, PTO status (active or not active), absolute pedal position, redundant absolute pedal position, commanded throttle motor position, fuel rate, boost pressure, commanded/target boost pressure, turbo inlet air temperature, fuel rail pressure, commanded fuel rail pressure, PM filter inlet pressure, PM filter inlet temperature, PM filter outlet pressure, PM filter outlet temperature, PM filter delta pressure, exhaust pressure sensor output, exhaust gas temperature sensor output, injection control pressure, commanded injection control pressure, turbocharger/turbine speed, variable geometry turbo position, commanded variable geometry turbo position, turbocharger compressor inlet temperature, turbocharger compressor inlet pressure, turbocharger turbine inlet temperature, turbocharger turbine outlet temperature, wastegate valve position, glow plug lamp status, PM sensor output, and NOx sensor output;

(E) Additionally, for all 2010 and subsequent model year medium-duty vehicles with a diesel engine certified on an engine dynamometer: NOx NTE control area status (i.e., inside control area, outside control area, inside manufacturer-specific NOx NTE carve-out area, or NTE deficiency for NOx active area) and PM NTE control area status (i.e., inside control area, outside control area, inside manufacturer-specific PM NTE carve-out area, or NTE deficiency for PM active area).

(4.3) Freeze Frame.

(4.3.1) "Freeze frame" information required to be stored pursuant to sections (d)(2.2.7), (e)(3.4.3), (e)(6.4.4), (f)(3.4.2)(B), and (f)(4.4.2)(D) shall be made available on demand through the standardized data link connector in accordance with SAE J1979 specifications.

(4.3.2) "Freeze frame" conditions must include the fault code which caused the data to be stored and all of the signals required in section (g)(4.2.1) except number of stored confirmed fault codes, OBD requirements to which the engine is certified, MIL status, and absolute throttle position in accordance with (g)(4.3.3). Freeze frame conditions shall also include all of the signals required on the vehicle in sections (g)(4.2.2)

through (g)(4.2.5)(D) that are used for diagnostic or control purposes in the specific diagnostic or emission-critical powertrain control unit that stored the fault code except: oxygen sensor output, air/fuel ratio sensor output, catalyst temperature, evaporative system vapor pressure, glow plug lamp status, PM sensor output, NOx sensor output, monitor status since last engine shut off, distance traveled while MIL activated, distance traveled since fault memory last cleared, and number of warm-up cycles since fault memory last cleared.

(4.3.3) In lieu of including the absolute throttle position data specified in (g)(4.2.1) in the freeze frame data, diagnostic or emission-critical powertrain control units that do not use the absolute throttle position data may include the relative throttle position data specified in (g)(4.2.3) or pedal position data specified in (g)(4.2.4).

(4.3.4) Only one frame of data is required to be recorded. Manufacturers may choose to store additional frames provided that at least the required frame can be read by a scan tool meeting SAE J1978 specifications.

(4.4) Fault Codes

(4.4.1) For all monitored components and systems, stored pending, confirmed, and permanent fault codes shall be made available through the diagnostic connector in accordance with SAE J1979 specifications. Standardized fault codes conforming to SAE J2012 shall be employed.

(4.4.2) The stored fault code shall, to the fullest extent possible, pinpoint the likely cause of the malfunction. To the extent feasible on all 2005 and subsequent model year vehicles, manufacturers shall use separate fault codes for every diagnostic where the diagnostic and repair procedure or likely cause of the failure is different. In general, rationality and functional diagnostics shall use different fault codes than the respective circuit continuity diagnostics. Additionally, input component circuit continuity diagnostics shall use different fault codes for distinct malfunctions (e.g., out-of-range low, out-of-range high, open circuit, etc.).

(4.4.3) Manufacturers shall use appropriate SAE-defined fault codes of SAE J2012 (e.g., P0xxx, P2xxx) whenever possible. With Executive Officer approval, manufacturers may use manufacturer-defined fault codes in accordance with SAE J2012 specifications (e.g., P1xxx). Factors to be considered by the Executive Officer for approval shall include the lack of available SAE-defined fault codes, uniqueness of the diagnostic or monitored component, expected future usage of the diagnostic or component, and estimated usefulness in providing additional diagnostic and repair information to service technicians. Manufacturer-defined fault codes shall be used consistently (i.e., the same fault code may not be used to represent two different failure modes) across a manufacturer's entire product line.

(4.4.4) A fault code (pending and/or confirmed, as required in sections (d) (e), and (f)) shall be stored and available to an SAE J1978 scan tool within 10 seconds after a diagnostic has determined that a malfunction has occurred. A permanent fault code shall be stored and available to an SAE J1978 scan tool no later than the end of an ignition cycle (including electronic control unit shutdown) in which the corresponding confirmed fault code causing the MIL to be illuminated has been stored.

(4.4.5) Pending fault codes:

(A) On all 2005 and subsequent model year vehicles, pending fault codes for all components and systems (including continuously and non-continuously monitored components) shall be made available through the diagnostic connector in accordance with SAE J1979 specifications (e.g., Mode/Service \$07).

(B) On all 2005 and subsequent model year vehicles, a pending fault code(s) shall be stored and available through the diagnostic connector for all currently malfunctioning monitored component(s) or system(s), regardless of the MIL illumination status or confirmed fault code status (e.g., even after a pending fault has matured to a confirmed fault code and the MIL is illuminated, a pending fault code shall be stored and available if the most recent monitoring event indicates the component is malfunctioning).

(C) Manufacturers using alternate statistical protocols for MIL illumination as allowed in section (d)(2.2.6) shall submit to the Executive

Officer a protocol for setting pending fault codes. The Executive Officer shall approve the proposed protocol upon determining that, overall, it is equivalent to the requirements in sections (g)(4.4.5)(A) and (B) and that it effectively provides service technicians with a quick and accurate indication of a pending failure.

(4.4.6) Permanent fault codes:

(A) Permanent fault codes for all components and systems shall be made available through the diagnostic connector in a standardized format that distinguishes permanent fault codes from both pending fault codes and confirmed fault codes.

(B) A confirmed fault code shall be stored as a permanent fault code no later than the end of the ignition cycle and subsequently at all times that the confirmed fault code is commanding the MIL on (e.g., for currently failing systems but not during the 40 warm-up cycle self-healing process described in section (d)(2.4)).

(C) Permanent fault codes shall be stored in NVRAM and may not be erasable by any scan tool command (generic or enhanced) or by disconnecting power to the on-board computer.

(D) Permanent fault codes may not be erased when the control module containing the permanent fault codes is reprogrammed unless the readiness status (refer to section (g)(4.1)) for all monitored components and systems is set to "not complete" in conjunction with the reprogramming event.

(E) The OBD system shall have the ability to store a minimum of four current confirmed fault codes as permanent fault codes in NVRAM. If the number of confirmed fault codes currently commanding the MIL on exceeds the maximum number of permanent fault codes that can be stored, the OBD system shall store the earliest detected confirmed fault codes as permanent fault codes. If additional confirmed fault codes are stored when the maximum number of permanent fault codes is already stored in NVRAM, the OBD system may not replace any existing permanent fault code with the additional confirmed fault codes.

(4.5) Test Results

(4.5.1) For all monitored components and systems for gasoline engine vehicles identified in sections (e)(1) through (e)(8) except misfire detection, fuel system monitoring, and oxygen sensor circuit and out-of-range monitoring, and for all monitored components and systems for diesel engine vehicles identified in sections (f)(1) through (f)(9) except those required to be monitored continuously, results of the most recent monitoring of the components and systems and the test limits established for monitoring the respective components and systems shall be stored and available through the data link in accordance with SAE J1979 specifications.

(4.5.2) The test results shall be reported such that properly functioning components and systems (e.g., "passing" systems) do not store test values outside of the established test limits.

(4.5.3) The test results shall be stored until updated by a more recent valid test result or the fault memory of the OBD II system computer is cleared. Upon fault memory being cleared, test results reported for monitors that have not yet completed since the last time the fault memory was cleared shall report values that do not indicate a failure (i.e., a test value which is outside of the test limits).

(4.5.4) Additionally, for vehicles using ISO 15765-4 (see section (g)(3.4)) as the communication protocol:

(A) The test results and limits shall be made available in the standardized format specified in SAE J1979 for the ISO 15765-4 protocol. Test results using vehicle manufacturer-defined monitor identifications (i.e., SAE J1979 OBDMIDs in the range of \$E1-\$FF) may not be used.

(B) Test limits shall include both minimum and maximum acceptable values and shall be reported for all test results required in section (g)(4.5.1). The test limits shall be defined so that a test result equal to either test limit is a "passing" value, not a "failing" value.

(C) For 2005 and subsequent model year vehicles, misfire monitoring test results shall be calculated and reported in the standardized format specified in SAE J1979. For 25 percent of 2009, 50 percent of 2010, and 100 percent of 2011 and subsequent model year vehicles equipped with

VVT systems, VVT monitoring test results and limits shall be stored and available in the standardized format specified in SAE J1979.

(D) Monitors that have not yet completed since the last time the fault memory was cleared shall report values of zero for the test result and test limits.

(E) All test results and test limits shall always be reported and the test results shall be stored until updated by a more recent valid test result or the fault memory of the OBD II system computer is cleared. For monitors with multiple pass/fail criteria (e.g., a purge flow diagnostic that can pass upon seeing a rich shift, lean shift, or engine speed change), on 25 percent of 2009, 50 percent of 2010, and 100 percent of 2011 and subsequent model year vehicles, only the test results used in the most recent decision shall be reported with valid results and limits while test results not used in the most recent decision shall report values of zero for the test results and limits (e.g., a purge flow monitoring event that passed based on seeing a rich shift shall report the results and the limits of the rich shift test and shall report values of zero for the results and limits of the lean shift and engine speed change tests).

(F) The OBD II system shall store and report unique test results for each separate diagnostic (e.g., an OBD II system with individual evaporative system diagnostics for 0.040 inch and 0.020 inch leaks shall separately report 0.040 inch and 0.020 inch test results).

(4.6) Software Calibration Identification

(4.6.1) On all vehicles, a software calibration identification number (CAL ID) for the diagnostic or emission critical powertrain control unit(s) shall be made available through the standardized data link connector in accordance with the SAE J1979 specifications. Except as provided for in section (g)(4.6.3), for 2009 and subsequent model year vehicles, the OBD II system shall use a single software calibration identification number (CAL ID) for each diagnostic or emission critical powertrain control unit(s) that replies to a generic scan tool with a unique module address.

(4.6.2) A unique CAL ID shall be used for every emission-related calibration and/or software set having at least one bit of different data from any other emission-related calibration and/or software set. Control units coded with multiple emission or diagnostic calibrations and/or software sets shall indicate a unique CAL ID for each variant in a manner that enables an off-board device to determine which variant is being used by the vehicle. Control units that utilize a strategy that will result in MIL illumination if the incorrect variant is used (e.g., control units that contain variants for manual and automatic transmissions but will illuminate the MIL if the variant selected does not match the type of transmission on the vehicle) are not required to use unique CAL IDs.

(4.6.3) For 2009 and subsequent model year vehicles, manufacturers may request Executive Officer approval to respond with more than one CAL ID per diagnostic or emission critical powertrain control unit. Executive Officer approval of the request shall be based on the method used by the manufacturer to ensure each control unit will respond to a SAE J1978 scan tool with the CAL IDs in order of highest to lowest priority with regards to areas of the software most critical to emission and OBD II system performance.

(4.7) Software Calibration Verification Number

(4.7.1) All 2005² and subsequent model year vehicles shall use an algorithm to calculate a calibration verification number (CVN) that verifies the on-board computer software integrity in diagnostic or emission critical electronically reprogrammable powertrain control units. The CVN shall be made available through the standardized data link connector in accordance with the SAE J1979 specifications. The CVN shall be capable of being used to determine if the emission-related software and/or calibration data are valid and applicable for that vehicle and CAL ID. For 50 percent of 2010 and 100 percent of 2011 and subsequent model year vehicles, one CVN shall be made available for each CAL ID made available and each CVN shall be output to a generic scan tool in the same order as the CAL IDs are output to the scan tool to allow the scan tool to match each CVN to the corresponding CAL ID.

(4.7.2) Manufacturers shall request Executive Officer approval of the algorithm used to calculate the CVN. Executive Officer approval of the algorithm shall be based on the complexity of the algorithm and the difficulty in achieving the same CVN with modified calibration values.

(4.7.3) The CVN shall be calculated at least once per driving cycle and stored until the CVN is subsequently updated. Except for immediately after a reprogramming event or a non-volatile memory clear or for the first 30 seconds of engine operation after a volatile memory clear or battery disconnect, the stored value shall be made available through the data link connector to a generic scan tool in accordance with SAE J1979 specifications. The stored CVN value may not be erased when fault memory is erased by a generic scan tool in accordance with SAE J1979 specifications or during normal vehicle shut down (i.e., key off, engine off).

(4.7.4) For purposes of Inspection and Maintenance (I/M) testing, manufacturers shall make the CVN and CAL ID combination information available for all 2008 and subsequent model year vehicles in a standardized electronic format that allows for off-board verification that the CVN is valid and appropriate for a specific vehicle and CAL ID. The standardized electronic format is detailed in Attachment E: CAL ID and CVN Data of ARB Mail-Out #MSC 06-23, December 21, 2006, incorporated by reference. Manufacturers shall submit the CVN and CAL ID information to the Executive Officer not more than 25 days after the close of a calendar quarter.

(4.8) Vehicle Identification Number:

(4.8.1) All 2005 and subsequent model year vehicles shall have the vehicle identification number (VIN) available in a standardized format through the standardized data link connector in accordance with SAE J1979 specifications. Only one electronic control unit per vehicle shall report the VIN to an SAE J1978 scan tool.

(4.8.2) For 2012 and subsequent model year vehicles, if the VIN is reprogrammable, all emission-related diagnostic information (i.e., all information required to be erased in accordance with SAE J1979 specifications when a Mode/Service \$04 clear/reset emission-related diagnostic information command is received) shall be erased in conjunction with the reprogramming of the VIN.

(4.9) ECU Name: The name of each electronic control unit that responds to an SAE J1978 scan tool with a unique address or identifier shall be communicated in a standardized format in accordance with SAE J1979 (i.e., ECUNAME in Service/Mode \$09, InfoType \$0A). Except as specified for vehicles with more than one engine control unit, communication of the ECU name in a standardized format is required on 50 percent of 2010, 75 percent of 2011, and 100 percent of 2012 and subsequent model year vehicles. For vehicles with more than one engine control unit (e.g., a 12 cylinder engine with two engine control units, each of which controls six cylinders), communication of the ECU name is required on all 2010 and subsequent model year vehicles.

(5) In-use Performance Ratio Tracking Requirements:

(5.1) For each monitor required in section (e) to separately report an in-use performance ratio, manufacturers shall implement software algorithms to report a numerator and denominator in the standardized format specified below and in accordance with the SAE J1979 specifications.

(5.2) Numerical Value Specifications:

(5.2.1) For the numerator, denominator, general denominator, and ignition cycle counter:

(A) Each number shall have a minimum value of zero and a maximum value of 65,535 with a resolution of one.

(B) Each number shall be reset to zero only when a non-volatile memory reset occurs (e.g., reprogramming event, etc.) or, if the numbers are stored in keep-alive memory (KAM), when KAM is lost due to an interruption in electrical power to the control module (e.g., battery disconnect, etc.). Numbers may not be reset to zero under any other circumstances including when a scan tool command to clear fault codes or reset KAM is received.

(C) If either the numerator or denominator for a specific component reaches the maximum value of $65,535 \pm 2$, both numbers shall be divided by two before either is incremented again to avoid overflow problems.

(D) If the ignition cycle counter reaches the maximum value of $65,535 \pm 2$, the ignition cycle counter shall rollover and increment to zero on the next ignition cycle to avoid overflow problems.

(E) If the general denominator reaches the maximum value of $65,535 \pm 2$, the general denominator shall rollover and increment to zero on the next driving cycle that meets the general denominator definition to avoid overflow problems.

(F) If a vehicle is not equipped with a component (e.g., oxygen sensor bank 2, secondary air system), the corresponding numerator and denominator for that specific component shall always be reported as zero.

(5.2.2) For the ratio:

(A) The ratio shall have a minimum value of zero and a maximum value of 7.99527 with a resolution of 0.000122.

(B) A ratio for a specific component shall be considered to be zero whenever the corresponding numerator is equal to zero and the corresponding denominator is not zero.

(C) A ratio for a specific component shall be considered to be the maximum value of 7.99527 if the corresponding denominator is zero or if the actual value of the numerator divided by the denominator exceeds the maximum value of 7.99527.

(6) Engine Run Time Tracking Requirements:

(6.1) For all 2010 and subsequent model year medium-duty vehicles equipped with diesel engines, manufacturers shall implement software algorithms to individually track and report in a standardized format the engine run time while being operated in the following conditions:

(6.1.1) Total engine run time;

(6.1.2) Total idle run time (with "idle" defined as accelerator pedal released by driver, vehicle speed less than or equal to one mile per hour, and PTO not active);

(6.1.3) Total run time with PTO active.

(6.1.4) Total run time with EI-AECD #1 active;

(6.1.5) Total run time with EI-AECD #2 active; and so on up to

(6.1.6) Total run time with EI-AECD #n active.

(6.2) For all 2010 and subsequent model year light-duty vehicles equipped with diesel engines, manufacturers shall implement software algorithms to individually track and report in a standardized format the engine run time while being operated in the following conditions:

(6.2.1) Total engine run time;

(6.2.2) Total run time with EI-AECD #1 active;

(6.2.3) Total run time with EI-AECD #2 active; and so on up to

(6.2.4) Total run time with EI-AECD #n active.

(6.3) Numerical Value Specifications:

(6.3.1) For each counter specified in section (g)(6):

(A) Each number shall conform to the standardized format specified in SAE J1979.

(B) Each number shall be reset to zero only when a non-volatile memory reset occurs (e.g., reprogramming event). Numbers may not be reset to zero under any other circumstances including when a scan tool (generic or enhanced) command to clear fault codes or reset KAM is received.

(C) If any of the individual counters reach the maximum value, all counters shall be divided by two before any are incremented again to avoid overflow problems.

(6.4) Separation of EI-AECDs

(6.4.1) Each EI-AECD shall be tracked individually and increment the counters at all times the conditions necessary to activate the EI-AECD are present.

(6.4.2) For EI-AECDs that have variable actions or degrees of action (e.g., derate EGR more aggressively as engine oil temperature continues to increase), the EI-AECD shall be tracked as two separate EI-AECDs and increment two counters.

(A) The first of the two counters shall be incremented whenever the EI-AECD is commanding some amount of reduced emission control ef-

fectiveness up to but not including 75 percent of the maximum reduced emission control effectiveness that the EI-AECD is capable of commanding during in-use vehicle or engine operation. For example, an overheat protection strategy that progressively derates EGR and eventually shuts off EGR as oil temperature increases would accumulate time for the first counter from the time derating of EGR begins up to the time that EGR is derated 75 percent. As a second example, an overheat protection strategy that advances fuel injection timing progressively up to a maximum advance of 15 degrees crank angle as the engine coolant temperature increases would accumulate time for the first counter from the time advance is applied up to the time that advance reaches 11.25 degrees (75 percent of the maximum 15 degrees).

(B) The second of the two counters shall be incremented whenever the EI-AECD is commanding 75 percent or more of the maximum reduced emission control effectiveness that the EI-AECD is capable of commanding during in-use vehicle or engine operation. For example, the second counter for the first example EI-AECD identified in section (g)(6.4.2)(A) would accumulate time from the time that EGR is derated 75 percent up to and including when EGR is completely shut off. For the second example EI-AECD identified in section (g)(6.4.2)(A), the second counter would accumulate time from the time fuel injection timing advance is at 11.25 degrees up to and including the maximum advance of 15 degrees.

(6.4.3) If more than one EI-AECD is currently active, the counters for both EI-AECDs shall accumulate time, regardless if there is overlap or redundancy in the commanded action (e.g., two different EI-AECDs independently but simultaneously commanding EGR off shall both accumulate time in their respective counters).

(7) Exceptions to Standardization Requirements.

(7.1) For medium-duty vehicles equipped with a diesel engine certified on an engine dynamometer, a manufacturer may request Executive Officer approval to use both: (1) an alternate diagnostic connector, and emission-related message structure and format in lieu of the standardization requirements in sections (g)(2) and (4) that refer to SAE J1962, SAE J1978, and SAE J1979, and (2) an alternate communication protocol in lieu of the identified protocols in section (g)(3). The Executive Officer shall approve the request if the alternate diagnostic connector, communication protocol, and emission-related message format and structure requested by the manufacturer meet the standardization requirements in title 13, CCR section 1971.1 applicable for 2013 and subsequent model year heavy-duty diesel engines and the information required to be made available in section (g)(4.1) through (g)(6) (e.g., readiness status, data stream parameters, permanent fault codes, engine run time tracking data) is available in a standardized format through the alternate emission-related message format.

(7.2) For 2004 model year vehicles only, wherever the requirements of sections (g)(2) and (g)(4) reflect a substantive change from the requirements of title 13, CCR sections 1968.1(e), (f), (k), or (l) for the 2003 model year vehicles, the manufacturer may request Executive Officer approval to continue to use the requirements of section 1968.1 in lieu of the requirements of sections (g)(2) and (g)(4). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or engineering evaluation that demonstrate that software or hardware changes would be required to comply with the requirements of sections (g)(2) and (g)(4) and that the system complies with the requirements of sections 1968.1(e), (f), (k), and (l).

(h) *Monitoring System Demonstration Requirements For Certification*

(1) *General.*

(1.1) Certification requires that manufacturers submit emission test data from one or more durability demonstration test vehicles (test vehicles). For applications certified on engine dynamometers, engines may be used instead of vehicles.

(1.2) The Executive Officer may approve other demonstration protocols if the manufacturer can provide comparable assurance that the malfunction criteria are chosen based on meeting emission requirements and

that the timeliness of malfunction detection is within the constraints of the applicable monitoring requirements.

(1.3) For flexible fuel vehicles capable of operating on more than one fuel or fuel combinations, the manufacturer shall submit a plan for providing emission test data to the Executive Officer for approval. The Executive Officer shall approve the plan if it is determined to be representative of expected in-use fuel or fuel combinations and provides accurate and timely evaluation of the monitored systems.

(2) Selection of Test Vehicles:

(2.1) Prior to submitting any applications for certification for a model year, a manufacturer shall notify the Executive Officer of the test groups planned for that model year. The Executive Officer will then select the test group(s) that the manufacturer shall use as demonstration test vehicles to provide emission test data. The selection of test vehicles for production vehicle evaluation, as specified in section (j), may take place during this selection process.

(2.2) A manufacturer certifying one to five test groups in a model year shall provide emission test data from a test vehicle from one test group. A manufacturer certifying six to fifteen test groups in a model year shall provide emission test data from test vehicles from two test groups. A manufacturer certifying sixteen or more test groups in a model year shall provide emission test data from test vehicles from three test groups. The Executive Officer may waive the requirement for submittal of data from one or more of the test groups if data have been previously submitted for all of the test groups.

(2.3) For the test vehicle(s), a manufacturer shall use a certification emission durability test vehicle(s), a representative high mileage vehicle(s), or a vehicle(s) aged to the end of the full useful life using an ARB-approved alternative durability procedure (ADP).

(3) Required Testing for Gasoline/Spark-ignited vehicles:

Except as provided below, the manufacturer shall perform single-fault testing based on the applicable FTP test with the following components/systems set at their malfunction criteria limits as determined by the manufacturer for meeting the requirements of section (e):

(3.1) Exhaust Gas Sensors:

(3.1.1) The manufacturer shall perform a test with all primary oxygen sensors (conventional switching sensors and wide range or universal sensors) used for fuel control simultaneously possessing a response rate deteriorated to the malfunction criteria limit. Manufacturers shall also perform a test for any other oxygen sensor parameter that can cause vehicle emissions to exceed the malfunction threshold (e.g., 1.5 times the applicable standards due to a shift in air/fuel ratio at which oxygen sensor switches, decreased amplitude, etc.). When performing additional test(s), all primary and secondary (if applicable) oxygen sensors used for fuel control shall be operating at the malfunction criteria limit for the applicable parameter only. All other primary and secondary oxygen sensor parameters shall be with normal characteristics.

(3.1.2) For vehicles utilizing sensors other than oxygen sensors for primary fuel control (e.g., hydrocarbon sensors, etc.), the manufacturer shall submit, for Executive Officer approval, a demonstration test plan for performing testing of all of the sensor parameters that can cause vehicle emissions to exceed the malfunction threshold (e.g., 1.5 times the applicable standards). The Executive Officer shall approve the plan if it is determined that it will provide data that will assure proper performance of the diagnostics of the sensors, consistent with the intent of section (h).

(3.2) EGR System: The manufacturer shall perform a test at the low flow limit.

(3.3) VVT System: For 2006 through 2008 model year Low Emission II applications and all 2009 and subsequent model year vehicles, the manufacturer shall perform a test at each target error limit and slow response limit calibrated to the malfunction criteria (e.g., 1.5 times the FTP standard) in sections (e)(13.2.1) and (13.2.2). In conducting the VVT system demonstration tests, the manufacturer may use computer modifications to cause the VVT system to operate at the malfunction limit if the manufacturer can demonstrate that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.4) Fuel System:

(3.4.1) For vehicles with adaptive feedback based on the primary fuel control sensor(s), the manufacturer shall perform a test with the adaptive feedback based on the primary fuel control sensor(s) at the rich limit(s) and a test at the lean limit(s) established by the manufacturer in section (e)(6.2.1) to detect a malfunction before emissions exceed the malfunction threshold (e.g., 1.5 times the applicable standards).

(3.4.2) For vehicles with feedback based on a secondary fuel control sensor(s) and subject to the malfunction criteria in section (e)(6.2.1), the manufacturer shall perform a test with the feedback based on the secondary fuel control sensor(s) at the rich limit(s) and a test at the lean limit(s) established by the manufacturer in section (e)(6.2.1) to detect a malfunction before emissions exceed the malfunction threshold (e.g., 1.5 times the applicable standards).

(3.4.3) For other fuel metering or control systems, the manufacturer shall perform a test at the criteria limit(s).

(3.4.4) For purposes of fuel system testing, the fault(s) induced may result in a uniform distribution of fuel and air among the cylinders. Non-uniform distribution of fuel and air used to induce a fault may not cause misfire. In conducting the fuel system demonstration tests, the manufacturer may use computer modifications to cause the fuel system to operate at the malfunction limit if the manufacturer can demonstrate that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.5) Misfire: The manufacturer shall perform a test at the malfunction criteria limit specified in section (e)(3.2.2). The testing is not required for diesel applications.

(3.6) Secondary Air System: The manufacturer shall perform a test at the low flow limit. Manufacturers performing only a functional check in accordance with the provisions of section (e)(5.2.2)(B) or (e)(5.2.4) shall perform a test at the functional check flow malfunction criteria.

(3.7) Catalyst System: The manufacturer shall perform a test using a catalyst system deteriorated to the malfunction criteria using methods established by the manufacturer in accordance with sections (e)(1.2.6) and (1.2.7).

(3.8) Heated Catalyst Systems: The manufacturer shall perform a test at the malfunction criteria limit established by the manufacturer in section (e)(2.2).

(3.9) Other systems: The manufacturer shall conduct demonstration tests for all other emission control components designed and calibrated to an emission threshold malfunction criteria (e.g., 1.5 times any of the applicable emission standards) (e.g., hydrocarbon traps, adsorbers, etc.) under the provisions of section (e)(16).

(3.10) The manufacturer may electronically simulate deteriorated components but may not make any vehicle control unit modifications (unless otherwise excepted above) when performing demonstration tests. All equipment necessary to duplicate the demonstration test must be made available to the ARB upon request.

(4) Required Testing for Diesel/Compression-ignition vehicles:

Except as provided below, the manufacturer shall perform single-fault testing based on the applicable test with the following components/systems set at their malfunction criteria limits as determined by the manufacturer for meeting the requirements of section (f).

(4.1) NMHC Catalyst: The manufacturer shall perform a separate test for each monitored NMHC catalyst(s) (e.g., oxidation catalyst). The catalyst(s) being evaluated shall be deteriorated to the applicable malfunction criteria established by the manufacturer in section (f)(1.2.2) using methods established by the manufacturer in accordance with section (f)(1.2.4). For each monitored NMHC catalyst(s), the manufacturer shall also demonstrate that the OBD II system will detect a catalyst malfunction with the catalyst at its maximum level of deterioration (i.e., the substrate(s) completely removed from the catalyst container or "empty" can). Emission data are not required for the empty can demonstration.

(4.2) NOx Catalyst: The manufacturer shall perform a separate test for each monitored NOx catalyst(s) (e.g., SCR catalyst). The catalyst(s) being evaluated shall be deteriorated to the applicable malfunction criteria

established by the manufacturer in sections (f)(2.2.2)(A) and (f)(2.2.3)(A) using methods established by the manufacturer in accordance with section (f)(2.2.4). For each monitored NOx catalyst(s), the manufacturer shall also demonstrate that the OBD II system will detect a catalyst malfunction with the catalyst at its maximum level of deterioration (i.e., the substrate(s) completely removed from the catalyst container or “empty” can). Emission data are not required for the empty can demonstration.

(4.3) Misfire Monitoring: For 2010 and subsequent model year vehicles subject to section (f)(3.2.2), the manufacturer shall perform a test at the malfunction criteria limit specified in section (f)(3.2.2). A misfire monitor demonstration test is not required for vehicles not subject to section (f)(3.2.2).

(4.4) Fuel System: The manufacturer shall perform a separate test for each applicable malfunction limit established by the manufacturer for the fuel system parameters (e.g., fuel pressure, injection timing, injection quantity) specified in sections (f)(4.2.1) through (f)(4.2.3). When performing a test for a specific parameter, the fuel system shall be operating at the malfunction criteria limit for the applicable parameter only. All other parameters shall be with normal characteristics. In conducting the fuel system demonstration tests, the manufacturer may use computer modifications to cause the fuel system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(4.5) Exhaust Gas Sensor: The manufacturer shall perform a test for each exhaust gas sensor parameter calibrated to the malfunction criteria in sections (f)(5.2.1)(A)(i), (f)(5.2.1)(B)(i), and (f)(5.2.2)(A). When performing a test, all exhaust gas sensors used for the same purpose (e.g., for the same feedback control loop, for the same control feature on parallel exhaust banks) shall be operating at the malfunction criteria limit for the applicable parameter only. All other exhaust gas sensor parameters shall be with normal characteristics.

(4.6) EGR System: The manufacturer shall perform a test at each flow, slow response, and cooling limit calibrated to the malfunction criteria in sections (f)(6.2.1) through (f)(6.2.3) and (f)(6.2.5). In conducting the EGR system slow response demonstration tests, the manufacturer may use computer modifications to cause the EGR system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(4.7) Boost Pressure Control System: The manufacturer shall perform a test at each boost, response, and cooling limit calibrated to the malfunction criteria in sections (f)(7.2.1) through (f)(7.2.4).

(4.8) NOx Adsorber: The manufacturer shall perform a test using a NOx adsorber(s) deteriorated to the malfunction criteria in section (f)(8.2.1). The manufacturer shall also demonstrate that the OBD II system will detect a NOx adsorber malfunction with the NOx adsorber at its maximum level of deterioration (i.e., the substrate(s) completely removed from the container or “empty” can). Emission data are not required for the empty can demonstration.

(4.9) PM Filter: The manufacturer shall perform a test using a PM filter(s) deteriorated to each applicable malfunction criteria in sections (f)(9.2.1), (f)(9.2.2), and (f)(9.2.4). The manufacturer shall also demonstrate that the OBD II system will detect a PM filter malfunction with the filter at its maximum level of deterioration (i.e., the filter(s) completely removed from the filter container or “empty” can). Emission data are not required for the empty can demonstration.

(4.10) VVT System: The manufacturer shall perform a test at each target error limit and slow response limit calibrated to the malfunction criteria in sections (f)(13.2.1) and (f)(13.2.2). In conducting the VVT system demonstration tests, the manufacturer may use computer modifications to cause the VVT system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(4.11) For each of the testing requirements of section (h)(4), if the manufacturer has established that only a functional check is required because no failure or deterioration of the specific tested system could result in an engine’s emissions exceeding the emission malfunction criteria, the manufacturer is not required to perform a demonstration test; however the manufacturer is required to provide the data and/or engineering analysis used to determine that only a functional test of the system(s) is required.

(5) Testing Protocol:

(5.1) Preconditioning: The manufacturer shall use an applicable cycle (FTP, SET, or Unified Cycle) for preconditioning test vehicles prior to conducting each of the above emission tests. Upon determining that a manufacturer has provided data and/or an engineering evaluation that demonstrate that additional preconditioning is necessary to stabilize the emission control system, the Executive Officer shall allow the manufacturer to perform a single additional preconditioning cycle, identical to the initial preconditioning cycle, or a Federal Highway Fuel Economy Driving Cycle, following a ten minute (20 minutes for medium duty engines certified on an engine dynamometer) hot soak after the initial preconditioning cycle. The manufacturer may not require the test vehicle to be cold soaked prior to conducting preconditioning cycles in order for the monitoring system testing to be successful.

(5.2) Test Sequence:

(5.2.1) The manufacturer shall set the system or component on the test vehicle for which detection is to be tested at the criteria limit(s) prior to conducting the applicable preconditioning cycle(s). If a second preconditioning cycle is permitted in accordance with section (h)(5.1) above, the manufacturer may adjust the system or component to be tested before conducting the second preconditioning cycle. The manufacturer may not replace, modify, or adjust the system or component after the last preconditioning cycle has taken place.

(5.2.2) After preconditioning, the test vehicle shall be operated over the applicable cycle to allow for the initial detection of the tested system or component malfunction. This test cycle may be omitted from the testing protocol if it is unnecessary. If required by the designated monitoring strategy, a cold soak may be performed prior to conducting this driving cycle.

(5.2.3) The test vehicle shall then be operated over the applicable exhaust emission test. If monitoring is designed to run during the Unified Cycle, a second Unified Cycle may be conducted prior to the exhaust emission test.

(5.3) A manufacturer required to test more than one test vehicle (section (h)(2.2)) may utilize internal calibration sign-off test procedures (e.g., forced cool downs, less frequently calibrated emission analyzers, etc.) instead of official exhaust emission test procedures to obtain the emission test data required in section (h) for all but one of the required test vehicles. The manufacturer may elect this option if the data from the alternative test procedure are representative of official exhaust emission test results. Manufacturers using this option are still responsible for meeting the malfunction criteria specified in sections (e) and (f) when emission tests are performed in accordance with official exhaust emission test procedures.

(5.4) For medium-duty vehicles certified to an engine dynamometer exhaust emission standard, a manufacturer may request Executive Officer approval to utilize an alternate testing protocol for demonstration of MIL illumination if the engine dynamometer emission test cycle does not allow all of a monitor’s enable conditions to be satisfied. A manufacturer may request the use of an alternate engine dynamometer test cycle or the use of chassis testing to demonstrate proper MIL illumination. In evaluating the manufacturer’s request, the Executive Officer shall consider the technical necessity for using an alternate test cycle and the degree to which the alternate test cycle demonstrates that in-use operation with the malfunctioning component will properly result in MIL illumination.

(6) Evaluation Protocol:

(6.1) For all tests conducted under section (h), the MIL shall be illuminated upon detection of the tested system or component malfunction be-

fore the end of the first engine start portion of the exhaust emission test (or before the hot start portion of the last Unified Cycle, if applicable) in accordance with requirements of sections (e) and (f).

(6.2) For all tests conducted under section (h), manufacturers may use Non-Methane Hydrocarbon (NMHC) emission results in lieu of Non-Methane Organic Gas (NMOG) emission results for comparison to the applicable standards or malfunction criteria (e.g., 1.5 times the FTP standards). If NMHC emission results are used in lieu of NMOG, the emission result shall be multiplied by 1.04 to generate an equivalent NMOG result before comparison to the applicable standards.

(6.3) If the MIL illuminates prior to emissions exceeding the applicable malfunction criteria specified in sections (e) and (f), no further demonstration is required. With respect to the misfire monitor demonstration test, if a manufacturer has elected to use the minimum misfire malfunction criteria of one percent as allowed in sections (e)(3.2.2)(A) and (f)(3.2.2)(B), no further demonstration is required if the MIL illuminates with misfire implanted at the malfunction criteria limit.

(6.4) If the MIL does not illuminate when the systems or components are set at their limit(s), the criteria limit or the OBD II system is not acceptable.

(6.4.1) Except for testing of the catalyst (i.e., components monitored under (e)(1), (f)(2) or (f)(8)) or PM filter system, if the MIL first illuminates after emissions exceed the applicable malfunction criteria specified in sections (e) and (f), the test vehicle shall be retested with the tested system or component adjusted so that the MIL will illuminate before emissions exceed the applicable malfunction criteria specified in sections (e) and (f). If the component cannot be adjusted to meet this criterion because a default fuel or emission control strategy is used when a malfunction is detected (e.g., open loop fuel control used after an O2 sensor malfunction is determined, etc.), the test vehicle shall be retested with the component adjusted to the worst acceptable limit (i.e., the applicable monitor indicates the component is performing at or slightly better than the malfunction criteria). For the OBD II system to be approved, the MIL must not illuminate during this test and the vehicle emissions must be below the applicable malfunction criteria specified in sections (e) and (f).

(6.4.2) In testing the catalyst (i.e., components monitored under (e)(1), (f)(2) or (f)(8)) or PM filter system, if the MIL first illuminates after emissions exceed the applicable emission threshold(s) specified in sections (e) and (f), the tested vehicle shall be retested with a less deteriorated catalyst or PM filter system (i.e., more of the applicable engine out pollutants are converted or trapped). For the OBD II system to be approved, testing shall be continued until either of the following conditions are satisfied:

(A) The MIL is illuminated and emissions do not exceed the thresholds specified in sections (e) and (f); or

(B) The manufacturer demonstrates that the MIL illuminates within acceptable upper and lower limits of the threshold specified in sections (e) and (f) for MIL illumination. The manufacturer shall demonstrate acceptable limits by continuing testing until the test results show:

(i) The MIL is illuminated and emissions exceed the thresholds specified in sections (e) and (f) by 25 percent or less of the applicable standard (e.g., emissions are less than 2.0 times the applicable standard for a malfunction criterion of 1.75 times the standard); and

(ii) The MIL is not illuminated and emissions are below the thresholds specified in sections (e) and (f) by no more than 25 percent of the standard (e.g., emissions are between 1.55 and 1.75 times the applicable standard for a malfunction criterion of 1.75 times the standard).

(6.5) If an OBD II system is determined unacceptable by the above criteria, the manufacturer may recalibrate and retest the system on the same test vehicle. In such a case, the manufacturer must confirm, by retesting, that all systems and components that were tested prior to recalibration and are affected by the recalibration function properly under the OBD II system as recalibrated.

(6.6) Where applicable for diesel vehicles, the emission test results shall be adjusted as required under section (d)(6.2).

(7) *Confirmatory Testing:*

(7.1) The ARB may perform confirmatory testing to verify the emission test data submitted by the manufacturer under the requirements of section (h) comply with the requirements of section (h) and the malfunction criteria identified in sections (e) and (f). This confirmatory testing is limited to the vehicle configuration represented by the demonstration vehicle(s). For purposes of section (h)(7), vehicle configuration shall have the same meaning as the term used in 40 CFR 86.082-2.

(7.2) The ARB or its designee may install appropriately deteriorated or malfunctioning components in an otherwise properly functioning test vehicle of a test group represented by the demonstration test vehicle(s) (or simulate a deteriorated or malfunctioning component) in order to test any of the components or systems required to be tested in section (h). Upon request by the Executive Officer, the manufacturer shall make available a vehicle and all test equipment (e.g., malfunction simulators, deteriorated components, etc.) necessary to duplicate the manufacturer's testing. The Executive Officer shall make the request within six months of reviewing and approving the demonstration test vehicle data submitted by the manufacturer for the specific test group.

(7.3) Vehicles with OBD II systems represented by the demonstration vehicle(s) may be recalled for corrective action if a representative sample of vehicles uniformly fails to meet the requirements of section (h).

(i) *Certification Documentation*

(1) When submitting an application for certification of a test group, the manufacturer shall submit the following documentation. If any of the items listed below are standardized for all of a manufacturer's test groups, the manufacturer may, for each model year, submit one set of documents covering the standardized items for all of its test groups.

(1.1) For the required documentation not standardized across all test groups, the manufacturer may propose to the Executive Officer that documentation covering a specified combination of test groups be used. These combinations shall be known as "OBD II groups". Executive Officer approval shall be granted for those groupings that include test groups using the same OBD II strategies and similar calibrations. If approved by the Executive Officer, the manufacturer may submit one set of documentation from one or more representative test group(s) that are a part of the OBD II group. The Executive Officer shall determine whether a selected test group(s) is representative of the OBD II group as a whole. To be approved as representative, the test group(s) must possess the most stringent emission standards and OBD II monitoring requirements and cover all of the emission control devices within the OBD II group.

(1.2) With Executive Officer approval, one or more of the documentation requirements of section (i) may be waived or modified if the information required would be redundant or unnecessarily burdensome to generate.

(1.3) To the extent possible, the certification documentation shall use SAE J1930 terms, abbreviations, and acronyms.

(2) The following information shall be submitted as "Part 1" of the certification application. Except as provided below for demonstration data, the Executive Officer will not issue an Executive Order certifying the covered vehicles without the information having been provided. The information must include:

(2.1) A description of the functional operation of the OBD II system including a complete written description for each monitoring strategy that outlines every step in the decision making process of the monitor. Algorithms, diagrams, samples of data, and/or other graphical representations of the monitoring strategy shall be included where necessary to adequately describe the information.

(2.2) A table, in the standardized format detailed in Attachment A of ARB Mail-Out #95-20, May 22, 1995, incorporated by reference.

(2.2.1) The table must include the following information for each monitored component or system (either computer-sensed or -controlled) of the emission control system:

(A) corresponding fault code

(B) monitoring method or procedure for malfunction detection

(C) primary malfunction detection parameter and its type of output signal

(D) fault criteria limits used to evaluate output signal of primary parameter

(E) other monitored secondary parameters and conditions (in engineering units) necessary for malfunction detection

(F) monitoring time length and frequency of checks

(G) criteria for storing fault code

(H) criteria for illuminating malfunction indicator light

(I) criteria used for determining out of range values and input component rationality checks

(2.2.2) Wherever possible, the table shall use the following engineering units:

(A) Degrees Celsius (°C) for all temperature criteria

(B) KiloPascals (KPa) for all pressure criteria related to manifold or atmospheric pressure

(C) Grams (g) for all intake air mass criteria

(D) Pascals (Pa) for all pressure criteria related to evaporative system vapor pressure

(E) Miles per hour (mph) for all vehicle speed criteria

(F) Relative percent (%) for all relative throttle position criteria (as defined in SAE J1979)

(G) Voltage (V) for all absolute throttle position criteria (as defined in SAE J1979)

(H) Per crankshaft revolution (/rev) for all changes per ignition event based criteria (e.g., g/rev instead of g/stroke or g/firing)

(I) Per second (/sec) for all changes per time based criteria (e.g., g/sec)

(J) Percent of nominal tank volume (%) for all fuel tank level criteria

(2.3) A logic flowchart describing the step by step evaluation of the enable criteria and malfunction criteria for each monitored emission-related component or system.

(2.4) Emission test data, a description of the testing sequence (e.g., the number and types of preconditioning cycles), approximate time (in seconds) of MIL illumination during the test, fault code(s) and freeze frame information stored at the time of detection, corresponding SAE J1979 test results (e.g. Mode/Service \$06) stored during the test, and a description of the modified or deteriorated components used for fault simulation with respect to the demonstration tests specified in section (h). The Executive Officer may approve conditional certification of a test group prior to the submittal of this data for ARB review and approval. Factors to be considered by the Executive Officer in approving the late submission of information identified in section (i)(2.4) shall include the reason for the delay in the data collection, the length of time until data will be available, and the demonstrated previous success of the manufacturer in submitting the data prior to certification.

(2.5) For gasoline vehicles, data supporting the misfire monitor, including:

(2.5.1) The established percentage of misfire that can be tolerated without damaging the catalyst over the full range of engine speed and load conditions.

(2.5.2) Data demonstrating the probability of detection of misfire events of the misfire monitoring system over the full engine speed and load operating range for the following misfire patterns: random cylinders misfiring at the malfunction criteria established in section (e)(3.2.2), one cylinder continuously misfiring, and paired cylinders continuously misfiring.

(2.5.3) Data identifying all disablement of misfire monitoring that occurs during the FTP and US06 cycles. For every disablement that occurs during the cycles, the data should identify: when the disablement occurred relative to the driver's trace, the number of engine revolutions that each disablement was present for, and which disable condition documented in the certification application caused the disablement. The data shall be submitted in the standardized format detailed in Attachment A: Misfire Disablement and Detection Chart of ARB Mail-Out #06-23, December 21, 2006, incorporated by reference.

(2.5.4) Manufacturers are not required to use the durability demonstration vehicle to collect the misfire data for sections (i)(2.5.1) through (2.5.3).

(2.6) Data supporting the limit for the time between engine starting and attaining the designated heating temperature for after-start heated catalyst systems.

(2.7) For diesel vehicle monitors in section (f) that are required to indicate a malfunction before emissions exceed an emission threshold based on any applicable standard (e.g., 1.5 times any of the applicable standards), the test cycle and standard determined by the manufacturer to be the most stringent for each applicable monitor in accordance with section (d)(6.1)

(2.8) A listing of all electronic powertrain input and output signals (including those not monitored by the OBD II system) that identifies which signals are monitored by the OBD II system.

(2.9) A written description of all parameters and conditions necessary to begin closed loop operation.

(2.10) A summary table identifying every test group and each of the OBD II phase-in requirements that apply to each test group.

(2.11) A written identification of the communication protocol utilized by each test group for communication with an SAE J1978 scan tool.

(2.12) A pictorial representation or written description of the diagnostic connector location including any covers or labels.

(2.13) A written description of the method used by the manufacturer to meet the requirements of sections (e)(9) and (f)(10) for PCV and CV system monitoring including diagrams or pictures of valve and/or hose connections.

(2.14) A cover letter identifying all concerns and deficiencies applicable to the equivalent previous model year test group and the changes and/or resolution of each concern or deficiency for the current model year test group.

(2.15) For diesel engine vehicles, a written description of each AECD utilized by the manufacturer including the identification of each EI-AECD relative to the data required to be tracked and reported in the standardized format specified in section (g)(6) (e.g., EI-AECD #1 is "engine overheat protection as determined by coolant temperature greater than..."), the sensor signals and/or calculated values used to invoke each AECD, the engineering data and/or analysis demonstrating the need for such an AECD, the actions taken when each AECD is activated, the expected in-use frequency of operation of each AECD, and the expected emission impact from each AECD activation.

(2.16) A checklist of all the malfunction criteria in sections (e) or (f) and the corresponding diagnostic noted by fault code for each malfunction criterion. The formats of the checklists are detailed in Attachments F and G of ARB Mail-Out #MSC 06-23, December 21, 2006, incorporated by reference.

(2.17) Any other information determined by the Executive Officer to be necessary to demonstrate compliance with the requirements of this regulation.

(3) "Part 2". The following information shall be submitted by January 1st of the applicable model year:

(3.1) A listing and block diagram of the input parameters used to calculate or determine calculated load values and the input parameters used to calculate or determine fuel trim values.

(3.2) A scale drawing of the MIL and the fuel cap indicator light, if present, which specifies location in the instrument panel, wording, color, and intensity.

(4) "Part 3". The following information shall be submitted upon request of the Executive Officer:

(4.1) Data supporting the criteria used to detect a malfunction when catalyst deterioration causes emissions to exceed the applicable malfunction criteria specified in sections (e) and (f).

(4.2) Data supporting the criteria used to detect evaporative system leaks.

(4.3) Any other information determined by the Executive Officer to be necessary to demonstrate compliance with the requirements of this regulation.

(j) *Production Vehicle Evaluation Testing.*

(1) *Verification of Standardized Requirements.*

(1.1) Requirement: For 2005 and subsequent model year vehicles, manufacturers shall perform testing to verify that all vehicles meet the requirements of section (g)(3) and (g)(4) relevant to proper communication of required emission-related messages to an SAE J1978 scan tool.

(1.2) Selection of Test Vehicles: Manufacturers shall perform this testing every model year on one production vehicle from every unique calibration within two months of the start of normal production for that calibration. Manufacturers may request Executive Officer approval to group multiple calibrations together and test one representative calibration per group. The Executive Officer shall approve the request upon finding that the software designed to comply with the standardization requirements of section (g) in the representative calibration vehicle is identical (e.g., communication protocol message timing, number of supported data stream parameters, etc.) to all others in the group and that any differences in the calibrations are not relevant with respect to meeting the criteria in section (j)(1.4).

(1.3) Test Equipment: For the testing required in section (j)(1), manufacturers shall utilize an off-board device to conduct the testing. Prior to conducting testing, manufacturers are required to request and receive Executive Officer approval of the off-board device that the manufacturer will use to perform the testing. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data, specifications, and/or engineering analysis that demonstrate that the off-board device meets the minimum requirements to conduct testing according to SAE J1699-3 using the software developed and maintained for the SAE J1699-3 committee and available through www.sourceforge.net and SAE J2534 compliant hardware configured specifically for SAE J1699-3 testing.

(1.4) Required Testing (i.e., "static" testing portion of SAE J1699-3):

(1.4.1) The testing shall verify that the vehicle can properly establish communications between all emission-related on-board computers and any SAE J1978 scan tool designed to adhere strictly to the communication protocols allowed in section (g)(3);

(1.4.2) The testing shall further verify that the vehicle can properly communicate to any SAE J1978 scan tool:

(A) The current readiness status from all on-board computers required to support readiness status in accordance with SAE J1979 and section (g)(4.1) while the engine is running;

(B) The MIL command status while the MIL is commanded off and while the MIL is commanded on in accordance with SAE J1979 and section (g)(4.2) while the engine is running, and in accordance with SAE J1979 and sections (d)(2.1.2) during the MIL functional check and, if applicable, (g)(4.1.3) during the MIL readiness status check while the engine is off;

(C) All data stream parameters required in section (g)(4.2) in accordance with SAE J1979 including the identification of each data stream parameter as supported in SAE J1979 (e.g., Mode/Service \$01, PID \$00);

(D) The CAL ID, CVN, and VIN (if applicable) in accordance with SAE J1979 and sections (g)(4.6) through (4.8);

(E) An emission-related fault code (permanent, confirmed, and pending) in accordance with SAE J1979 (including correctly indicating the number of stored fault codes (e.g., Mode/Service \$01, PID \$01, Data A)) and section (g)(4.4);

(1.4.3) The testing shall also verify that the vehicle can properly respond to any SAE J1978 scan tool request to clear emission-related fault codes and reset readiness status.

(1.5) Reporting of Results:

(1.5.1) The manufacturer shall notify the Executive Officer within one month of identifying any vehicle that does not meet the requirements of section (j)(1.4). The manufacturer shall submit a written report of the problem(s) identified and propose corrective action (if any) to remedy the problem(s) to the Executive Officer for approval. Factors to be considered by the Executive Officer in approving the proposed corrective action shall include the severity of the problem(s), the ability of the vehicle to be tested in an I/M program, the ability of service technicians to access the required diagnostic information, the impact on equipment and tool

manufacturers, and the amount of time prior to implementation of the proposed corrective action.

(1.5.2) Within three months of any passing testing conducted pursuant to section (j)(1), a manufacturer shall submit a report of the results to the Executive Officer for review.

(1.5.3) In accordance with section (k)(6), manufacturers may request Executive Officer approval for a retroactive deficiency to be granted for items identified during this testing.

(2) *Verification of Monitoring Requirements.*

(2.1) For 2004 and subsequent model year vehicles, within the first six months after normal production begins, manufacturers shall conduct a complete evaluation of the OBD II system of one or more production vehicles (test vehicles) and submit the results of the evaluation to the Executive Officer.

(2.2) Selection of test vehicles:

(2.2.1) Prior to submitting any applications for certification for a model year, a manufacturer shall notify the Executive Officer of the test groups planned for that model year. The Executive Officer will then select the test group(s), in accordance with sections (j)(2.2.2) and (j)(2.2.3) below, that the manufacturer shall use as test vehicles to provide evaluation test results. This selection process may take place during durability demonstration test vehicle selection specified in section (h).

(2.2.2) A manufacturer shall evaluate one production vehicle per test group selected for monitoring system demonstration in section (h).

(2.2.3) In addition to the vehicles selected in section (j)(2.2.2) above, a manufacturer shall evaluate vehicles chosen from test groups that are not selected for monitoring system demonstration testing under section (h). The number of additional vehicles to be tested shall be equal to the number of vehicles selected for monitoring system demonstration in section (h).

(2.2.4) The Executive Officer may waive the requirements for submittal of evaluation results from one or more of the test groups if data has been previously submitted for all of the test groups.

(2.3) Evaluation requirements:

(2.3.1) The evaluation shall demonstrate the ability of the OBD II system on the selected production vehicle to detect a malfunction, illuminate the MIL, and store a confirmed fault code when a malfunction is present and the monitoring conditions have been satisfied for each individual diagnostic required by title 13, CCR section 1968.2.

(2.3.2) The evaluation shall verify that malfunctions detected by non-MIL illuminating diagnostics of components used to enable any other OBD II system diagnostic (e.g., fuel level sensor) will not inhibit the ability of other OBD II system diagnostics to properly detect malfunctions.

(2.3.3) On vehicles so equipped, the evaluation shall verify that the software used to track the numerator and denominator for purposes of determining in-use monitoring frequency correctly increments as required in section (d)(4) (i.e., the "dynamic" testing portion of SAE J1699-3).

(2.3.4) Malfunctions may be mechanically implanted or electronically simulated but internal on-board computer hardware or software changes may not be used to simulate malfunctions. Emission testing to confirm that the malfunction is detected before the appropriate emission standards are exceeded is not required.

(2.3.5) Manufacturers shall submit a proposed test plan for Executive Officer approval prior to evaluation testing being performed. The test plan shall identify the method used to induce a malfunction in each diagnostic. If the Executive Officer determines that the requirements of section (j)(2) are satisfied, the proposed test plan shall be approved.

(2.3.6) Subject to Executive Officer approval, manufacturers may omit demonstration of specific diagnostics. The Executive Officer shall approve a manufacturer's request if the demonstration cannot be reasonably performed without causing physical damage to the vehicle (e.g., on-board computer internal circuit faults).

(2.3.7) For evaluation of test vehicles selected in accordance with section (j)(2.2.2), manufacturers are not required to demonstrate diagnostics that were previously demonstrated prior to certification as required in section (h).

(2.4) Manufacturers shall submit a report of the results of all testing conducted pursuant to section (j)(2) to the Executive Officer for review. This report shall identify the method used to induce a malfunction in each diagnostic, the MIL illumination status, and the confirmed fault code(s) stored.

(2.5) In accordance with section (k)(6), manufacturers may request Executive Officer approval for a retroactive deficiency to be granted for items identified during this testing.

(3) *Verification and Reporting of In-use Monitoring Performance.*

(3.1) Manufacturers are required to collect and report in-use monitoring performance data representative of every test group certified by the manufacturer and equipped with in-use monitoring performance tracking software in accordance with section (d)(4) to the ARB within twelve months from either the time vehicles in the test group were first introduced into commerce or the start of normal production for such vehicles, whichever is later. The manufacturer may propose to the Executive Officer that multiple test groups be combined to collect representative data. Executive Officer approval shall be granted upon determining that the proposed groupings include test groups using the same OBD II strategies and similar calibrations and that are expected to have similar in-use monitoring performance. If approved by the Executive Officer, the manufacturer may submit one set of data for each of the approved groupings.

(3.2) For each test group or combination of test groups, the data must include all of the in-use performance tracking data reported through SAE J1979 (i.e., all numerators, denominators, and the ignition cycle counter), the date the data was collected, the odometer reading, the vehicle VIN, and the ECM software calibration identification number and be in the standardized format detailed in Attachment D: Rate Based Data of ARB Mail-Out #06-23, December 21, 2006, incorporated by reference.

(3.3) Manufacturers shall submit a plan to the Executive Officer for review and approval of the sampling method, number of vehicles to be sampled, time line to collect the data, and reporting format. The Executive Officer shall approve the plan upon determining that it provides for effective collection of data from a representative sample of vehicles that, at a minimum, is fifteen vehicles, will likely result in the collection and submittal of data within the required twelve month time frame, will generate data that are representative of California drivers and temperatures, and does not, by design, exclude or include specific vehicles in an attempt to collect data only from vehicles with the highest in-use performance ratios.

(3.2) For each test group or combination of test groups, the data must include all of the in-use performance tracking data reported through SAE J1979 (i.e., all numerators, denominators, and the ignition cycle counter), the date the data was collected, the odometer reading, the vehicle VIN, and the ECM software calibration identification number and be in the standardized format detailed in Attachment D: Rate Based Data of ARB Mail-Out #06-23, December 21, 2006, incorporated by reference.

(3.3) Manufacturers shall submit a plan to the Executive Officer for review and approval of the sampling method, number of vehicles to be sampled, time line to collect the data, and reporting format. The Executive Officer shall approve the plan upon determining that it provides for effective collection of data from a representative sample of vehicles that, at a minimum, is fifteen vehicles, will likely result in the collection and submittal of data within the required twelve month time frame, will generate data that are representative of California drivers and temperatures, and does not, by design, exclude or include specific vehicles in an attempt to collect data only from vehicles with the highest in-use performance ratios.

(3.4) Upon request of the manufacturer, the Executive Officer may reduce the minimum sample size of fifteen vehicles set forth in section (j)(3.3) for test groups with low sales volume. In granting approval of a sampling plan with a reduced minimum sample size, the Executive Officer shall consider, among other things, information submitted by the manufacturer to justify the smaller sample size, sales volume of the test group(s), and the sampling mechanism utilized by the manufacturer to

procure vehicles. In lieu of defining a fixed minimum sample size for low sales volume test groups, sampling plans approved for collection of data on higher sales volume test groups under section (j)(3.3) shall also be approved by the Executive Officer for low sales test groups if they use the identical sampling mechanism to procure vehicles from the low sales volume test groups.

(k) *Deficiencies.*

(1) For 2004 and subsequent model year vehicles, the Executive Officer, upon receipt of an application from the manufacturer, may certify vehicles even though said vehicles may not comply with one or more of the requirements of title 13, CCR section 1968.2. In granting the certification, the Executive Officer shall consider the following factors: the extent to which the requirements of section 1968.2 are satisfied overall based on a review of the vehicle applications in question, the relative performance of the resultant OBD II system compared to systems fully compliant with the requirements of title 13, CCR section 1968.2, and a demonstrated good-faith effort on the part of the manufacturer to: (1) meet the requirements in full by evaluating and considering the best available monitoring technology; and (2) come into compliance as expeditiously as possible. The Executive Officer may not grant certification to a vehicle in which the reported noncompliance for which a deficiency is sought would be subject to ordered recall pursuant to section 1968.5 (c)(3)(A).

(2) Manufacturers of non-complying systems are subject to fines pursuant to section 43016 of the California Health and Safety Code. Except as allowed in section (k)(7) for light-duty diesel vehicles, the specified fines apply to the third and subsequently identified deficiencies, with the exception that fines shall apply to all monitoring system deficiencies wherein a required monitoring strategy is completely absent from the OBD system.

(3) The fines are in the amount of \$50 per deficiency per vehicle for non-compliance with any of the monitoring requirements specified in sections (e)(1) through (e)(8), (e)(11), (e)(13)(e)(14), (e)(16), (f)(1) through (f)(9), (f)(13), and (f)(16) and \$25 per deficiency per vehicle for non-compliance with any other requirement of section 1968.2. In determining the identified order of deficiencies, deficiencies subject to a \$50 fine are identified first. Total fines per vehicle under section (k) may not exceed \$500 per vehicle and are payable to the State Treasurer for deposit in the Air Pollution Control Fund.

(4) Manufacturers must re-apply for Executive Officer approval of a deficiency each model year. In considering the request to carry-over a deficiency, the Executive Officer shall consider the factors identified in section (k)(1) including the manufacturer's progress towards correcting the deficiency. The Executive Officer may not allow manufacturers to carry over monitoring system deficiencies for more than two model years unless it can be demonstrated that substantial vehicle hardware modifications and additional lead time beyond two years would be necessary to correct the deficiency, in which case the Executive Officer shall allow the deficiency to be carried over for three model years.

(5) Except as allowed in section (k)(6), deficiencies may not be retroactively granted after certification.

(6) *Request for retroactive deficiencies*

(6.1) Manufacturers may request that the Executive Officer grant a deficiency and amend a vehicle's certification to conform to the granting of the deficiencies during the first 6 months after commencement of normal production for each aspect of the monitoring system: (a) identified by the manufacturer (during testing required by section (j)(2) or any other testing) to be functioning different than the certified system or otherwise not meeting the requirements of any aspect of section 1968.2; and (b) reported to the Executive Officer. If the Executive Officer grants the deficiencies and amended certification, their approval would be retroactive to the start of production.

(6.2) Executive Officer approval of the request for a retroactive deficiency shall be granted provided that the conditions necessary for a pre-certification deficiency determination are satisfied (see section (k)(1)) and the manufacturer could not have reasonably anticipated the identified problem before commencement of production.

(6.3) In granting the amended certification, the Executive Officer shall include any approved post-production deficiencies together with all previously approved deficiencies in computing fines in accordance with section (k)(2).

(7) For 2007 through 2009 model year light-duty and 2007 through 2012 model year medium-duty diesel vehicles, in cases where one or more of the deficiencies is for the aftertreatment monitoring requirements of sections (f)(1), (2), (8), or (9) and the deficient monitor is properly able to detect all malfunctions prior to emissions exceeding twice the required monitor threshold (e.g., before emissions exceed 10 times the standard for NMHC if the threshold is 5.0 times the standard for NMHC), the specified fines shall apply to the fourth and subsequently identified deficiencies in lieu of the third and subsequently identified deficiencies. If none of the deficiencies are for the requirements of sections (f)(1), (2), (8), or (9) or if the deficient aftertreatment monitor exceeds twice the required monitor threshold, the specified fines shall apply to the third and subsequently identified deficiencies. In all cases, the exception that fines shall apply to all monitoring system deficiencies wherein a required monitoring strategy is completely absent from the OBD system still applies.

(8) Any OBD II system installed on a production vehicle that fails to conform with the certified OBD II system for that vehicle or otherwise fails to meet the requirements of section 1968.2 and has not been granted a deficiency pursuant to the provisions of section (k)(1) through (k)(7) are considered non-compliant. The vehicles are subject to enforcement pursuant to applicable provisions of the Health and Safety Code and title 13, CCR section 1968.5.

¹Unless otherwise noted, all section references refer to section 1968.2 of title 13, CCR.

²The requirements of section (g)(4.7) shall supercede the requirements set forth in title 13, CCR section 1968.1(i)(4.0).

NOTE: Authority cited: Sections 39600, 39601, 43000.5, 43013, 43018, 43100, 43101, 43104, 43105, 43105.5 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600-39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 4-21-2003; operative 4-21-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 17).
2. Amendment filed 11-9-2007; operative 11-9-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§ 1968.5. Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines.

(a) General

(1) Applicability.

(A) These procedures shall be used to assure compliance with the requirements of title 13, California Code of Regulations (CCR) section 1968.2 for all 2004 and subsequent model year passenger cars, light-duty trucks, medium-duty vehicles, and engines certified on an engine dynamometer for use in medium-duty vehicles (the classifications of which shall jointly be referred to for purposes of this regulation as vehicles) equipped with OBD II systems that have been certified for sale in California.

(B) Vehicles manufactured prior to the 2004 model year are covered by the general enforcement and penalty provisions of the Health and Safety Code, and the specific provisions of title 13, CCR sections 1968.1 and 2111 through 2149.

(2) Purpose.

The purpose of this section is to establish the enforcement protocol that shall be used by the ARB to assure that vehicles certified for sale in

California are equipped with OBD II systems that properly function and meet the purposes and requirements of title 13, CCR section 1968.2.

(3) Definitions.

The definitions applicable to these rules include those set forth in Health and Safety Code section 39010 et seq. and in title 13, CCR sections 1900(b) and 1968.2(c), which are incorporated by reference herein. The following definitions are specifically applicable to section 1968.5 and take precedence over any contrary definitions.

“Days”, when computing any period of time, unless otherwise noted, means normal working days that a manufacturer is open for business.

“Executive Officer” means the Executive Officer of the Air Resources Board or his or her authorized representative.

“Influenced OBD II-Related Recall” means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer as a result of enforcement testing conducted by the ARB or any other information for the purpose of correcting any nonconforming OBD II system for which direct notification of vehicle owners is necessary.

“Major Monitor” means those monitors covered by the requirements set forth in title 13, CCR sections 1968.2(e)(1.0) through (e)(8.0), (e)(11.0) through (e)(14.0), (e)(16.0), (f)(1.0) through (f)(9), (f)(12), (f)(13), and (f)(16).

“Motor Vehicle Class” means a group or set of vehicles subject to enforcement testing that have been determined by the Executive Officer to share common or similar hardware, software, OBD II monitoring strategy, or emission control strategy.

“Motor Vehicle Manufacturer” means the manufacturer granted certification to sell motor vehicles in the State of California.

“Nonconforming OBD II System” means an OBD II system on a production vehicle that has been determined not to comply with the requirements of title 13, CCR section 1968.2. For purposes of section 1968.5, a motor vehicle class shall be considered nonconforming irrespective of whether vehicles in the motor vehicle class, on average, meet applicable tailpipe or evaporative emission standards.

“OBD II Emission Testing” refers to testing conducted to determine compliance with the malfunction criteria in title 13, CCR sections 1968.2(e) and (f) that are based on a multiple of, or an additive to, a tailpipe emission standard or an absolute measurement from an applicable emission test cycle (e.g., 1.5 times the applicable FTP emission standards, PM standard plus 0.02 g/bhp-hr, PM level of 0.03 g/bhp-hr as measured from an applicable emission test cycle).

“OBD II Ratio Testing” refers to testing conducted to determine compliance with the required in-use monitor performance ratio in title 13, CCR section 1968.2(d)(3.2.1).

“Ordered OBD II-Related Recall” means an inspection, repair, adjustment, or modification program required by the ARB to be conducted by the manufacturer to correct any nonconforming OBD II system for which direct notification of vehicle owners is necessary.

“Quarterly Reports” refer to the following calendar periods: January 1 – March 31; April 1 – June 30; July 1 – September 30; October 1 – December 31.

“Test Sample Group” means a group of production vehicles in a designated motor vehicle class that are equipped with OBD II systems and are selected and tested as part of the ARB enforcement testing program set forth in section (b).

“Voluntary OBD II-Related Recall” means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer to correct any nonconforming OBD II system for which direct notification of vehicle owners is necessary.

(b) Testing Procedures

(1) Purpose.

To assure that OBD II systems on production motor vehicles comply with the requirements of title 13, CCR section 1968.2, the ARB may periodically evaluate vehicles from a motor vehicle class.

(2) Preliminary Testing and Evaluation.

(A) As part of his or her evaluation of vehicles to determine compliance with the requirements of title 13, CCR section 1968.2, the Execu-

tive Officer may routinely conduct testing on any production vehicles that have been certified for sale in California.

(B) Based upon such testing or any other information, including data from California or other State Inspection and Maintenance (I/M) stations, warranty information reports, and field information reports, the Executive Officer may conduct enforcement testing pursuant to sections (b)(3) through (5) below.

(3) *Vehicle Selection for Enforcement Testing.*

(A) *Determining the Motor Vehicle Class.*

(i) Upon deciding to conduct enforcement testing, the Executive Officer shall determine the motor vehicle class to be tested. In determining the scope of the motor vehicle class to be tested, the Executive Officer shall consider the similarities and differences in the OBD II systems of potentially affected vehicles. Among other things, the Executive Officer shall consider whether vehicles share similar computer hardware and software, calibrations, or OBD II monitoring and emission control strategies.

(ii) The default motor vehicle class is the test group or OBD II group used by the manufacturer to certify the vehicles to be tested. However, upon concluding that a subgroup of vehicles differs from other vehicles in the identified test group or OBD II group and that a reasonable basis exists to believe that the differences may directly impact the type of testing that will be performed, the Executive Officer may determine that a subgroup of the test group or OBD II group is the appropriate motor vehicle class for testing.

(iii) Similarly, upon concluding that vehicles from several OBD II groups (which may include OBD II groups from different model years) share such common characteristics that a reasonable basis exists to believe that results of enforcement testing may be applicable to a motor vehicle class larger than a specific test group or OBD II group, the Executive Officer may determine that the appropriate motor vehicle class includes more than one test group or OBD II group.

(iv) Except for testing to determine if an OBD II system has been designed to deactivate based on age and/or mileage (title 13, CCR section 1968.2 (d)(1.3)), the Executive Officer may not conduct testing of a motor vehicle class whose vehicles, on average, exceed the defined full useful life of the motor vehicle class. For purposes of the determination of this average, the Executive Officer shall use the accrual rates appropriate for vehicles in the motor vehicle class as defined in EMFAC2000 "Public Meeting to Consider Approval of Revisions to the State's On-Road Motor Vehicle Emissions Inventory: Technical Support Document, Section 7.1, 'Estimation of Average Mileage Accrual Rates from Smog Check Data,'" May 2000, incorporated by reference.

(B) *Size of Test Sample Group.* After determining the motor vehicle class to be tested, the Executive Officer shall determine the appropriate number of vehicles to include in the test sample group for enforcement testing in accordance with the following guidelines:

(i) For OBD II emission testing, the Executive Officer shall follow the provisions of title 13, CCR section 2137 regarding test sample size. In accordance with section 2137, the Executive Officer shall test 10 vehicles that have been procured following the protocol of section (b)(3)(C) below and meet the selection criteria of section (b)(3)(D)(i) below to determine the emissions characteristics of the motor vehicle class being tested.

(ii) For OBD II ratio testing, the Executive Officer shall collect data from a test sample group of 30 vehicles that have been procured following the protocol of section (b)(3)(C) below and meet the selection criteria of section (b)(3)(D)(ii) below to determine the in-use OBD II monitoring performance of the motor vehicle class being tested.

(iii) In determining compliance with any other requirements of title 13, CCR section 1968.2 (e.g., diagnostic connector location, communication protocol standards, MIL illumination protocol, evaporative system diagnostics, etc.), the Executive Officer shall determine, on a case by case basis, the number of vehicles meeting the selection criteria of section (b)(3)(D)(iii) needed to assure that the results of such testing may be reasonably inferred to the motor vehicle class. The Executive Officer's de-

termination shall be based upon the nature of the noncompliance and the scope of the motor vehicle class. The test sample group could be as few as two test vehicles.

(C) *Protocol for Procuring Vehicles for Test Sample Group.*

(i) For OBD II emission and ratio testing, the Executive Officer shall procure vehicles consistent with the procurement process followed by the Executive Officer under title 13, CCR section 2137 (e.g., obtaining lists of all vehicles in the motor vehicle class within a specified geographical area, mailing postcards soliciting participation of vehicles within the specified area, selecting vehicles from those that responded to the solicitation, inspecting selected vehicles to determine whether appropriate to include in sample group, etc.). In selecting vehicles for OBD II emission testing, the Executive Officer shall include only vehicles meeting the criteria set forth in section (b)(3)(D)(i) below. For OBD II ratio testing, the Executive Officer shall include only vehicles meeting the criteria set forth in section (b)(3)(D)(ii) below.

(ii) For all other testing, the Executive Officer shall, on a case by case basis, determine the appropriate manner for procuring vehicles. In making his or her determination, the Executive Officer shall consider the nature of the noncompliance and the scope of the motor vehicle class. If the Executive Officer concludes that a reasonable basis exists to believe that a vehicle operator's driving or maintenance habits would not substantially impact test results to determine noncompliance, he or she may procure vehicle(s) by any means that assures effective collection and testing of vehicles (e.g., rental car agencies, fleet vehicles, etc.). In all cases, however, the selection process must ensure proper selection of vehicles in accord with section (b)(3)(D)(iii) below.

(D) *Vehicles to be included in a Test Sample Group.*

(i) In selecting vehicles to be included in a test sample group for enforcement OBD II emission testing, the Executive Officer shall include only vehicles that:

- a. Are certified to the requirements of title 13, CCR section 1968.2 and California exhaust emission standards.
- b. Are registered for operation in California.
- c. Have mileage that is equal to or less than 75 percent of the certified full useful life mileage and have an age of less than the certified full useful life age for the subject vehicles.
- d. Have not been tampered with or equipped with add-on or modified parts that would cause the OBD II system not to comply with the requirements of title 13, CCR section 1968.2 or would have a permanent effect on exhaust emission performance.
- e. Have not been subjected to abuse (e.g., racing, overloading, misfueling) neglect, improper maintenance, or other factors that would cause the OBD II system not to comply with the requirements of title 13, CCR section 1968.2 or would have a permanent effect on exhaust emission performance.
- f. Have no detected or known malfunction(s) that would affect the performance of the OBD II system and are unrelated to the monitor or system being evaluated. At its discretion, the ARB may elect to repair a vehicle with a detected or known malfunction and then include the vehicle in the test sample group.
- g. Have had no major repair to the engine or major repair of the vehicle resulting from a collision.
- h. Have no problem that might jeopardize the safety of laboratory personnel.

(ii) In selecting vehicles to be included in a test sample group for enforcement OBD II ratio testing, the Executive Officer shall include only vehicles that:

- a. Are certified to the requirements of title 13, CCR section 1968.2.
- b. Have collected sufficient vehicle operation data for the monitor to be tested. For monitors required to meet the in-use monitor performance ratio and to track and report ratio data pursuant to title 13, CCR section 1968.2(d)(3.2), sufficient vehicle operation data shall mean the denominator meets the criteria set forth in sections (b)(3)(D)(ii)1. through 3. below. For monitors required to meet the in-use monitor performance ratio but not required to track and report ratio data pursuant to title 13, CCR

section 1968.2(d)(3.2), sufficient vehicle operation data shall mean that vehicles that have a denominator that meets the criteria set forth in sections (b)(3)(D)(ii)1. through 3. below after undergoing testing as set forth in section (b)(4)(C)(ii) below. Specifically, the denominator, as defined in title 13, CCR section 1968.2(d)(4.3), for the monitor to be tested must have a value equal to or greater than:

1. 150 for evaporative system monitors, secondary air system monitors, and monitors utilizing a denominator incremented in accordance with title 13, CCR sections 1968.2(d)(4.3.2)(E) or (F) (e.g., cold start monitors, air conditioning system monitors, etc.), or

2. 50 for PM filter monitors and oxidation catalyst monitors utilizing a denominator incremented in accordance with title 13, CCR section 1968.2(d)(4.3.2)(G), or

3. 300 for catalyst, oxygen sensor, EGR, VVT, and all other component monitors.

c. Have not been tampered with or equipped with add-on or modified parts that would cause the OBD II system not to comply with the requirements of title 13, CCR section 1968.2.

d. Have mileage and age that are less than or equal to the certified full useful life mileage and age for the subject vehicles.

(iii) In selecting vehicles to be included in a test sample group for enforcement testing of any other requirement of title 13, CCR section 1968.2 (not covered by sections (b)(3)(D)(i) or (ii) above), the Executive Officer shall include only vehicles that:

a. Are certified to the requirements of title 13, CCR section 1968.2.

b. Have not been tampered with or equipped with add-on or modified parts that would cause the OBD II system not to comply with the requirements of title 13, CCR section 1968.2.

c. Have no detected or known malfunction(s) that would affect the performance of the OBD II system and are unrelated to the monitor or system being evaluated. At its discretion, the ARB may elect to repair a vehicle with a detected or known malfunction and then include the vehicle in the test sample group.

d. Have mileage and age that are less than or equal to the certified full useful life mileage and age for the subject vehicles.

(iv) If the Executive Officer discovers, by either evidence presented by the manufacturer as provided in section (b)(7) or on his or her own, that a vehicle fails to meet one or more of the applicable criteria of section (b)(3)(D)(i) through (iii), the Executive Officer shall remove the vehicle from the test sample group. The Executive Officer may replace any vehicle removed with an additional vehicle selected in accordance with sections (b)(3)(C) and (D) above. Test results relying on data from the removed vehicle shall be recalculated without using the data from the removed vehicle.

(4) Enforcement Testing Procedures.

(A) Prior to conducting any testing under section (b)(4), the Executive Officer may replace components monitored by the OBD II system with components that are sufficiently deteriorated or simulated to cause malfunctions that exceed the malfunction criteria established pursuant to title 13, CCR sections 1968.2(e) and (f) in a properly operating system. The Executive Officer may not use components deteriorated or simulated to represent failure modes that could not have been foreseen to occur by the manufacturer (e.g., the use of leaded gasoline in an unleaded vehicle, etc.). Upon request by the Executive Officer, the manufacturer shall make available all test equipment (e.g., malfunction simulators, deteriorated "threshold" components, etc.) necessary to duplicate testing done by the manufacturer to determine the malfunction criteria used for major monitors subject to OBD II emission testing.

(B) OBD II Emission Testing. After the test sample group has been selected and procured, the Executive Officer may perform one or more of the following tests:

(i) Emission testing with the test procedures used by the Executive Officer for in-use testing of compliance with exhaust emission standards in accordance with title 13, CCR sections 2138 and 2139.

(ii) On-road or dynamometer testing with the vehicle being driven in a manner that reasonably ensures that all of the monitoring conditions

disclosed in the manufacturer's certification application for the tested monitor are encountered.

(C) OBD II Ratio Testing.

(i) For OBD II ratio testing of monitors required to meet the in-use monitor performance ratio and to track and report ratio data pursuant to title 13, CCR section 1968.2(d)(3.2), after the test sample group has been selected and procured, the Executive Officer shall download the data from monitors required to track and report such data.

(ii) For OBD II ratio testing of monitors required to meet the in-use monitor performance ratio but not required to track and report ratio data pursuant to title 13, CCR section 1968.2(d)(3.2), after the test sample group has been selected and procured, the Executive Officer shall collect data by installing instrumentation or data-logging equipment on the vehicles. After installation of the equipment, the vehicles shall be returned to the vehicle owner/operator to continue to operate the vehicle until the minimum denominator criteria (see section (b)(3)(D)(ii)b.) are satisfied. The Executive Officer shall then calculate the ratio from the data collected in a manner that will allow the Executive Officer to effectively determine the in-use monitor performance ratio in accordance with the requirements of title 13, CCR section 1968.2(d)(3.2).

(D) Testing for compliance with any other requirement of title 13, CCR section 1968.2. After the test sample group has been selected and procured, the Executive Officer may perform one or more of the following tests:

(i) Emission testing on the applicable FTP cycle or other applicable emission test cycle used for measuring exhaust or evaporative emissions.

(ii) On-road or dynamometer testing with the vehicle being driven in a manner that reasonably ensures that all of the monitoring conditions disclosed in the manufacturer's certification application for the tested monitor are encountered.

(iii) Any other testing determined to be necessary by the Executive Officer. This may include, but is not limited to, the use of special test equipment to verify compliance with standardization requirements.

(5) Additional Testing.

(A) Based upon testing of the motor vehicle class in section (b)(4) above and after review of all evidence available at the conclusion of such testing, the Executive Officer may elect to conduct further testing of a subgroup of vehicles from the motor vehicle class if the Executive Officer has determined that:

(i) a subgroup of tested vehicles differs sufficiently enough from other vehicles in the tested motor vehicle class, and

(ii) a reasonable basis exists to believe that the identified differences may indicate that the subgroup may be nonconforming whereas the tested motor vehicle class as a whole is not.

(B) Hereinafter all references to motor vehicle class shall be applicable to the subgroup meeting the conditions of section (b)(5)(A) above.

(C) In any testing of a subgroup of vehicles under section (b)(5), the Executive Officer shall follow the vehicle selection and testing procedures set forth in sections (b)(3) and (4) above.

(6) Finding of Nonconformance after Enforcement Testing.

After conducting enforcement testing pursuant to section (b)(4) above, the Executive Officer shall make a finding of nonconformance of the OBD II system in the identified motor vehicle class if:

(A) OBD II Emission Testing.

(i) Intermediate In-Use Gasoline Thresholds. For 2004 through 2008 model year vehicles subject to gasoline/spark ignited monitoring requirements in title 13, CCR section 1968.2(e), the results of the OBD II emission tests indicate that 50 percent or more of the vehicles in the test sample do not properly illuminate the MIL when emissions exceed:

a. 2.0 times the FTP standards for malfunction criteria defined in title 13, CCR section 1968.2(e) that require MIL illumination at 1.5 or 1.75 times the FTP standards;

b. 3.5 times the FTP standards for malfunction criteria defined in title 13, CCR section 1968.2(e) that require MIL illumination at 2.5 times the FTP standards; or

c. 4.5 times the FTP standards for malfunction criteria defined in title 13, CCR section 1968.2(e) that require MIL illumination at 3.5 times the FTP standards.

(ii) *Intermediate In-Use Diesel Thresholds.*

a. For 2007 through 2012 model year vehicles subject to diesel/compression-ignition monitoring requirements in title 13, CCR section 1968.2(f), the results of the OBD II emission tests indicate that 50 percent or more of the vehicles in the test sample do not properly illuminate the MIL when emissions exceed:

1. an additional 1.0 times the applicable standards above the malfunction criteria for malfunction criteria defined in title 13, CCR section 1968.2(f) that require MIL illumination at less than 3.5 times the applicable standards (e.g., 3.5 times the applicable standards for a malfunction criteria of 2.5 times the applicable standards); or

2. an additional 1.5 times the applicable standards above the malfunction criteria for malfunction criteria defined in title 13, CCR section 1968.2(f) that require MIL illumination at greater than or equal to 3.5 times the applicable standards (e.g., 6.5 times the applicable standards for a malfunction criteria of 5.0 times the applicable standards); or

3. an additional 1.0 times the applicable standards above the malfunction criteria for malfunction criteria defined in title 13, CCR section 1968.2(f) that require MIL illumination at an additive threshold of less than or equal to 0.3 g/bhp-hr NO_x, an additive threshold of less than or equal to 0.02 g/bhp-hr PM, or an absolute threshold of less than or equal to 0.03 g/bhp-hr (e.g., 0.07 g/bhp-hr PM for an additive malfunction criteria of 0.03 g/bhp-hr with a standard of 0.02 g/bhp-hr); or

4. an additional 1.5 times the applicable standards above the malfunction criteria for malfunction criteria defined in title 13, CCR section 1968.2(f) that require MIL illumination at an additive threshold of greater than 0.3 g/bhp-hr NO_x, an additive threshold of greater than 0.02 g/bhp-hr PM, or an absolute threshold of greater than 0.03 g/bhp-hr PM (e.g., 1.0 g/bhp-hr NO_x for an additive malfunction criteria of 0.5 g/bhp-hr with a standard of 0.2 g/bhp-hr).

b. For 2010 through 2012 model year medium-duty vehicles certified to an engine dynamometer standard, the "applicable standards" used in section (b)(6)(A)(ii) shall be limited to the emission test cycle and standard (i.e., FTP or SET) determined by the manufacturer to be more stringent and documented as such in the certification application in accordance with title 13, CCR section 1968.2(d)(6.1).

c. For 2007 through 2009 model year vehicles subject to adjustment for infrequent regeneration events in accordance with title 13, CCR section 1968.2(d)(6.2), OBD II emission enforcement testing for monitors using the provisions of title 13, CCR section 1968.2(d)(6.2.3) (baseline-derived adjustment factors instead of malfunction threshold component-specific adjustment factors) shall be limited to using emission test results without the infrequent regeneration event occurring and applying the same baseline-derived adjustment factors used by the manufacturer at the time of certification.

(iii) *Final In-Use Thresholds.* For 2009 and subsequent model year vehicles subject to the gasoline/spark-ignited requirements of title 13, CCR section 1968.2(e) and 2013 and subsequent model year vehicles subject to the diesel/compression-ignition requirements of title 13, CCR section 1968.2(f), the results of the OBD II emission tests indicate that 50 percent or more of the vehicles in the test sample do not properly illuminate the MIL when the emission malfunction criteria defined in title 13, CCR sections 1968.2(e) or (f) are exceeded.

(B) *OBD II Ratio Testing.*

(i) For monitors specified in sections (b)(6)(B)(i)a. through e. below, the data collected from the vehicles in the test sample indicate either that the average in-use monitor performance ratio for one or more of the monitors in the test sample group is less than 0.100 or that 66.0 percent or more of the vehicles in the test sample group have an in-use monitor performance ratio of less than 0.100 for the same monitor:

a. monitors on 2004 through 2014 model year vehicles certified to a ratio of 0.100 in accordance with title 13, CCR section 1968.2(d)(3.2.1)(D),

b. monitors specified in title 13, CCR section 1968.2(e) on 2007 through 2012 model year vehicles for the first three model years the monitor is certified to the in-use performance ratio monitoring requirements of title 13, CCR sections 1968.2(d)(3.2.1)(A) through (C),

c. the fuel system air-fuel ratio cylinder imbalance monitor specified in title 13, CCR section 1968.2(e)(6.2.1)(C) on 2015 through 2017 model year vehicles,

d. the secondary exhaust gas sensor monitor specified in title 13, CCR section 1968.2(e)(7.2.2)(C) on 2012 through 2014 model year vehicles, and

e. monitors specified in title 13, CCR section 1968.2(f) on 2013 through 2015 model year vehicles.

(ii) For monitors that are certified to the ratios in title 13, CCR sections 1968.2(d)(3.2.1)(A) through (C) and are not described in sections (b)(6)(B)(i)b. through e. above, the data collected from the vehicles in the test sample indicate either that 66.0 percent or more of the vehicles in the test sample group have an in-use monitor performance ratio of less than the required minimum ratio defined in title 13, CCR section 1968.2(d)(3.2.1) for the same monitor or that the average in-use monitor performance ratio for one or more of the monitors in the motor vehicle class is less than the required minimum ratio defined in title 13, CCR section 1968.2(d)(3.2.1) as defined by determining the average in-use monitor performance ratio for one or more of the monitors in the test sample group is less than:

a. 0.230 for secondary air system monitors and other cold start related monitors utilizing a denominator incremented in accordance with title 13, CCR section 1968.2(d)(4.3.2)(E) (e.g., cold start strategy monitors, etc.);

b. For evaporative system monitors:

1. 0.230 for monitors designed to detect malfunctions identified in title 13, CCR section 1968.2(e)(4.2.2)(C) (i.e., 0.020 inch leak detection);

2. 0.460 for monitors designed to detect malfunctions identified in title 13, CCR section 1968.2(e)(4.2.2)(A) and (B) (i.e., purge flow and 0.040 inch leak detection);

c. 0.297 for catalyst, oxygen sensor, EGR, VVT system, and all other monitors specifically required in section title 13, CCR sections 1968.2(e) and (f) to meet the monitoring condition requirements of title 13, CCR section 1968.2(d)(3.2).

(C) *All Other OBD II Testing.*

(i) The results of the testing indicate that at least 30 percent of the vehicles in the test sample do not comply with the same requirement of title 13, CCR section 1968.2.

(ii) The results of the testing indicate that at least 30 percent of the vehicles in the test sample do not comply with one or more of the requirements of title 13, CCR section 1968.2 while the engine is running and while in the key on, engine off position such that Inspection and Maintenance or scan tool equipment designed to access the following parameters via the standards referenced in title 13, CCR section 1968.2 cannot obtain valid and correct data for the following parameters:

a. The current readiness status from all on-board computers required to support readiness status in accordance with Society of Automotive Engineers J1979 (SAE J1979) as incorporated by reference in title 13, CCR section 1968.2(g)(1) and section 1968.2(g)(4.1);

b. The current MIL command status while the MIL is commanded off and while the MIL is commanded on in accordance with SAE J1979 and title 13, CCR section 1968.2(g)(4.2), and in accordance with SAE J1979 and title 13, CCR sections 1968.2(d)(2.1.2) during the MIL functional check and, if applicable, title 13, CCR 1968.2(g)(4.1.3) during the MIL readiness status check;

c. The current permanent fault code(s) in accordance with SAE J1979 and section title 13, CCR 1968.2(g)(4.4);

d. The data stream parameters (Mode/Service \$01) for: engine speed (PID \$0C) and OBD requirements to which the vehicle or engine is certified (PID \$1C); and for 2008 and subsequent model year vehicles using the ISO 15765-4 protocol that have not implemented permanent fault codes subject to (b)(6)(C)(ii)c., number of warm-up cycles since codes

cleared (PID \$30), distance since codes cleared (PID \$31), and engine run time since codes cleared (PID \$4E); as required in title 13, CCR section 1968.2(g)(4.2) and in accordance with SAE J1979;

e. The CAL ID, CVN, and VIN (Mode \$09 PIDs \$01 through \$06) as required in title 13, CCR sections 1968.2(g)(4.6), (g)(4.7.1), (g)(4.7.3), and (g)(4.8) and in accordance with SAE J1979;

f. The proper identification of all data identified in (b)(6)(C)(ii)a. through (b)(6)(C)(ii)e. as supported or unsupported as required in title 13, CCR section 1968.2(g)(4) and in accordance with SAE J1979 (e.g., Mode/Service \$01, PIDs \$00, \$20, \$40; Mode/Service \$09, PID \$00, etc.); or

g. For vehicles using an alternate connector and communication protocol (e.g., SAE J1939) as provided for in title 13, CCR section 1968.2(g)(7.1), the parameters and data identified in sections (b)(6)(C)(ii)a. through f. in accordance with title 13, CCR section 1968.2(g)(4) and with the specified alternate connector and communication protocol in lieu of in accordance with SAE J1979.

(iii) If the finding of nonconformance under section (b)(6)(C)(i) above concerns vehicles that do not comply with the requirements of title 13, CCR section 1968.2(d)(4) or (5) (e.g., numerators or denominators are not properly being incremented), it shall be presumed that the nonconformance would result in an OBD II ratio enforcement test result that would be subject to an ordered OBD II-related recall in accord with the criterion in section (c)(3)(A)(i). The manufacturer may rebut such a presumption by presenting evidence in accord with section (b)(7)(C)(ii) below that demonstrates to the satisfaction of the Executive Officer that the identified nonconformance would not result in an ordered OBD II-related recall under section (c)(3)(A)(i).

(7) Executive Officer Notification to the Manufacturer Regarding Determination of Nonconformance.

(A) Upon making the determination of nonconformance in section (b)(6) above, the Executive Officer shall notify the manufacturer in writing.

(B) The Executive Officer shall include in the notice:

(i) a description of each group or set of vehicles in the motor vehicle class covered by the determination;

(ii) the factual basis for the determination, including a summary of the test results relied upon for the determination;

(iii) a statement that the Executive Officer shall provide to the manufacturer, upon request and consistent with the California Public Records Act, Government Code section 6250 et seq., all records material to the Executive Officer's determination;

(iv) a provision allowing the manufacturer no less than 90 days from the date of issuance of the notice to provide the Executive Officer with any information contesting the findings set forth in the notice; and

(v) a statement that if a final determination is made that the motor vehicle class is equipped with a nonconforming OBD II system, the manufacturer may be subject to appropriate remedial action, including recall and monetary penalties.

(C) Within the time period set by the Executive Officer in section (b)(7)(B)(iv) and any extensions of time granted under section (b)(7)(H), the manufacturer shall provide the Executive Officer, consistent with paragraphs (i) through (iii) below, with any test results, data, or other information derived from vehicle testing that may rebut or mitigate the results of the ARB testing, including any evidence that a motor vehicle class, if determined to be nonconforming, should be exempted from mandatory recall. (See section (c)(3)(B) below.)

(i) For OBD II emission testing and OBD II ratio testing:

a. The manufacturer may submit evidence to demonstrate that vehicles in the test sample group used by the Executive Officer were inappropriately selected, procured, or tested in support of a request to have vehicles excluded from the test sample group in accordance with section (b)(3)(D)(iv).

b. If the manufacturer elects to conduct additional testing of vehicles in the motor vehicle class and submit the results of such testing to the Executive Officer, the manufacturer shall:

1. Present evidence that it has followed the vehicle procurement and test procedures set forth in sections (b)(3) and (4) above, or

2. If the manufacturer elects to use different procurement and testing procedures, submit a detailed description of the procedures used and evidence that such procedures provide an equivalent level of assurance that the results are representative of the motor vehicle class.

(ii) If the manufacturer objects to the size of the test sample group or the method used to procure vehicles in the test sample group used by the Executive Officer pursuant to section (b)(3)(B)(iii) or (b)(3)(C)(ii), the manufacturer shall set forth what it considers to be the appropriate size and procurement method, the reasons therefore, and test data from vehicles that confirm the manufacturer's position.

(iii) If the manufacturer elects to present evidence to overcome the presumption of nonconformance in section (b)(6)(C)(ii) above, the manufacturer shall demonstrate that the vehicles in the motor vehicle class comply with in-use monitor performance ratio requirements of title 13, CCR section 1968.2(d)(3.2) by presenting:

a. Evidence in accord with the procurement and testing requirements of sections (b)(3) and (4).

b. Any other evidence that provides an equivalent level of proof that vehicles operated in California comply with the in-use monitor performance ratio requirements.

(D) The Executive Officer may, but is not required to, accept any information submitted by a manufacturer pursuant to section (b)(7)(C) above after the time established for submission of such information has passed unless the manufacturer could not have reasonably foreseen the need for providing the information within the time period provided. In determining whether to accept late information, the Executive Officer will consider the lateness of the submission, the manufacturer's reasons for why such information was not timely presented, the materiality of the information to the Executive Officer's final determination, and what effect any delay may have on effective enforcement and the health and welfare of the State.

(E) The requirements of section (b)(7) shall not be construed to abridge the manufacturer's right to assert any privilege or right provided under California law.

(F) After receipt of any information submitted by the manufacturer pursuant to section (b)(7)(C) above, the Executive Officer shall consider all information submitted by the manufacturer and may conduct any additional testing that he or she believes is necessary.

(G) Final Determination.

(i) Within 60 days after completing any additional testing that the Executive Officer deemed necessary under section (b)(7)(F) above, the Executive Officer shall notify the manufacturer of his or her final determination regarding the finding of nonconformity of the OBD II system in the motor vehicle class. The determination shall be made after considering all of the information collected and received, including all information that has been received from the manufacturer.

(ii) The notice must include a description of each test group(s), OBD II group(s), or subgroups thereof, that has been determined to have a nonconforming OBD II system and set forth the factual bases for the determination.

(H) *Extensions.* The Executive Officer may for good cause extend the time requirements set forth in section (b)(7). In granting additional time to a manufacturer, the Executive Officer shall consider, among other things, any documentation submitted by the manufacturer regarding the time that it reasonably believes is necessary to conduct its own testing, why such information could not have been more expeditiously presented, and what effect any delay caused by granting the extension may have on effective enforcement and the health and welfare of the State. The Executive Officer shall grant a manufacturer a reasonable extension of time upon the manufacturer demonstrating that despite the exercise of reasonable diligence, the manufacturer has been unable to produce relevant evidence in the time initially provided.

(c) Remedial Action

(1) *Voluntary OBD II–Related Recalls.* If a manufacturer initiates a voluntary OBD II–related recall campaign, the manufacturer shall notify the Executive Officer of the recall at least 45 days before owner notification is to begin. The manufacturer shall also submit a voluntary OBD II–related recall plan for approval, as prescribed under section (d)(1) below. A voluntary recall plan shall be deemed approved unless disapproved by the Executive Officer within 30 days after receipt of the recall plan.

(2) *Influenced OBD II–Related Recalls.*

(A) Upon being notified by the Executive Officer, pursuant to section (b)(7)(G), that a motor vehicle class is equipped with a nonconforming OBD II system, the manufacturer may, within 45 days from the date of service of such notification, elect to conduct an influenced OBD II–related recall of all vehicles within the motor vehicle class for the purpose of correcting the nonconforming OBD II systems. Upon such an election, the manufacturer shall submit an influenced OBD II–related recall plan for approval, as prescribed under section (d)(1) below.

(B) If a manufacturer does not elect to conduct an influenced OBD II–related recall under section (c)(2)(A) above, the Executive Officer may order the manufacturer to undertake appropriate remedial action, up to and including the recall and repair of the nonconforming OBD II systems.

(3) *Ordered Remedial Action–Mandatory Recall.*

(A) Except as provided in sections (c)(3)(B) below, the Executive Officer shall order the recall and repair of all vehicles in a motor vehicle class that have been determined to be equipped with a nonconforming OBD II system if enforcement testing conducted pursuant to section (b) above or information received from the manufacturer indicates that:

(i) For monitors on 2007 and subsequent model year vehicles certified to the ratios in title 13, CCR sections 1968.2(d)(3.2.1)(A) through (C), the average in–use monitor performance ratio for one or more of the major monitors in the test sample group is less than or equal to 33.0 percent of the applicable required minimum ratio established in title 13, CCR section 1968.2(d)(3.2.1) (e.g., if the required ratio is 0.336, less than or equal to a ratio of 0.111) or 66.0 percent or more of the vehicles in the test sample group have an in–use monitor performance ratio of less than or equal to 33.0 percent of the applicable required minimum ratio established in title 13, CCR section 1968.2(d)(3.2.1) for the same major monitor. For monitors on 2004 through 2014 model year vehicles certified to the 0.100 ratio in title 13, CCR section 1968.2(d)(3.2.1)(D), the Executive Officer shall determine the remedial action for nonconformances regarding the in–use monitor performance ratio in accordance with section (c)(4) below.

(ii) When the vehicle is tested on–road and driven so as to reasonably encounter all monitoring conditions disclosed in the manufacturer’s certification application, the OBD II system is unable to detect and illuminate the MIL for a malfunction of a component/system monitored by a major monitor (other than the monitors for misfire causing catalyst damage and the evaporative system) prior to emissions exceeding two times the malfunction criteria of title 13, CCR sections 1968.2(e) and (f) (e.g., if the malfunction criteria is 1.75 times the applicable FTP standard, recall would be required when emissions exceed 3.5 times the applicable FTP standard or if the malfunction criteria is the PM standard plus 0.02 g/bhp–hr and the PM standard is 0.01 g/bhp–hr, recall would be required when emissions exceed 0.06 g/bhp–hr). Additionally, for the first two years that a new major monitor is required in title 13, CCR section 1968.2(e) (e.g., 2006 and 2007 model year for cold start strategy monitoring in title 13, CCR section 1968.2(e)(11)), the Executive Officer shall use three times the malfunction criteria in lieu of two times the malfunction criteria (e.g., if the malfunction criterion is 1.5 times the applicable FTP standard, recall would be required when emissions exceed 4.5 times the applicable FTP standard). Additionally, for major monitors on 2007 through 2009 model year vehicles certified to the monitoring requirements in title 13, CCR section 1968.2(f), the Executive Officer shall determine the remedial action for nonconformances regarding emission exceedance in accordance with section (c)(4) below in lieu of the criteria

in section (c)(3)(ii). For purposes of the emission exceedance determination, carbon monoxide (CO) emissions are not considered.

(iii) The monitor for misfire causing catalyst damage is unable to properly detect and illuminate the MIL for misfire rates that are more than 20 percentage points greater than the misfire rates disclosed by the manufacturer in its certification application as causing catalyst damage (e.g., if the disclosed misfire rate is 12 percent, recall would be required if the misfire rate is greater than 32 percent without proper detection).

(iv) When the vehicle is tested on–road and driven so as to reasonably encounter all monitoring conditions disclosed in the manufacturer’s certification application, the evaporative system monitor is unable to detect and illuminate the MIL for a cumulative leak or leaks in the evaporative system equivalent to that caused by an orifice with a diameter of at least 1.5 times the diameter of the required orifice in title 13, CCR section 1968.2(e)(4.2.2)(C).

(v) When the vehicle is tested on–road and driven so as to reasonably encounter all monitoring conditions disclosed in the manufacturer’s certification application, the OBD II system cannot detect and illuminate the MIL for a malfunction of a component that effectively disables a major monitor and the major monitor, by being disabled, meets the criteria for recall identified in sections (c)(3)(A)(ii) or (iv) above (e.g. is unable to detect and illuminate the MIL for malfunctions that cause FTP emissions to exceed two times the malfunction criteria).

(vi) The motor vehicle class cannot be tested so as to obtain valid test results in accordance with the criteria identified in section (b)(6)(C)(ii) due to the nonconforming OBD II system.

(B) A motor vehicle class shall not be subject to mandatory recall if the Executive Officer determines that, even though a monitor meets a criterion set forth in section (c)(3)(A)(i)–(vi) for mandatory recall:

(i) The OBD II system can still detect and illuminate the MIL for all malfunctions monitored by the nonconforming monitor (e.g., monitor “A” is non–functional but monitor “B” is able to detect all malfunctions of the component(s) monitored by monitor “A”).

(ii) The monitor meets the criterion solely due to a failure or deterioration mode of a monitored component or system that could not have been reasonably foreseen to occur by the manufacturer.

(iii) The failure or deterioration of the monitored component or system that cannot be properly detected causes the vehicle to be undriveable (e.g., vehicle stalls continuously or the transmission will not shift out of first gear, etc.) or causes an overt indication such that the driver is certain to respond and have the problem corrected (e.g., illumination of an over–temperature warning light or charging system light that uncorrected will result in an undriveable vehicle, etc.).

(C) A motor vehicle class that is not subject to mandatory recall pursuant to paragraph (B) above may still be subject to remedial action pursuant to section (c)(4) below.

(4) *Other Ordered Remedial Action.*

(A) If the Executive Officer has determined based upon enforcement testing conducted pursuant to section (b) above or information received from the manufacturer that a motor vehicle class is equipped with a nonconforming OBD II system and the nonconformance does not fall within the provisions of section (c)(3)(A) above, he or she may require the manufacturer to undertake remedial action up to and including recall of the affected motor vehicle class.

(B) In making his or her findings regarding remedial action, the Executive Officer shall consider the capability of the OBD II system to properly function. This determination shall be based upon consideration of all relevant circumstances including, but not limited to, those set forth below.

(i) Whether the manufacturer identified and informed the ARB about the nonconformance(s) or whether the ARB identified the nonconformance(s) prior to being informed by the manufacturer.

(ii) The number of nonconformances.

(iii) If the identified nonconformance(s) is with a major monitor(s), the nature and extent of the nonconformance(s), including:

a. the degree to which the in-use monitor performance ratio(s) is below the required ratio(s) specified in title 13, CCR section 1968.2(d)(3.2.1), and

b. the amount of the emission exceedance(s) over the established malfunction criteria set forth in title 13, CCR sections 1968.2(e) and (f) before a malfunction is detected and the MIL is illuminated.

(iv) If the identified nonconformance(s) is with a non-major monitor the nature and extent of the nonconformance(s), including:

a. the degree to which the in-use monitor performance ratio(s) (where applicable) is below the required ratio(s) specified in title 13, CCR section 1968.2(d)(3.2.1),

b. the degree to which the monitored component must be malfunctioning or exceed the established malfunction criteria set forth in title 13, CCR sections 1968.2(e) and (f) before a malfunction is detected and the MIL is illuminated, and

c. the effect that the nonconformance(s) has on the operation of a major monitor(s).

(v) The impact of the nonconformance on vehicle owners (e.g., cost of future repairs, driveability, etc.) and the ability of the service and repair industry to make effective repairs (e.g., difficulty in accessing fault information, diagnosing the root cause of a failure, etc.).

(vi) The degree to which the identified nonconformance(s) complicates, interferes with, disrupts, or hampers a service technician's ability to follow California I/M testing protocol when performing a California I/M inspection.

(vii) The failure of the data link connector of the motor vehicle class to meet the requirements of title 13, CCR section 1968.2(g)(2).

(viii) The failure of the crankcase ventilation system in a motor vehicle class to comply with the requirements of title 13, CCR sections 1968.2(e)(9) or (f)(10).

(ix) The failure of the cooling system monitor in a motor vehicle class to properly verify that the cooling system reaches the highest enable temperature used for any other monitor when the vehicle is operated in the monitoring conditions disclosed in the manufacturer's certification application, or failure to comply with any requirement in title 13, CCR sections 1968.2(e)(10) or (f)(11).

(x) The estimated frequency that a monitor detects a malfunction and illuminates the MIL when no component malfunction is present (i.e., false MILs).

(xi) The estimated frequency that a monitor fails to detect a malfunction and illuminate the MIL when the monitoring conditions, as set forth in the manufacturer's approved certification application, have been satisfied and a faulty or deteriorated monitored component is present (i.e., false passes).

(xii) Whether the manufacturer submitted false, inaccurate, or incomplete documentation regarding the identified nonconformance at the time of certification pursuant to title 13, CCR section 1968.2(i) and the extent to which the false, inaccurate, or incomplete documentation was material to the granting of certification.

(C) In making the determination, the average tailpipe and evaporative emissions of vehicles within the affected motor vehicle class shall not be considered.

(5) *Assessment of Monetary Penalties.* The Executive Officer may seek penalties pursuant to the applicable provisions of the Health and Safety Code for violations of the requirements of title 13, CCR section 1968.2 or for production vehicles otherwise failing to be equipped with OBD II systems that have been certified by the ARB. In determining the penalty amounts that the ARB may seek, the Executive Officer shall consider all relevant circumstances including the factors set forth below:

(A) Whether the manufacturer self-reported the nonconformity or the ARB discovered the nonconformity independent of the manufacturer.

(B) The nature and degree of the nonconformity and whether the manufacturer should reasonably have discovered the nonconformity and taken corrective action by voluntary OBD II-related recall or running changes during the production year.

(C) The economic benefits, if any, gained by the manufacturer from not complying with the provisions of title 13, CCR section 1968.2.

(D) The manufacturer's history of compliance with the OBD II requirements.

(E) The preventative efforts taken by the manufacturer to avoid non-compliance, including any programs followed by the manufacturer to ensure compliance.

(F) The manufacturer's efforts to correct the nonconformity once it was identified.

(G) The innovative nature and magnitude of effort, including the cost of any other proposed remedial action, necessary to correct the nonconformity.

(H) The deterrent effect of the penalty.

(I) Whether the manufacturer has failed to provide complete and accurate information required to be submitted at the time of certification pursuant to title 13, CCR section 1968.2(i).

(J) The nature and degree that OBD II systems on production vehicles differ from the systems that have been certified by the ARB.

(6) *Notice to Manufacturer for an Ordered Remedial Action.*

(A) The Executive Officer shall immediately notify the manufacturer upon the Executive Officer determining the type of remedial action to be taken.

(B) For remedial actions other than the assessment of monetary penalties, the notice must:

(i) specifically set forth the remedial action that is being ordered,

(ii) include a description of the test group(s), OBD II group(s), or subgroup(s) thereof, that has been determined to have a nonconforming OBD II system,

(iii) set forth the factual bases for the determination, and

(iv) designate a date at least 45 days from the date of receipt of such notice by which the manufacturer shall submit a plan, pursuant to section (d)(1) below, outlining the remedial action to be undertaken consistent with the Executive Officer's order. Except as provided in section (c)(7)(C) below, all plans shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, California 91731, within the time limit specified in the notice. The Executive Officer may grant the manufacturer an extension of time for good cause.

(C) For cases in which the ARB elects to seek monetary penalties pursuant to authority granted under the Health and Safety Code, the Executive Officer shall issue a notice to the manufacturer that he or she will be filing a complaint in the appropriate administrative or civil court forum seeking penalties against the manufacturer for violations of title 13, CCR section 1968.2. The notice must include a description of the test group(s), OBD II group(s), or subgroup(s) thereof, that have been determined to have a nonconforming OBD II system and set forth the factual bases for the determination.

(7) *Availability of Public Hearing to Contest Remedial Actions Other than Determination to Seek Monetary Penalties.*

(A) Within 45 days from the date of receipt of the notice that is required under section (c)(6) above, the manufacturer may request a public hearing pursuant to the procedures set forth in title 17, CCR section 60055.1, et seq., to contest the findings of nonconformity, the necessity for, or the scope of any ordered remedial action. Pursuant to those procedures, the Executive Officer has the initial burden of presenting evidence that those parts of the Executive Officer's determination specifically challenged are supported by the facts and applicable law. (Title 17, CCR section 60055.32(d)(1).) Each issue of controversy shall be decided based upon the preponderance of the evidence presented at the hearing. (Title 17, CCR section 60055.32(h).)

(B) Notwithstanding the provisions of title 17, CCR section 60055.17(a)(1), administrative hearings conducted pursuant to a request filed under section (c)(7)(A) above shall be referred to the Office of Administrative Hearings, which shall otherwise follow the procedures established in title 17, CCR section 60055.1 et seq.

(C) If a manufacturer requests a public hearing pursuant to section (c)(7)(A) above and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit the required remedial action plan in accordance with section (d)(1) below within 30 days after receipt of the Board's decision.

(d) Requirements for Implementing Remedial Actions

(1) Remedial Action Plans.

(A) A manufacturer initiating a remedial action (voluntary, influenced, or ordered), other than payment of monetary penalties, shall develop a remedial action plan that contains the following information, unless otherwise specified:

(i) A description of each test group, OBD II group, or subgroup thereof covered by the remedial action, including the number of vehicles, the engine families, test groups, or subgroups within the identified class(es), the make(s), model(s), and model years of the covered vehicles, and such other information as may be required to identify the covered vehicles.

(ii) A description of the nonconforming OBD II system and, in the case of a recall (whether voluntary, influenced, or ordered), the specific modifications, alterations, repairs, adjustments, or other changes to correct the nonconforming OBD II system, including data and/or engineering evaluation supporting the specific corrections.

(iii) A description of the method that the manufacturer will use to determine the names and addresses of vehicle owners and the manufacturer's method and schedule for notifying the service facilities and vehicle owners of the remedial action.

(iv) A copy of all instructions that the manufacturer will use to notify service facilities about the required remedial action and the specific corrections, if any, that will be required to be made to the nonconforming OBD II systems.

(v) A description of the procedure to be followed by vehicle owners to obtain remedial action for the nonconforming OBD II system. This must include the date, on or after which the owner can have required remedial action performed, the time reasonably necessary to perform the labor to remedy the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(vi) If some or all of the nonconforming OBD II systems are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of service agents and what steps, including a copy of all instructions mailed to such service agents, the manufacturer will take to assure that such agents are prepared and equipped to perform the proposed remedial action.

(vii) A copy of the letter of notification to be sent to vehicle owners.

(viii) A proposed schedule for implementing the remedial action, including identified increments of progress towards full implementation.

(ix) A description of the method that the manufacturer will use to assure that an adequate supply of parts will be available to initiate the remedial action campaign on the date set by the manufacturer and that an adequate supply of parts will continue to be available throughout the campaign.

(x) A description and test data of the emission impact, if any, that the proposed remedial action may cause to a representative vehicle from the motor vehicle class to be remedied.

(xi) A description of the impact, if any, and supporting data and/or engineering evaluation, that the proposed remedial action will have on fuel economy, driveability, performance, and safety of the motor vehicle class covered by the remedial action.

(xii) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the remedial action plan.

(B) Approval and Implementation of Remedial Action Plans.

(i) If the Executive Officer finds that the remedial action plan is designed effectively to address the required remedial action and complies with the provisions in section (d)(1)(A) above, he or she shall notify the manufacturer in writing within 30 days of receipt of the plan that the plan has been approved.

(ii) The Executive Officer shall approve a voluntary, influenced, or ordered remedial action plan if the plan contains the information specified in section (d)(1)(A) above and is designed to notify the vehicle owner and implement the remedial action in an expeditious manner.

(iii) In disapproving an ordered remedial action plan, the Executive Officer shall notify the manufacturer in writing of the disapproval and the reasons for the determination. The manufacturer shall resubmit a revised remedial action plan that fully addresses the reasons for the Executive Officer's disapproval within 10 days of receipt of the disapproval notice.

(iv) Upon receipt of the approval notice of the ordered remedial action plan from the Executive Officer, the manufacturer shall, within 45 days of receipt of the notice, begin to notify vehicle owners and implement the remedial action campaign.

(v) If the Executive Officer disapproves a voluntary or influenced remedial action plan, the manufacturer shall either accept the proposed modifications to the plan as suggested by the Executive Officer, resubmit a revised remedial action plan that fully addresses the reasons for the Executive Officer's disapproval within 30 days, or be subject to an Executive Officer order that the manufacturer undertake appropriate remedial action pursuant to section (c)(2)(B) above.

(vi) Upon receipt of the voluntary or influenced remedial action approval notice from the Executive Officer, the manufacturer shall begin to notify vehicle owners and implement the remedial action campaign according to the schedule indicated in the remedial action plan.

(2) Eligibility for Remedial Action.

(A) The manufacturer may not condition a vehicle owner's eligibility for remedial action required under section 1968.5 on the proper maintenance or use of the vehicle.

(B) The manufacturer shall not be obligated to repair a component which has been modified or altered such that the remedial action cannot be performed without additional cost.

(3) Notice to Owners.

(A) The manufacturer shall notify owners of vehicles in the motor vehicle class covered by the remedial order. The notice must be made by first-class mail or by such other means as approved by the Executive Officer. When necessary, the Executive Officer may require the use of certified mail for ordered remedial actions to assure effective notification.

(B) The manufacturer shall use all reasonable means necessary to locate vehicle owners, including motor vehicle registration lists available from the California Department of Motor Vehicles and commercial sources such as R.L. Polk & Co.

(C) The notice must contain the following:

(i) For ordered remedial actions, a statement: "The California Air Resources Board has determined that your (vehicle or engine) (is or may be) equipped with an improperly functioning on-board emission-related diagnostic system that violates established standards and regulations that were adopted to protect your health and welfare from the dangers of air pollution."

(ii) For voluntary and influenced remedial actions, a statement: "Your (vehicle or engine) (is or may be) equipped with an improperly functioning on-board emission-related diagnostic system that violates (California or California and Federal) standards and regulations" if applicable as determined by the Executive Officer.

(iii) A statement that the nonconformity of any such vehicles will be remedied at the expense of the manufacturer.

(iv) A statement that eligibility for remedial action may not be denied solely on the basis that the vehicle owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle manufacturer's franchised dealers.

(v) Instructions to the vehicle owners on how to obtain remedial action, including instructions on whom to contact (i.e., a description of the facilities where the vehicles should be taken for the remedial action), the first date that a vehicle may be brought in for remedial action, and the time that it will reasonably take to correct the nonconformity.

(vi) The statement: "In order to assure your full protection under the emission warranty provisions, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined as lack of proper maintenance of your (vehicle or engine)."

(vii) A telephone number for vehicle owners to call to report difficulty in obtaining remedial action.

(viii) A card to be used by a vehicle owner in the event the vehicle to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle was sold or transferred.

(ix) If the remedial action involves recall, the notice must also provide:

a. A clear description of the components that will be affected by the remedial action and a general statement of the measures to be taken to correct the nonconformity.

b. A statement that such nonconformity, if not corrected, may cause the vehicle to fail an emission inspection or I/M smog check test.

c. A statement describing the adverse effects, if any, of an uncorrected nonconforming OBD II system on the performance, fuel economy, or durability of the vehicle.

d. A statement that after remedial action has been taken, the manufacturer will have the service facility issue a certificate showing that a vehicle has been corrected under the recall program, and that such a certificate will be required to be provided to the Department of Motor Vehicles as a condition for vehicle registration.

(D) A notice sent pursuant to this section or any other communication sent to vehicle owners or dealers may not contain any statement, expressed or implied, that the OBD II system is compliant or that the OBD II system will not degrade air quality.

(E) The Executive Officer shall inform the manufacturer of any other requirements pertaining to the notification under section (d)(3) which the Executive Officer has determined as reasonable and necessary to assure the effectiveness of the recall campaign.

(4) Label Indicating that Recall Repairs Have Been Performed.

(A) If the required remedial action involves recall of a test group(s), OBD II group(s), or subgroup(s) thereof, the manufacturer shall require those who perform inspections and/or recall repairs to affix a label to each vehicle that has been inspected and/or repaired.

(B) The label must be placed in a location approved by the Executive Officer and must be fabricated of a material suitable for such location in which it is installed and which is not readily removable.

(C) The label must contain the remedial action campaign number and a code designating the facility at which the remedial action or inspection to determine the need for remedial action was performed.

(5) *Proof of Performance of Remedial Action Certificate.* If the required remedial action involves a recall, the manufacturer shall provide, through its service agents, to owners of vehicles that have had the remedial action performed a certificate that confirms that the vehicle has been recalled and that required inspection and/or repairs have been performed. The certificate must be in a format prescribed by the Executive Officer, however, the Executive Officer may not require a format different in any way from the format of the certificate required in title 13, CCR sections 2117 and 2129.

(6) Record Keeping and Reporting Requirements.

(A) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the remedial action.

(B) Unless otherwise specified by the Executive Officer, the manufacturer shall report on the progress of the remedial action campaign by submitting reports for eight consecutive quarters commencing with the quarter immediately after the recall campaign begins. The reports shall be submitted no later than 25 days after the close of each calendar quarter to: Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, California 91731. For each recall campaign, the quarterly report must contain the following:

(i) The test group and the remedial action campaign number designated by the manufacturer and a brief description of the nature of the campaign.

(ii) The date owner notifications began and date completed.

(iii) The number of vehicles involved in the remedial action campaign.

(iv) The number of vehicles known or estimated to be equipped with the nonconforming OBD II system and an explanation of the means by which this number was determined.

(v) The number of vehicles inspected during the campaign since its inception.

(vi) The number of vehicles found to be affected by the nonconformity during the campaign since its inception.

(vii) The number of vehicles receiving remedial action during the campaign since its inception.

(viii) The number of vehicles determined to be unavailable for inspection or remedial action, during the campaign since its inception, due to exportation, theft, scrapping, or other reasons (specify).

(ix) The number of vehicles, during the campaign since its inception, determined to be ineligible for remedial action under section (d)(2)(B).

(x) An initial list, using the following data elements and designated positions, indicating all vehicles subject to recall that the manufacturer has not been invoiced for, or a subsequent list indicating all vehicles subject to the recall that the manufacturer has been invoiced for since the previous report. The list must be supplied in a standardized computer format to be specified by the Executive Officer. The data elements must be written in "ASCII" code without a comma separating each element. For example: XTY32A71234E-9456123408-25-91A. The add flag (see below) should reflect the vehicles for which the manufacturer has not been invoiced and the delete flag should reflect changes since the previous report. The Executive Officer may change the frequency of this submittal depending on the needs of enforcement. The Executive Officer may not, however, require a frequency or format for this submittal that is different in any way from the frequency or format determined by the Executive Officer as required for reporting of data in title 13, CCR sections 2119(a)(10) and 2133(a)(10).

Data Elements

Positions

• File Code (designated by DMV)	1
• License Plate Number	2-8
• Last three VIN positions	9-11
• Recall ID Number	12-17
• Mfg. ID Number	18-22
• (Mfg. Occupational License Number)	
• Recall Start Date (mmddyyyy)	23-30
• Add or Delete Flag (A/D)	31
• Complete VIN if personalized license plate	32-48
• (File Code "L" or "S")	

(xi) A copy of any service bulletins issued during the reporting period by the manufacturer to franchised dealerships or other service agents that relate to the nonconforming OBD II system and the remedial action and have not previously been reported to the Executive Officer.

(xii) A copy of all communications transmitted to vehicle owners that relate to the nonconforming OBD II systems and the required remedial action and have not been previously reported to the Executive Officer.

(C) If the manufacturer determines that any of the information submitted to the Executive Officer pursuant to section (d) has changed or is incorrect, the manufacturer shall submit the revised information, with an explanation.

(D) The manufacturer shall maintain in a form suitable for inspection, such as computer information, storage devices, or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, the names and addresses of vehicle owners:

(i) To whom notification was sent;

(ii) Whose vehicles were repaired or inspected under the recall campaign;

(iii) Whose vehicles were determined not to be eligible for remedial action because the vehicles were modified, altered, or unavailable due to exportation, theft, scrapping, or other reason specified in the answer to sections (d)(6)(B)(viii) and (ix).

(E) The information gathered by the manufacturer to compile the reports required by these procedures must be retained for no less than one year beyond the useful life of the vehicles and must be made available to authorized personnel of the ARB upon request.

(F) The filing of any report under the provisions of these procedures must not affect the manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any other provisions of law.

(7) Extension of Time.

Upon request of the manufacturer, the Executive Officer may extend any deadline set forth in section 1968.5(d) upon finding that the manufacturer has demonstrated good cause for the requested extension.

(e) Penalties for Failing to Comply with the Requirements of Section (d).

(1) In addition to the penalties that may be assessed by the Executive Officer pursuant to section (c) because of a manufacturer's failure to comply with the requirements of title 13, CCR section 1968.2, a manufacturer may be subject to penalties pursuant to section 43016, Health and Safety Code for failing to comply with the requirements of section (d).

(2) If a manufacturer fails to comply with a voluntary or influenced remedial action plan, the Executive Officer may order remedial action pursuant to section (c) above.

NOTE: Authority cited: Sections 39600, 39601, 43000.5, 43013, 43016, 43018, 43100, 43101, 43104, 43105, 43105.5, 43106, 43154, 43211 and 43212, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600–39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 4–21–2003; operative 4–21–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 17).
2. Amendment filed 11–9–2007; operative 11–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§ 1969. Motor Vehicle Service Information — 1994 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Engines and Vehicles, and 2007 and Subsequent Model Heavy-Duty Engines.

(a) Applicability.

(1) This section shall apply to: (1) all California-certified 1994 and subsequent model-year passenger cars, light-duty trucks and medium-duty engines and vehicles equipped with on-board diagnostic (OBD) systems pursuant to title 13, California Code of Regulations, sections 1968.1 or 1968.2; and (2) all 2007 and subsequent model year Califor-

nia-certified heavy-duty engines equipped with OBD systems pursuant to title 13, California Code of Regulations, sections 1971 or 1971.1. This section shall supersede the provisions of section 1968.1(k)(2.1) at all times that this section is effective and operative. This regulation shall also apply to any passenger cars, light-duty trucks, medium-duty vehicles, and medium- and heavy-duty engines certified to future on-board diagnostic requirements adopted by the Air Resources Board.

(2) Motor vehicle and engine manufacturers shall comply with amendments made to this section no later than 90 days after such amendments are made effective by the Secretary of State. Copies of any amendments to this section may be obtained upon request to the Chief of the Mobile Source Operations Division at 9528 Telstar Avenue, El Monte, California 91731.

(b) Optional Regulatory Compliance.

(1) Motor vehicle manufacturers that produce engines for use on heavy-duty vehicles may, for those engines, alternatively comply with all service information and tool provisions of this regulation that are applicable to 1994 and subsequent model year passenger cars, light-duty trucks, and medium-duty engines and vehicles, subject to Executive Officer approval. Implementation dates must comply with the service information provision dates applicable to engine manufacturers.

(2) Engine manufacturers of diesel-derived engines for use in medium-duty vehicles may, for those engines, alternatively comply with all service information and tool provisions of this regulation that are applicable to 2010 and subsequent model year heavy-duty engines, subject to Executive Officer approval. Implementation dates must comply with the service information provision dates applicable to motor vehicle manufacturers.

(c) Severability of Provisions. If any provision of this section or its application is held invalid, the remainder of the section and the application of such provision to other persons or circumstances shall not be affected.

(d) Definitions. The definitions in section 1900(b), Division 3, Chapter 9, Title 13 of the California Code of Regulations, apply with the following additions:

(1) "Access codes, recognition codes and encryption" mean any type, strategy, or means of encoding software, information, devices, or equipment that would prevent the access to, use of, or proper function of any emission-related part.

(2) "Authorized service network" means a group of independent service and repair facilities that are recognized by motor vehicle manufacturers or engine manufacturers as being capable of performing repairs to factory specifications, including warranty repair work.

(3) "Bi-directional control" means the capability of a diagnostic tool to send messages on the data bus (if applicable) that temporarily override a module's control over a sensor or actuator and give control to the diagnostic tool operator. Bi-directional controls do not create permanent changes to engine or component calibrations.

(4) "Covered person" means: (1) any person or entity engaged in the business of service or repair of passenger cars, light-duty trucks, or medium-duty motor vehicles, engines, or transmissions who is licensed or

[The next page is 236.20(z)(11).]

registered with the Bureau of Automotive Repair, pursuant to section 9884.6 of the Business and Professions Code, to conduct that business in California; (2) any person or entity engaged in the business of service or repair of heavy-duty motor vehicles, engines, or transmissions; (3) any commercial business or government entity that repairs or services its own California motor vehicle fleet(s); (4) tool and equipment companies; or (5) any person or entity engaged in the manufacture or remanufacture of emission-related motor vehicle or engine parts for California motor vehicles and motor vehicle engines.

(5) "Data stream information" means information that originates within a vehicle or engine by a module or intelligent sensor (including, but not limited to, a sensor that contains and is controlled by its own module) and is transmitted between a network of modules and intelligent sensors connected in parallel with either one or two communications wires. The information is broadcast over communication wires for use by other modules such as chassis or transmission modules to conduct normal vehicle operation or for use by diagnostic tools. Data stream information does not include engine calibration-related information.

(6) "Days" means calendar days (unless otherwise specified in this section); in computing the time within which a right may be exercised or an act is to be performed, the day of the event from which the designated period runs shall not be included and the last day shall be included, unless the last day falls on a Saturday, Sunday, or a California-recognized holiday observed by the subject motor vehicle manufacturer or engine manufacturer, in which case the last day shall be the following day.

(7) "Diesel-derived engine" means an engine using a compression ignition thermodynamic cycle and powered by either diesel fuel or alternative fuels such as liquefied petroleum gas or compressed natural gas.

(8) "Emission-related motor vehicle information" means 1994 and subsequent model year passenger car, light-duty truck, and medium-duty engine and vehicle information regarding any of the following:

(A) Any original equipment system, component, or part that controls emissions.

(B) Any original equipment system, component, or part associated with the powertrain system including, but not limited to, the fuel system and ignition system.

(C) Any original equipment system or component that is likely to impact emissions, including, but not limited to, the transmission system.

(9) "Emission-related engine information" means 2007 and subsequent model year heavy-duty engine information regarding any of the following:

(A) Any original equipment system, component, or part that controls emissions.

(B) Any original equipment system, component, or part associated with the engine system including, but not limited to, the fuel system and ignition system. For the purposes of this regulation, if an engine manufacturer elects to have its OBD system monitor inputs received from the transmission, the engine manufacturer is responsible for making relevant transmission system information available pursuant to subsection (e)(2); it shall also make available, beginning with the 2010 model year, and pursuant to subsection (e)(1), all corresponding repair information needed to repair the malfunction and turn off the malfunction indicator light.

(10) "Emission-related motor vehicle or engine part" means any direct replacement automotive part or any automotive part certified by Executive Order that may affect emissions from a motor vehicle or engine, including replacement parts, consolidated parts, rebuilt parts, remanufactured parts, add-on parts, modified parts and specialty parts.

(11) "Engine manufacturer," for the purposes of this regulation and unless otherwise noted, means any manufacturer of 2007 and subsequent model year heavy-duty engines equipped with on-board diagnostic systems pursuant to title 13, California Code of Regulations, sections 1971 or 1971.1.

(12) "Enhanced data stream information" means data stream information that is specific for a motor vehicle manufacturer's or an engine manufacturer's brand of tools and equipment.

(13) "Enhanced diagnostic, recalibration, and reconfiguration tool" means a proprietary tool developed by or for an engine manufacturer for its engines that can perform emission-related functions including, but not limited to, generic and enhanced tool diagnostic capability, recalibration, and reconfiguration.

(14) "Enhanced diagnostic tool" means a diagnostic tool that is specific to a motor vehicle manufacturer's vehicles or an engine manufacturer's engines and which can be used for emission-related repair purposes.

(15) "Fair, reasonable, and nondiscriminatory price", for the purposes of section 1969, means a price that allows a motor vehicle or engine manufacturer to be compensated for the cost of providing required emission-related motor vehicle or engine information and diagnostic tools considering the following:

(A) The net cost to the motor vehicle or engine manufacturer's franchised dealerships or authorized service networks, as applicable, for similar information obtained from motor vehicle manufacturers or engine manufacturers, less any discounts, rebates or other incentive programs;

(B) The cost to the motor vehicle manufacturer or engine manufacturer, as applicable, for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading or altering the onboard computer and its software or any other vehicle part or component. Amortized capital costs for the preparation and distribution of the information may be included;

(C) The price charged by other motor vehicle manufacturers or engine manufacturers, as applicable, for similar information;

(D) The price charged by the motor vehicle manufacturer or engine manufacturer, as applicable, for similar information immediately prior to the applicability of this section;

(E) The ability of an average covered person to afford the information.

(F) The means by which the information is distributed;

(G) The extent to which the information is used, which includes the number of users, and frequency, duration, and volume of use; and

(H) Inflation.

(16) "Generic scan tool" is a tool that can read standardized information pursuant to title 13, California Code of Regulations, sections 1968.1, 1968.2, and/or 1971.1 and that can be used on a number of different engines manufactured by different manufacturers.

(17) "Initialization" or "reinitialization" means the process of resetting a vehicle or engine security system by means of an ignition key or access code(s).

(18) "Intermediary information repository" means any individual or entity, other than a motor vehicle manufacturer or engine manufacturer, which collects and makes available to covered persons service information and/or information related to the development of emission-related diagnostic tools.

(19) "Motor vehicle manufacturer," for the purposes of this section, means any manufacturer of 1994 and subsequent model year engines or vehicles in the following classes: passenger cars, light-duty trucks, and medium-duty vehicles equipped with on-board diagnostic systems pursuant to title 13, California Code of Regulations, sections 1968.1 or 1968.2.

(20) "Nondiscriminatory" as used in the phrase "fair, reasonable, and nondiscriminatory price" means that motor vehicle manufacturers and engine manufacturers shall not set a price for emission-related motor vehicle or engine information or tools that provides franchised dealerships or authorized service networks with an unfair economic advantage over covered persons.

(21) "On-board diagnostic system" or "OBD system" for purposes of this section means any system certified to meet the requirements of title 13, California Code of Regulations, sections 1968.1, 1968.2, 1971, 1971.1, or future OBD requirements adopted by the Air Resources Board.

(22) A "Reasonable business means" is a method or mode of distribution or delivery of information that is commonly used by businesses or government to distribute or deliver and receive information at a fair, reasonable, and nondiscriminatory price. A reasonable business mean in-

cludes, but is not limited to, the Internet, first-class mail, courier services, intermediary information repositories, and fax services.

(23) "Recalibration" means the process of downloading to an engine's on-board computer emission-related, heavy-duty revisions of on-board computer application software and calibration parameters with default configurations. Recalibration is not dependent on the use of the vehicle identification number (VIN) in determining vehicle configuration.

(24) "Reconfiguration" means the process of enabling or adjusting engine features or engine parameters associated with such features to adapt a heavy-duty engine to a particular vehicle and/or application.

(e)(1) Service Information. Except as expressly specified below, motor vehicle manufacturers and engine manufacturers shall respectively make available for purchase to all covered persons all emission-related motor vehicle information and emission-related engine information, as applicable, that is provided to the motor vehicle manufacturer's or engine manufacturer's franchised dealerships or authorized service networks for the engine or vehicle models they have certified in California. Motor vehicle manufacturers and engine manufacturers electing to comply with one of the options of subsection (b) shall make available the emission-related information for the vehicle class for which they opt to comply. The information shall include, but is not limited to, diagnosis, service, and repair information and procedures, technical service bulletins, troubleshooting guides, wiring diagrams, and training materials useful for self-study outside a motor vehicle manufacturer's or engine manufacturer's training classroom. Any motor vehicle manufacturer or engine manufacturer choosing to withhold training materials because it has determined they are not useful for self-study as indicated above shall identify and describe the materials on its website. The motor vehicle manufacturer's or engine manufacturer's determination is subject to Executive Officer review and approval.

(2) On-Board Diagnostic System (OBD) Information. Motor vehicle manufacturers and engine manufacturers shall make available for purchase to all covered persons, a general description of each OBD system used in 1996 and subsequent model year passenger cars, light-duty trucks, and medium-duty engines and vehicles, and 2007 and subsequent model year heavy-duty engines, which shall include the following:

(A) A general description of the operation of each monitor, including a description of the parameter that is being monitored.

(B) A listing of all typical OBD diagnostic trouble codes associated with each monitor.

(C) A description of the typical enabling conditions for each monitor to execute during vehicle or engine operation, including, but not limited to, minimum and maximum intake air and engine coolant temperature, vehicle speed range, and time after engine startup. Motor vehicle manufacturers and engine manufacturers must also make available all existing monitor-specific OBD drive cycle information for all major OBD monitors as equipped including, but not limited to, catalyst, catalyst heater, oxygen sensor, oxygen sensor heater, evaporative system, exhaust gas recirculation, secondary air, and air conditioning system. As applicable, manufacturers of diesel vehicles or engines must also make available all existing monitor-specific drive cycle information for those engines and vehicles that perform misfire, fuel system, and comprehensive monitoring under specific driving conditions (i.e., non-continuous monitoring).

(D) A listing of each monitor sequence, execution frequency and typical duration.

(E) A listing of typical malfunction thresholds for each monitor.

(F) For OBD parameters for specific vehicles and engines that deviate from the typical parameters, the OBD description shall indicate the deviation and provide a separate listing of the typical values for those vehicles and engines. Subject to Executive Officer approval, manufacturers may consolidate typical value listings into a range of values or another acceptable format if the number of typical parameters is unduly burdensome to list.

(G) Identification and Scaling Information.

1. For 1994 and subsequent model year passenger cars, light-duty trucks, and medium-duty engines and vehicles, identification and scaling information necessary to interpret and understand data available to a generic scan tool through Service/Mode 6, pursuant to Society of Automotive Engineers (SAE) J1979, "E/E Diagnostic Test Modes — Equivalent to ISO/DIS 15031-5: April 30, 2002," April 2002, which is incorporated by reference in title 13, California Code of Regulations, sections 1968.1 and 1968.2.

2. For 2013 and subsequent model year heavy-duty engines, identification and scaling information necessary to interpret and understand data available through Diagnostic Message 8 pursuant to SAE Recommended Practice J1939-73 or through Service/Mode \$06 pursuant to Society of Automotive Engineers (SAE) J1979, "E/E Diagnostic Test Modes — Equivalent to ISO/DIS 15031-5: April 30, 2002," April 2002, both of which are incorporated by reference in title 13, California Code of Regulations, section 1971.1.

(H) Except as provided below, the information required by this subsection does not include specific algorithms, specific software code or specific calibration data beyond those required to be made available through the generic scan tool pursuant to the requirements of title 13, California Code of Regulations, sections 1968.1, 1968.2, 1971.1, as applicable, and all future adopted OBD regulations for passenger cars, light-duty trucks, medium-duty engines and vehicles, and heavy-duty engines. Algorithms, software codes, or calibration data that are made available to franchised dealerships or authorized service networks shall be made available for purchase to covered persons. To the extent possible, motor vehicle manufacturers and engine manufacturers shall organize and format the information so that it will not be necessary to divulge specific algorithms, codes, or calibration data considered to be a trade secret by the motor vehicle manufacturer or engine manufacturer.

(3) On-Board Computer Initialization Procedures.

(A) Consistent with the requirements of subsection (i) below, motor vehicle manufacturers and engine manufacturers shall make available for purchase to all covered persons computer or anti-theft system initialization information for vehicles or engines so equipped necessary for:

1. The proper installation of on-board computers on motor vehicles or engines that employ integral vehicle security systems; or

2. The repair or replacement of any other emission-related part.

(B) Motor vehicle manufacturers and engine manufacturers must make this information available for purchase in a manner that will not require a covered person to purchase enhanced diagnostic tools to perform the initialization. Motor vehicle manufacturers and engine manufacturers may make such information available through, for example, generic aftermarket tools, a pass-through device, or inexpensive manufacturer-specific cables.

(C) A motor vehicle manufacturer or engine manufacturer may request Executive Officer approval to be excused from the requirements above for some or all model year vehicles or engines, as applicable, through the 2009 model year. The Executive Officer shall approve the request upon finding that the motor vehicle manufacturer or engine manufacturer has demonstrated that:

1. The availability of such information to covered persons would significantly increase the risk of vehicle theft;

2. A technical and economic need for such a request exists; and

3. It will make available to covered persons reasonable alternative means to install computers, or to otherwise repair or replace an emission-related part, at a fair, reasonable, and nondiscriminatory price and that such alternative means do not place covered persons, as a class, at a competitive disadvantage to either franchised dealerships or authorized service networks in their ability to service and repair vehicles or engines.

a. Any alternative means shall be available to covered persons within 24 hours of the initial request and shall not require the purchase of enhanced diagnostic tools to perform an initialization. Alternatives may include lease of such tools, but only at a fair, reasonable and nondiscriminatory price.

b. In lieu of leasing its enhanced diagnostic tools, a motor vehicle manufacturer or engine manufacturer may alternatively make available for purchase to independent equipment and tool companies all data stream information needed to make their diagnostic tools fully functional for initialization purposes. Any motor vehicle manufacturer or engine manufacturer choosing this option must release the information to equipment and tool companies within 60 days of Executive Officer approval.

(D) All approvals are conditional and subject to audit under subsection (I) below and possible rescission if the conditions set forth in subsection (e)(3)(C) fail to be satisfied.

(4) The information required by this subsection shall be made available for purchase no later than 180 days after the start of engine or vehicle introduction into commerce or concurrently with its availability to franchised dealerships or authorized service networks, whichever occurs first.

(f) Internet Availability for Service Information.

(1) Information required to be made available for purchase under subsection (e), excluding subsection (e)(3), shall be directly accessible via the Internet. As an exception, motor vehicle manufacturers or engine manufacturers with annual California sales of less than 300 engines or vehicles (based on the average number of California-certified engines or vehicles sold by the motor vehicle manufacturer or engine manufacturer in the three previous consecutive model years) have the option not to provide required materials directly over the Internet. Such motor vehicle manufacturers and engine manufacturers may instead propose an alternative reasonable business means for providing the information required by this section to the Executive Officer for review and approval. The alternate method shall include an Internet website that adequately specifies that the required service information is readily available through other reasonable business means at fair, reasonable, and nondiscriminatory prices. If a motor vehicle manufacturer or engine manufacturer later exceeds the three-year sales average, it would be required to begin complying with all Internet availability requirements the next model year. In such cases, the requirements would apply only to those engine and vehicle models certified in that and subsequent model years and would not apply to any models that were within carry-over test groups that were initially certified before the sales average was exceeded.

(2) For purposes of making the information available for purchase via the Internet, motor vehicle manufacturers and engine manufacturers, or their designees, shall establish and maintain an Internet website(s) that:

(A) Is accessible at all times, except during times required for routine and emergency maintenance. Routine maintenance shall be scheduled after normal business hours. If the motor vehicle manufacturer's or engine manufacturer's service information website(s) is not available for more than 24 hours for other than routine maintenance, the motor vehicle manufacturer or engine manufacturer, as applicable, shall notify the Executive Officer by either phone or email within one business day.

(B) Houses all of the required information such that it is available for direct online access (i.e., for online viewing and/or file downloading), except as provided in subsections (e)(3), (f)(2)(G) and (f)(2)(J). In addition to direct online access, motor vehicle manufacturers and engine manufacturers may concurrently offer the information by means of electronic mail, fax transmission, or other reasonable business means.

(C) Is written in English with all text using readable font sizes.

(D) Has clearly labeled and descriptive headings or sections, has an online index connected to a search engine and/or hyperlinks that directly take the user to the information, and has a comprehensive search engine that permits users to obtain information by various query terms including, but not limited to, engine, transmission, or vehicle model (as applicable), model year, bulletin number, diagnostic procedure, and trouble code.

(E) Provides, at a minimum, e-mail access for communication with a designated contact person(s). The contact person(s) shall respond to any inquiries within 2 days of receipt, Monday through Friday. The website shall also provide a business address for the purposes of receiving mail, including overnight or certified mail.

(F) Lists the most recent updates to the website. Updates must occur concurrently with the availability of new or revised information to franchised dealerships or authorized service networks, whichever occurs first.

(G) Provides all training materials offered by the motor vehicle manufacturer or engine manufacturer, as applicable, as required under subsection (e)(1). For obtaining any training materials that are not in a format that can be readily downloaded directly from the Internet (e.g., instructional tapes, full-text information associated with bundled software, CD-ROMs, or other media), the website must include information on the type of materials that are available, and how such materials can be purchased.

(H) Offers media files (if any) and other service information documents in formats that can be viewed with commonly available software programs (e.g., Adobe Acrobat, Microsoft Word, RealPlayer, etc.).

(I) Provides secure Internet connections (i.e., certificate-based) for transfer of payment and personal information.

(J) Provides ordering information and instructions for the purchase of tools and information that are required to be made available pursuant to subsections (g) and (h).

(K) Complies with the following requirements for term, definitions, abbreviations, and acronyms:

1. For 2003 and subsequent model-year passenger cars, light duty trucks, and medium-duty engines and vehicles, complies with the SAE Recommended Practice J1930, "Electrical/Electronic Systems, Diagnostic Terms, Definitions, Abbreviations, and Acronyms — Equivalent to ISO/TR 15031-2: April 30, 2002," April 2002, incorporated by reference herein, for all emission-related motor vehicle information.

2. For 2010 and later model year heavy-duty engines, emission-related nomenclature shall comply with SAE J2403, "Medium/Heavy-Duty E/E Systems Diagnosis Nomenclature," August 2004, incorporated by reference herein.

(L) Complies with the following website performance criteria:

1. Possesses sufficient server capacity to allow ready access by all users and has sufficient downloading capacity to assure that all users may obtain needed information without undue delay.

2. Broken weblinks shall be corrected or deleted weekly.

3. Website navigation does not require a user to return to the motor vehicle manufacturer's or engine manufacturer's home page or a search engine in order to access a different portion of the site. The use of "one-up" links (i.e., links that connect to related webpages that preceded the one being viewed) is recommended at the bottom of subordinate webpages in order to allow a user to stay within the desired subject matter.

4. Any manufacturer-specific acronym or abbreviation shall be defined in a glossary webpage which, at a minimum, is hyperlinked by each webpage that uses such acronyms and abbreviations. Motor vehicle manufacturers and engine manufacturers may request Executive Officer approval to use alternate methods to define such acronyms and abbreviations. The Executive Officer shall approve such methods if the motor vehicle manufacturer or engine manufacturer adequately demonstrates that the method provides equivalent or better ease-of-use to the website user.

(M) Indicates the minimum hardware and software specifications required for satisfactory access to the website(s).

(3) All information must be maintained by motor vehicle manufacturers and engine manufacturers for a minimum of fifteen years. After such time, the information may be retained in an off-line electronic format (e.g., CD-ROM) and made available for purchase in that format at fair, reasonable, and nondiscriminatory prices upon request. Motor vehicle manufacturers and engine manufacturers shall index their available archived information with a title that adequately describes the contents of the document to which it refers. Motor vehicle manufacturers and engine manufacturers may allow for the ordering of information directly from the website, or from a website hyperlinked to the motor vehicle manufacturer's or engine manufacturer's website. In the alternative, motor vehicle manufacturers and engine manufacturers shall list a phone number

and address where covered persons can call or write to obtain requested information through reasonable business means.

(4) Motor vehicle manufacturers and engine manufacturers must implement fair, reasonable, and nondiscriminatory pricing structures relative to a range of time periods for online access (e.g., in cases where information can be viewed online) and/or the amount of information purchased (e.g., in cases where information becomes viewable after downloading). These pricing structures shall be submitted to the Executive Officer for review concurrently with being posted on the motor vehicle manufacturer's or engine manufacturer's service information website(s).

(5) Motor vehicle manufacturers and engine manufacturers must provide the Executive Officer with free, unrestricted access to their Internet websites. Access shall include the ability to directly view and download posted service information. The information necessary to access the websites (e.g., user name, password, contact person(s)) must be submitted to the Executive Officer once the websites are operational.

(6) Reporting Requirements. Motor vehicle manufacturers and engine manufacturers shall provide the Executive Officer with reports that adequately demonstrate that their individual Internet websites meet the requirements of subsection (f)(2). The reports shall also indicate the performance and effectiveness of the websites by using commonly used Internet statistics (e.g., successful requests, frequency of use, number of subscriptions purchased, etc.). Motor vehicle manufacturers and engine manufacturers shall submit such reports annually within 30 days of the end of the calendar year. The Executive Officer may also require motor vehicle manufacturers and engine manufacturers to submit additional reports upon request, including any information required by the United States Environmental Protection Agency under the federal service information regulation. These reports shall be submitted in a format prescribed by the Executive Officer.

(g) Light-Duty and Medium-Duty Vehicle Diagnostic and Reprogramming Tools and Information.

(1) Diagnostic and Reprogramming Tools. Motor vehicle manufacturers shall make available for purchase through reasonable business means to all covered persons, all emission-related enhanced diagnostic tools and reprogramming tools available to franchised dealers, including software and data files used in such equipment. The motor vehicle manufacturer shall ship purchased tools to a requesting covered person as expeditiously as possible after a request has been made.

(2) Data Stream and Bi-Directional Control Information. Motor vehicle manufacturers shall make available for purchase through reasonable business means, to all equipment and tool companies, all information necessary to read and format all emission-related data stream information, including enhanced data stream information, that is used in diagnostic tools available to franchised dealerships or authorized service networks, and all information that is needed to activate all emission-related bi-directional controls that can be activated by franchised dealership or authorized service network tools. Motor vehicle manufacturers may require, as a condition of sale, that the business agreement contain indemnity or "hold harmless" clauses that relieve the motor vehicle manufacturer from any liability resulting from damage caused by tools produced by the tool and equipment company that is otherwise not attributable to the data provided by the motor vehicle manufacturer. Motor vehicle manufacturers shall make all required information available through the Internet or other reasonable business means to the requesting equipment and tool company within 14 days after the request to purchase has been made, unless the motor vehicle manufacturer petitions the Executive Officer for approval to refuse to disclose such information ("petition for non-disclosure") to the requesting company or petitions the Executive Officer for additional time to comply ("petition for additional time"). After receipt of a petition and consultation with the affected parties, the Executive Officer shall either grant or refuse the petition based on the evidence submitted during the consultation process:

(A) If the evidence demonstrates that the motor vehicle manufacturer has a reasonably based belief that the requesting equipment and tool

company could not produce safe and functionally accurate tools that would not cause damage to the vehicle, a petition for non-disclosure will be granted.

(B) If the evidence demonstrates that the motor vehicle manufacturer does not have a reasonably-based belief that the requesting equipment and tool company could not produce safe and functionally accurate tools that would not cause damage to the vehicle, a petition for non-disclosure will be denied and the motor vehicle manufacturer shall make the requested information available to the requesting equipment and tool company within 2 days of the denial.

(C) If the motor vehicle manufacturer submits a petition for additional time, and satisfactorily demonstrates to the Executive Officer that the motor vehicle manufacturer is able to comply but requires additional time within which to do so, the Executive Officer shall grant the petition and provide additional time that is necessary to fully and expeditiously comply. Petitions for additional time shall be considered by the Executive Officer on a case-by-case basis.

(3) Reprogramming Information.

(A) Beginning with the 2004 model year, reprogramming methods used for passenger cars, light-duty trucks, and medium-duty engines and vehicles shall be compatible with SAE J2534-1 Paper, "Recommended Practice for Pass-Thru Vehicle Programming, December 2004, which is incorporated by reference herein, for all vehicle models that can be reprogrammed by franchised dealerships or authorized service networks.

(B) Motor vehicle manufacturers shall make available for purchase through reasonable business means to covered persons for vehicle models meeting the requirements of subsection (g)(3)(A) all vehicle reprogramming information and materials necessary to install motor vehicle manufacturers' software and calibration data to the extent that it is provided to franchised dealerships. The motor vehicle manufacturer shall, within 2 days of receipt of a covered person's request, provide purchased reprogramming information via an Internet download or, if available in a different electronic format, via postal mail or package delivery service.

(4) The information and tools required by this subsection shall be made available for purchase no later than 180 days after the start of vehicle introduction into commerce or concurrently with its availability to franchised dealerships or authorized service networks, whichever occurs first.

(h) Heavy-Duty Engine Enhanced Diagnostic, Recalibration, and Reconfiguration Tools and Information.

(1) (A) Engine manufacturers shall continue to make available for purchase through reasonable business means all emission-related diagnostic tools currently available to covered persons, including installation software and data files used in such equipment. Beginning with the 2013 model year, engine manufacturers shall also make available for purchase all emission-related enhanced diagnostic tools, recalibration tools, and reconfiguration tools available to franchised dealerships and authorized service networks, including installation software and data files used in such equipment. The engine manufacturer shall ship purchased tools to a requesting covered person as expeditiously as possible after a request has been made. As a condition for sale and shipment, however, an engine manufacturer may request that the requesting covered persons to take all necessary training offered by the engine manufacturer. Any required training materials and classes must comply with the following conditions:

1. similar training must be required by the engine manufacturer for the use of the same tool by its franchised dealerships and authorized service networks, and the training required for covered persons must be substantially similar to such training in terms of material covered and length of training classes;

2. the training must be available within six months after a tool request has been made;

3. the training must be available at a minimum of one California location; and

4. the training must be made available to the covered person at a fair, reasonable and nondiscriminatory price.

(B) Recalibration and reconfiguration software, methods, and parameters shall be made available for purchase through reasonable business means to covered persons. Recalibration information and methods shall be compatible with either SAE J2534-1, December 2004, or the Technology and Maintenance Council's (TMC) Recommended Practice RP1210A, "Windows™ Communication API," July 1999, which are incorporated by reference herein.

(2) Data Stream and Bi-Directional Control Information.

(A) Beginning with the 2013 model year, engine manufacturers shall make available for purchase through reasonable business means, to all equipment and tool companies, all information necessary to read and format all emission-related data stream information, including enhanced data stream information, that is used in diagnostic tools available to franchised dealerships or authorized service networks, and all information that is needed to activate all emission-related bi-directional controls that can be activated by franchised dealership or authorized service network tools. Engine manufacturers shall make all required information available through the Internet or other reasonable business means to the requesting equipment and tool company within 14 days after the request to purchase has been made, unless the engine manufacturer petitions the Executive Officer for approval to refuse to disclose such information ("petition for non-disclosure") to the requesting company or petitions the Executive Officer for additional time to comply ("petition for additional time"). After receipt of a petition and consultation with the affected parties, the Executive Officer shall either grant or refuse the petition based on the evidence submitted during the consultation process:

1. If the evidence demonstrates that the engine manufacturer has a reasonably based belief that the requesting equipment and tool company could not produce safe and functionally accurate tools that would not cause damage to the engine, the petition for non-disclosure will be granted. Engine manufacturers are not required to provide data stream and bi-directional control information that would permit an equipment and tool company's products to modify a California-certified engine or transmission configuration.

2. If the evidence does not demonstrate that the engine manufacturer has a reasonably-based belief that the requesting equipment and tool company could not produce safe and functionally accurate tools that would not cause damage to the engine, the petition for non-disclosure will be denied and the engine manufacturer, as applicable, shall make the requested information available to the requesting equipment and tool company within 2 days of the denial.

3. If the engine manufacturer submits a petition for additional time, and satisfactorily demonstrates to the Executive Officer that the motor vehicle manufacturer is able to comply but requires additional time within which to do so, the Executive Officer shall grant the petition and provide additional time to fully and expeditiously comply. Petitions for additional time shall be considered by the Executive Officer on a case-by-case basis.

(B) Engine manufacturers may require that tools using information covered under subsection (h)(2)(A) comply with the Component Identifier message specified in SAE J1939-71, dated December 2003, as Parameter Group Number (PGN) 65249 (including the message parameter's make, model, and serial number) and the SAE J1939-81, dated May 2003, Address Claim PGN.

(C) An engine manufacturer may require, as a condition of sale of its tools, that the business agreement contain indemnity or "hold harmless" clauses that relieve the engine manufacturer from any liability resulting from damage caused by tools produced by the tool and equipment company that is otherwise not attributable to the data provided by the engine manufacturer.

(3) The information and tools required by this subsection shall be made available for purchase no later than 180 days after the start of engine introduction into commerce or concurrently with its availability to

franchised dealerships or authorized service networks, whichever occurs first.

(i) Costs: All information and tools required to be provided to covered persons by this regulation shall be made available for purchase at a fair, reasonable, and nondiscriminatory prices.

(j) Motor vehicle manufacturers and engine manufacturers shall not utilize any access code, recognition code or encryption for the purpose of preventing a vehicle or engine owner from using an emission-related motor vehicle or engine part (with the exception of the powertrain control module, engine control modules and transmission control modules, as applicable), that has not been manufactured by that motor vehicle manufacturer or engine manufacturer or any of its original equipment suppliers.

(k) Trade Secrets: Motor vehicle manufacturers and engine manufacturers may withhold trade secret information (as defined in the Uniform Trade Secret Act contained in Title 5 of the California Civil Code) which otherwise must be made available for purchase, subject to the following:

(1) At the time of initial posting of all information required to be provided under subsections (e) through (h) above, a motor vehicle manufacturer or engine manufacturer shall identify, by brief description on its Internet website, any information that it believes to be a trade secret and not subject to disclosure.

(2) A covered person, believing that a motor vehicle manufacturer or engine manufacturer has not fully provided all information that is required to be provided under subsections (e) through (h) above shall submit a request in writing by certified mail to the motor vehicle manufacturer for release of the information.

(3) Upon receipt of the request for information, a motor vehicle manufacturer or engine manufacturer shall do the following:

(A) If it had not previously made the information available for purchase because of an oversight, it shall make the information available within 2 days from receipt of the request directly to the requesting covered person at a fair, reasonable, and nondiscriminatory price and by reasonable business means. Additionally, the motor vehicle manufacturer or engine manufacturer shall, within 7 days, make such information available for purchase to other covered persons consistent with the requirements of this regulation.

(B) If it has not made the requested information available for purchase because it believes the information to be a trade secret, it shall within 14 days, notify the requesting covered person that it considers the information to be a trade secret, provide justification in support of its position, and make reasonable efforts to see if the matter can be resolved informally.

(C) If during this 14 day period set forth in subsection (k)(3)(B), the motor vehicle manufacturer or engine manufacturer determines that the information is, in fact, not a trade secret, it shall immediately notify the requesting covered person of its determination and make the information available within the timeframes and means set forth in subsection (k)(3)(A)

(D) If the parties can informally resolve the matter, the motor vehicle manufacturer or engine manufacturer shall within 2 days provide the requesting covered person with all of the information that is subject to disclosure consistent with that agreement. The motor vehicle manufacturer or engine manufacturer shall also, within 7 days, make such information available for purchase to other covered persons consistent with the requirements of this regulation.

(E) If the matter cannot be informally resolved, the motor vehicle manufacturer or engine manufacturer shall, within 30 days from the date that it notified the requesting covered person that it considers the information to be a trade secret, or such longer period the parties may mutually agree upon, petition the California superior court for declaratory relief to make a finding that the information is exempt from disclosure because it is a trade secret. The petition shall be filed in accordance with the California Code of Civil Procedure section 395 et seq. The petition shall be accompanied with a declaration stating facts that show that the

motor vehicle manufacturer or engine manufacturer has made a reasonable and good faith attempt to informally resolve the matter.

(f) Executive Officer Review of Compliance.

(1) The Executive Officer shall monitor compliance with the requirements of Health and Safety Code section 43105.5 and this regulation.

(2) The Executive Officer, through the Chief of the Mobile Source Operations Division (Division Chief), shall periodically audit a motor vehicle manufacturer's or engine manufacturer's Internet website(s) and other distribution sources to determine whether the information requirements of Health and Safety Code section 43105.5 and this regulation are being fulfilled. Motor vehicle manufacturers and engine manufacturers must provide the Executive Officer with free unrestricted access to the sites and other sources for the purposes of an audit.

(3) The Division Chief shall also commence an audit upon receipt of a request from a covered person that provides reasonable cause to believe that a motor vehicle manufacturer or engine manufacturer is not in compliance.

(A) Such a request shall be in the form of a written declaration setting forth specific details of the alleged noncompliance of the motor vehicle manufacturer or engine manufacturer. The declaration shall also set forth facts that demonstrate that the requesting covered person has undertaken efforts to resolve the matter informally with the named motor vehicle manufacturer or engine manufacturer.

(B) The covered person shall concurrently provide a copy of the audit request on the motor vehicle manufacturer or engine manufacturer against whom the request has been filed.

(C) The Division Chief shall determine if the request, on its face, sets forth facts establishing reasonable cause to believe that that motor vehicle manufacturer or engine manufacturer is in noncompliance with Health and Safety Code section 43105.5 or this regulation and that the covered person has undertaken reasonable efforts to informally resolve the alleged noncompliance with the motor vehicle manufacturer or engine manufacturer directly. If the Division Chief determines that the request satisfies these conditions, he or she shall conduct an audit of the designated motor vehicle manufacturer's or engine manufacturer's Internet website. Otherwise, the Division Chief shall dismiss the request and notify the requesting covered person and the affected motor vehicle manufacturer or engine manufacturer of his or her determination.

(4) In conducting any audit, the Division Chief may require the motor vehicle manufacturer or engine manufacturer to provide the ARB with all information and materials related to compliance with the requirements of Health and Safety Code section 43105.5 and this regulation, including but not limited to:

(A) Copies of all books, records, correspondence or documents in its possession or under its control that the motor vehicle manufacturer or engine manufacturer is required to provide to persons engaged in the service and repair industries and to equipment and tool companies under subsections (d) through (h) of this regulation, and

(B) Any and all reports or records developed or compiled either for or by the motor vehicle manufacturer or engine manufacturer to monitor performance of its Internet site(s).

(5) In conducting the audit, the Division Chief may order or subpoena the motor vehicle manufacturer or engine manufacturer, the party filing the request for inspection, or any other person with possible knowledge of the issue of noncompliance to appear in person and testify under oath. The Division Chief may also request or subpoena such persons to provide any additional information that the Division Chief deems necessary to determine any issue of noncompliance.

(6) Except for good cause, the audit shall be completed within 60 days from the date that the Division Chief notifies the motor vehicle manufacturer or engine manufacturer about the audit. At the conclusion of the audit, the Division Chief shall issue a written determination, with supporting findings, regarding compliance by the motor vehicle manufacturer or engine manufacturer.

(7) If the Division Chief finds sufficient credible evidence that the motor vehicle manufacturer or engine manufacturer is not in compliance

with any requirements of Health and Safety Code section 43105.5 or this regulation, the determination shall be in the form of a notice to comply against the motor vehicle manufacturer or engine manufacturer.

(8) The Division Chief's determination not to issue a notice to comply against a motor vehicle manufacturer or engine manufacturer is subject to limited review by the Executive Officer.

(A) A covered person may only request that the Executive Officer review a determination that it specifically requested pursuant to subsection (l)(3) above.

(B) The covered person shall file the request for Executive Officer review within 10 days from the date of issuance of the Division Chief's determination.

1. The request shall be filed to the attention of the Executive Officer c/o Clerk of the Board, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812-2815. A copy of the request shall be concurrently served on the motor vehicle manufacturer that was the subject of the audit and determination.

2. The request shall set forth specific facts and reasons why the determination should be reviewed and supporting legal authority for why a notice to comply should have been issued.

(C) The motor vehicle manufacturer or engine manufacturer may file an opposition to the request for review within 10 days from the date of service of the request for review.

(D) The Executive Officer shall issue a determination within 30 days from the last day that the motor vehicle manufacturer or engine manufacturer had to file an opposition. The Executive Officer may affirm the decision of the Division Chief; remand the matter back to the Division Chief for further consideration or evidence; or issue a notice to comply against the motor vehicle manufacturer or engine manufacturer.

(9) Within 30 days from the date of issuance of a notice to comply, the motor vehicle manufacturer or engine manufacturer shall either:

(A) Submit to the Executive Officer a compliance plan that adequately demonstrates that the motor vehicle manufacturer or engine manufacturer will come into compliance with this section within 45 days from the date of submission of the plan, or such longer period that the Executive Officer deems appropriate to allow the motor vehicle manufacturer or engine manufacturer to properly remedy the noncompliance; or

(B) Request an administrative hearing to consider the basis or scope of the notice to comply.

(10) If the motor vehicle manufacturer or engine manufacturer elects to submit a compliance plan, the Executive Officer shall review the plan and issue a written determination, within 30 days, either accepting or rejecting the plan. The Executive Officer shall reject the compliance plan if the Executive Officer finds that it will not bring the motor vehicle manufacturer or engine manufacturer into compliance within 45 days from the date that the plan would have been approved, or such longer period that the Executive Officer deemed appropriate to allow the motor vehicle manufacturer or engine manufacturer to properly remedy the noncompliance. The Executive Officer shall notify the motor vehicle manufacturer or engine manufacturer in writing of his or her determination, and that the Executive Officer will be seeking administrative review pursuant to subsection (m) below.

(11) After approving a proposed compliance plan, if the Executive Officer determines that the motor vehicle manufacturer or engine manufacturer has failed to comply with the terms of the plan, the Executive Officer shall notify the motor vehicle manufacturer or engine manufacturer of his or her determination and that he or she will be seeking administrative review pursuant to subsection (m) below.

(m) Administrative Hearing Review.

(1) A motor vehicle manufacturer or engine manufacturer may request that a hearing officer review the basis and scope of the notice to comply. Failure by the motor vehicle manufacturer or engine manufacturer to request such a review and failing, in the alternative, to submit a compliance plan as required by subsection (l)(9)(A) shall result in the Executive Officer's determination becoming final and may subject the motor vehicle

manufacturer or engine manufacturer to penalties pursuant to Health and Safety Code section 43105.5(f) and subsection (l).

(2) The Executive Officer shall forward the following matters to a hearing officer for appropriate administrative review, including, if warranted, consideration of penalties:

(A) A compliance plan that it has rejected pursuant to subsection (l)(10).

(B) A notice to comply that has been issued against a motor vehicle manufacturer or engine manufacturer who has failed to either request administrative review of the Executive Officer determination, or, in the alternative, to submit a compliance plan.

(C) An Executive Officer determination that a motor vehicle manufacturer or engine manufacturer has failed to satisfy the terms of a compliance plan it has submitted in response to a notice to comply.

(3) Administrative hearings under this regulation shall be conducted pursuant to the procedures set forth in title 17, California Code of Regulations, section 60060.1 et seq.

(n) Penalties.

(1) If after an administrative hearing, the hearing officer finds that the motor vehicle manufacturer or engine manufacturer has failed to comply with any of the requirements of this section, and the motor vehicle manufacturer or engine manufacturer fails to correct the violation within 30 days from the date of his finding, the hearing officer may impose a civil penalty upon the motor vehicle manufacturer or engine manufacturer in an amount not to exceed \$25,000 per day (including Saturdays, Sundays, and observed holidays) per violation until the violation is corrected. The hearing officer may immediately impose a civil penalty in cases where a motor vehicle manufacturer or engine manufacturer has failed to act in accordance with a compliance plan it has previously submitted.

(2) For purposes of this section, a finding by a hearing officer that a motor vehicle manufacturer or engine manufacturer has failed to comply with the requirements of Health and Safety Code section 43105.5 and title 13, California Code of Regulations, section 1969 et seq., including the failure to submit a timely compliance plan, shall be considered a single violation.

NOTE: Authority cited: Sections 39600, 39601, 43000.5, 43018, 43105.5 and 43700, Health and Safety Code. Reference: Sections 39027.3, 43104 and 43105.5, Health and Safety Code.

HISTORY

1. New section filed 9–12–2002; operative 10–1–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 37).
2. Amendment of section heading, section and NOTE filed 1–7–2005; operative 2–6–2005 (Register 2005, No. 1).
3. Amendment of section heading and section filed 6–15–2007; operative 7–15–2007 (Register 2007, No. 24).

§ 1970. Fuel Evaporative Emissions—1973 Through 1977 Model–Year Heavy–Duty Gasoline–Powered Vehicles.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100 and 43101, Health and Safety Code.

HISTORY

1. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 1971. Engine Manufacturer Diagnostic System Requirements—2007 and Subsequent Model–Year Heavy–Duty Engines.

(a) Purpose.

The purpose of this regulation is to establish requirements for engine manufacturer diagnostic systems (EMD systems) that are designed and installed by engine manufacturers on 2007 and subsequent model–year engines certified for sale in heavy–duty vehicles in California. The EMD systems, through the use of a computer(s), shall monitor emission systems in–use for the actual life of the engine and shall be capable of detecting malfunctions of the monitored emission systems, illuminating a malfunction indicator light (MIL) to notify the vehicle operator of detected

malfunctions, and storing diagnosis information regarding the detected malfunctions.

(b) Applicability.

Except as specified elsewhere in this regulation (title 13, CCR section 1971), all 2007 and subsequent model–year gasoline–fueled and diesel–fueled on–road heavy–duty engines shall be equipped with an EMD system and shall meet all applicable requirements of this regulation.¹

(c) Definitions.

(1) “Actual life” refers to the entire period that an engine is operated on public roads in California up to the time an engine is retired from use.

(2) “Deactivate” means to turn–off, shutdown, desensitize, or otherwise make inoperable through software programming or other means during the actual life of the engine.

(3) “Engine” for the purpose of this regulation means on–road heavy–duty engine.

(4) “Engine manufacturer” is the holder of the Executive Order for the engine family.

(5) “Functional check” for an output component or system means verification of proper response of the component and system to a computer command.

(6) “Heavy–duty vehicle” means any motor vehicle having a gross vehicle weight rating greater than 14,000 pounds.

(7) “Key on, engine off position” refers to a vehicle with the ignition key in the engine run position (not engine crank or accessory position) but with the engine not running.

(8) “Malfunction” means any deterioration or failure of a component that causes the performance to be outside of the applicable limits in section (e).

(9) “On–road heavy–duty engine” means an engine and related after–treatment components certified to the requirements of title 13, CCR sections 1956.1 or 1956.8.

(10) “Rationality fault diagnostic” for an input component means verification of the accuracy of the input signal while in the range of normal operation and when compared to all other available information.

(d) General Requirements.

(1) The EMD System.

(A) If a malfunction is present as specified in section (e), the EMD system shall detect the malfunction.

(B) The EMD system shall provide diagnostic information to service and repair technicians to identify detected malfunctions.

(C) The EMD system shall be designed to operate, without any required scheduled maintenance, for the actual life of the engine in which it is installed and may not be programmed or otherwise designed to deactivate based on age and/or mileage of the vehicle during the actual life of the engine. This section is not intended to alter existing law and enforcement practice regarding an engine manufacturer’s liability for an engine beyond its useful life, except where an engine has been programmed or otherwise designed so that an EMD system deactivates based on age and/or mileage of the engine.

(2) MIL Requirements.

(A) MIL Specifications.

1. The MIL shall be of sufficient illumination and location to be readily visible under all lighting conditions. The MIL, when illuminated, shall display a phrase or icon determined by the engine manufacturer to be likely to cause the vehicle operator to seek corrective action. In lieu of a dedicated MIL, engine manufacturers may utilize an existing warning light(s) to also satisfy the requirements of the MIL.

2. The MIL shall illuminate in the key on, engine off position before engine cranking to indicate that the MIL is functional. This functional check of the MIL is not required during vehicle operation in the key on, engine off position subsequent to the initial engine cranking of an ignition cycle (e.g., due to an engine stall or other non–commanded engine shutdown).

(B) Illuminating the MIL.

Once a malfunction has been detected, the EMD system shall illuminate the MIL in accordance with the engine manufacturer's existing practices for notifying vehicle operators and service technicians.

(C) Extinguishing the MIL.

Once the MIL has been illuminated, it may be extinguished upon the EMD system determining that the malfunction is no longer present provided no other malfunction has been detected that would independently illuminate the MIL according to the requirements outlined above.

(3) Monitoring Conditions.

Engine manufacturers shall define monitoring conditions for detecting malfunctions identified in section (e) and for determining if malfunctions no longer exist.

(e) Monitoring Requirements.

(1) Fuel System Monitoring.

(A) Requirement: The EMD system shall monitor the fuel delivery system.

(B) Malfunction Criteria: If the engine is equipped with feedback control of the fuel pressure, the EMD system shall detect a malfunction of the fuel system when the feedback control system has used up all of the adjustment allowed by the engine manufacturer and cannot achieve the desired fuel pressure.

(2) Exhaust Gas Recirculation (EGR) System Monitoring.

(A) Requirement: The EMD system shall monitor the EGR system on engines so-equipped.

(B) Malfunction Criteria:

1. Low Flow: The EMD system shall detect a malfunction of the EGR system when the system has reached its control limits such that it cannot increase EGR flow to achieve the commanded flow rate.

2. High Flow: The EMD system shall detect a malfunction of the EGR system when the system has reached its control limits such that it cannot reduce EGR flow to achieve the commanded flow rate.

(3) Particulate Matter (PM) Trap Monitoring.

(A) Requirement: The EMD system shall monitor the PM trap on engines so-equipped.

(B) Malfunction Criteria:

1. Excessive Backpressure: The EMD system shall detect a malfunction when the PM trap fails to regenerate, clogs, or otherwise malfunctions such that it causes the backpressure in the exhaust system to exceed the engine manufacturer's specified limits for operation.

2. Missing substrate: The EMD system shall detect a malfunction if either the PM trap substrate is completely destroyed, removed, or missing, or if the PM trap assembly is replaced with a straight pipe.

(4) Emission-Related Electronic Component Monitoring.

(A) Requirement: The EMD system shall monitor for malfunction of any electronic component/system that either provides input to (directly or indirectly) or receives commands from the on-board computer(s),

and: (1) is defined by the engine manufacturer as emission-related, or (2) is used as part of the diagnostic strategy for any other emission-related monitored system or component.

(B) Malfunction Criteria:

1. Input Components: Where determined by the engine manufacturer to be feasible given existing hardware and software, the EMD system shall detect malfunctions of input components caused by a lack of circuit continuity, out-of-range values, and rationality faults.

2. Output Components/Systems: Where determined by the engine manufacturer to be feasible given existing hardware and software, the EMD system shall detect a malfunction of an output component/system when proper functional response of the component and system to computer commands does not occur or when a lack of circuit continuity or circuit fault occurs (e.g., short to ground or high voltage).

(f) Certification. The Executive Officer shall grant certification for the EMD system upon the engine manufacturer submitting the following certification information:

(1) A description of the functional operation of the EMD system.

(2) A listing of all electronic engine input and output signals (including those not monitored by the EMD system) that identifies which signals are monitored by the EMD system.

(g) Deficiencies. The Executive Officer may certify EMD systems installed on engines even though the systems do not comply with one or more of the requirements of title 13, CCR section 1971. In granting the certification, the Executive Officer shall consider the following factors: the extent to which the requirements of section 1971 are satisfied overall based on a review of the engine applications in question, the relative performance of the resultant EMD system compared to systems fully compliant with the requirements of section 1971, and a demonstrated good-faith effort on the part of the engine manufacturer to: (1) meet the requirements in full by evaluating and considering the best available monitoring technology; and (2) come into compliance as expeditiously as possible. Engine manufacturers shall not be subject to limitations on the number of granted deficiencies nor subject to fines for granted deficiencies.

¹Unless otherwise noted, all section references refer to section 1971 of title 13, CCR.

NOTE: Authority cited: Sections 39600, 39601, 43000.5, 43013, 43018, 43100, 43101 and 43104, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39018, 39021.5, 39024, 39024.5, 39027, 39027.3, 39028, 39029, 39031, 39032, 39032.5, 39033, 39035, 39037.05, 39037.5, 39038, 39039, 39040, 39042, 39042.5, 39046, 39047, 39053, 39054, 39058, 39059, 39060, 39515, 39600, 39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150, 43151, 43152, 43153, 43154, 43155, 43156, 43204, 43211 and 43212, Health and Safety Code.

[The next page is 236.20(z)(17).]

HISTORY

1. New section filed 12-27-2004; operative 1-26-2005 (Register 2004, No. 53).

§ 1971.1. On-Board Diagnostic System Requirements—2010 and Subsequent Model-Year Heavy-Duty Engines.

(a) Purpose. The purpose of this regulation is to establish emission standards and other requirements for onboard diagnostic systems (OBD systems) that are installed on 2010 and subsequent model-year engines certified for sale in heavy-duty applications in California. The OBD systems, through the use of an onboard computer(s), shall monitor emission systems in-use for the actual life of the engine and shall be capable of detecting malfunctions of the monitored emission systems, illuminating a malfunction indicator light (MIL) to notify the vehicle operator of detected malfunctions, and storing fault codes identifying the detected malfunctions.

(b) Applicability. Except as specified in section (d)(7) and elsewhere in this regulation (title 13, CCR section 1971.1), all 2010 and subsequent model-year heavy-duty engines shall be equipped with an OBD-system and shall meet all applicable requirements of this regulation (title 13, CCR section 1971.1).¹

(c) Definitions.

“Actual life” refers to the entire period that an engine is operated on public roads in California up to the time an engine is retired from use.

“Applicable standards” refers to the specific exhaust emission standards or family emission limits (FEL), including the Federal Test Procedure (FTP) and Supplemental Emission Test (SET) standards, to which the engine is certified.

“Base fuel schedule” refers to the fuel calibration schedule programmed into the Powertrain Control Module or programmable read-only memory (PROM) when manufactured or when updated by some off-board source, prior to any learned on-board correction.

“Auxiliary Emission Control Device (AECD)” refers to any approved AECD (as defined by 40 Code of Federal Regulations (CFR) 86.082-2).

“Calculated load value” refers to the percent of engine capacity being used and is defined in Society of Automotive Engineers (SAE) J1979 “E/E Diagnostic Test Modes — Equivalent to ISO/DIS 15031-5:April 30, 2002,” April 2002 (SAE J1979), incorporated by reference (section (h)(1.4)). For diesel applications, the calculated load value is determined by the ratio of current engine output torque to maximum engine output torque at current engine speed as defined by parameter definition 5.2.1.7 of SAE J1939-71.

“Confirmed fault code,” for purposes of engines using International Standards Organization (ISO) 15765-4, is defined as the diagnostic trouble code stored when an OBD system has confirmed that a malfunction exists (e.g., typically on the second driving cycle that the malfunction is detected) in accordance with the requirements of sections (d)(2), (f), (g), and (h)(4.4).

“Continuously,” if used in the context of monitoring conditions for circuit continuity, lack of circuit continuity, circuit faults, and out-of-range values, means sampling at a rate no less than two samples per second. If a computer input component is sampled less frequently for engine control purposes, the signal of the component may instead be evaluated each time sampling occurs.

“Deactivate” means to turn-off, shutdown, desensitize, or otherwise make inoperable through software programming or other means during the actual life of the engine.

“Diagnostic or emission critical” electronic control unit refers to the engine and any other on-board electronic powertrain control unit containing software that has primary control over any of the monitors required by sections (e)(1) through (f)(9), (g)(1) through (g)(2), and (g)(4) or has primary control over the diagnostics for more than two of the components required to be monitored by section (g)(3).

“Diesel engine” refers to an engine using a compression ignition thermodynamic cycle.

“Driving cycle” is defined as a trip that meets any of the four conditions below:

(a) Begins with engine start and ends with engine shutoff;
(b) Begins with engine start and ends after four hours of continuous engine-on operation;

(c) Begins at the end of the previous four hours of continuous engine-on operation and ends after four hours of continuous engine-on operation; or

(d) Begins at the end of the previous four hours of continuous engine-on operation and ends with engine shutoff.

For monitors that run during engine-off conditions, the period of engine-off time following engine shutoff and up to the next engine start may be considered part of the driving cycle for conditions (a) and (d). For vehicles that employ engine shutoff strategies that do not require the vehicle operator to restart the engine to continue driving (e.g., hybrid bus with engine shutoff at idle), the manufacturer may request Executive Officer approval to use an alternate definition for driving cycle (e.g., key on and key off). Executive Officer approval of the alternate definition shall be based on equivalence to engine startup and engine shutoff signaling the beginning and ending of a single driving event for a conventional vehicle. Engine restarts following an engine shut-off that has been neither commanded by the vehicle operator nor by the engine control strategy but caused by an event such as an engine stall may be considered a new driving cycle or a continuation of the existing driving cycle. For engines that are not likely to be routinely operated for long continuous periods of time, a manufacturer may also request Executive Officer approval to use an alternate definition for driving cycle (e.g., solely based on engine start and engine shutoff without regard to four hours of continuous engine-on time). Executive Officer approval of the alternate definition shall be based on manufacturer-submitted data and/or information demonstrating the typical usage, operating habits, and/or driving patterns of these vehicles.

“Engine family” means a grouping of vehicles or engines in a manufacturer’s product line determined in accordance with 40 CFR 86.098-24.

“Engine rating” means a unique combination of displacement, rated power, calibration (fuel, emission, and engine control), AECDs, and other engine and emission control components within an engine family.

“OBD parent rating” means the specific engine rating selected according to section (d)(7.1.1) or (d)(7.2.2)(B) for compliance with section 1971.1.

“OBD child rating” means an engine rating (other than the OBD parent rating) within the engine family containing the OBD parent rating selected according to section (d)(7.1.1) or an engine rating within the OBD group(s) defined according to section (d)(7.2.1) and subject to section (d)(7.2.3).

“Engine misfire” means lack of combustion in the cylinder due to absence of spark, poor fuel metering, poor compression, or any other cause. This does not include lack of combustion events in non-active cylinders due to default fuel shut-off or cylinder deactivation strategies.

“Engine start” is defined as the point when the engine reaches a speed 150 rpm below the normal, warmed-up idle speed (as determined in the drive position for vehicles equipped with an automatic transmission). For hybrid vehicles or for engines employing alternate engine start hardware or strategies (e.g., integrated starter and generators.), the manufacturer may request Executive Officer approval to use an alternate definition for engine start (e.g., ignition key “on”). Executive Officer approval of the alternate definition shall be based on equivalence to an engine start for a conventional vehicle.

“Family Emission Limit (FEL)” refers to the exhaust emission levels to which an engine family is certified under the averaging, banking, and trading program incorporated by reference in title 13, CCR section 1956.8.

“Fault memory” means information pertaining to malfunctions stored in the onboard computer, including fault codes, stored engine conditions, and MIL status.

“Federal Test Procedure (FTP) test” refers to an exhaust emission test conducted according to the test procedures incorporated by reference in

title 13, CCR section 1956.8(b) and (d) that is used to determine compliance with the FTP standard to which an engine is certified.

“FTP cycle”. For engines certified on an engine dynamometer, FTP cycle refers to the engine dynamometer schedule in 40 CFR appendix 1 of part 86, section (f)(1), entitled, “EPA Engine Dynamometer Schedule for Heavy-Duty Otto-Cycle Engines,” or section (f)(2), entitled, “EPA Engine Dynamometer Schedule for Heavy-Duty Diesel Engines.”

“FTP standard” refers to the certification exhaust emission standards and test procedures applicable to the FTP cycle incorporated by reference in title 13, CCR sections 1956.8(b) and (d) to which the engine is certified.

“Fuel trim” refers to feedback adjustments to the base fuel schedule. Short-term fuel trim refers to dynamic or instantaneous adjustments. Long-term fuel trim refers to much more gradual adjustments to the fuel calibration schedule than short-term trim adjustments.

“Functional check” for an output component or system means verification of proper response of the component and system to a computer command.

“Gasoline engine” refers to an Otto-cycle engine or an alternate-fueled engine.

“Heavy-duty engine” means an engine that is used to propel a heavy-duty vehicle.

“Heavy-duty vehicle” means any motor vehicle having a manufacturer’s gross vehicle weight rating (GVWR) greater than 14,000 pounds.

“Ignition Cycle” means a driving cycle that begins with engine start, meets the engine start definition for at least two seconds plus or minus one second, and ends with engine shutoff.

“Keep-alive memory (KAM),” for the purposes of this regulation, is defined as a type of memory that retains its contents as long as power is provided to the on-board control unit. KAM is not erased upon shutting off the engine but may be erased if power to the on-board control unit is interrupted (e.g., vehicle battery disconnected, fuse to control unit removed). In some cases, portions of KAM may be erased with a scan tool command to reset KAM.

“Key on, engine off position” refers to a vehicle with the ignition key in the engine run position (not engine crank or accessory position) but with the engine not running.

“Malfunction” means any deterioration or failure of a component that causes the performance to be outside of the applicable limits in sections (e) through (g).

“Manufacturer” for the purpose of this regulation means the holder of the Executive Order for the engine family.

“MIL-on fault code,” for purposes of engines using Society of Automotive Engineers (SAE) J1939, refers to the diagnostic trouble code stored when an OBD system has confirmed that a malfunction exists (e.g., typically on the second driving cycle that the malfunction is detected) and has commanded the MIL on in accordance with the requirements of sections (d)(2), (e), (g), and (h)(4.4).

“Not-To-Exceed (NTE) control area” refers to the bounded region of the engine’s torque and speed map, as defined in 40 CFR 86.1370–2007, where emissions must not exceed a specific emission cap for a given pollutant under the NTE requirement.

“Manufacturer-specific NOx NTE carve-out area” refers to regions within the NTE control area for NOx where the manufacturer has limited NTE testing as allowed by 40 CFR 86.1370–2001(b)(7).

“Manufacturer-specific PM NTE carve-out area” refers to regions within the NTE control area for PM where the manufacturer has limited NTE testing as allowed by 40 CFR 86.1370–2001(b)(7).

“NTE deficiency” refers to regions or conditions within the NTE control area for NOx or PM where the manufacturer has received a deficiency as allowed by 40 CFR 86.007–11(a)(4)(iv).

“Non-volatile random access memory (NVRAM),” for the purposes of this regulation, is defined as a type of memory that retains its contents even when power to the on-board control unit is interrupted (e.g., vehicle battery disconnected, fuse to control unit removed). NVRAM is typically made non-volatile either by use of a back-up battery within the control

unit or through the use of an electrically erasable and programmable read-only memory (EEPROM) chip.

“OBD group” refers to a combination of engines, engine families, or engine ratings that use the same OBD strategies and similar calibrations. A manufacturer is required to submit a grouping plan for Executive Officer review and approval detailing the OBD groups and the engine families and engine ratings within each group for a model year.

“Pending fault code” is defined as the diagnostic trouble code stored upon the initial detection of a malfunction (e.g., typically on a single driving cycle) prior to illumination of the MIL in accordance with the requirements of sections (d)(2), (e) through (g), and (h)(4.4).

“Permanent fault code” is defined as a confirmed or MIL-on fault code that is currently commanding the MIL on and is stored in NVRAM as specified in sections (d)(2) and (h)(4.4).

“Percentage of misfire” as used in sections (e)(2) and (f)(2) means the percentage of misfires out of the total number of firing events for the specified interval.

“Power Take-Off (PTO) unit” refers to an engine driven output provision for the purposes of powering auxiliary equipment (e.g., a dump-truck bed, aerial bucket, or tow-truck winch).

“Previously MIL-on fault code,” for purposes of engines using SAE J1939, is defined as the diagnostic trouble code stored when an OBD system has confirmed that a malfunction no longer exists (e.g., after the third consecutive driving cycle in which the corresponding monitor runs and the malfunction is not detected), extinguishes the MIL, and erases the corresponding MIL-on fault code in accordance with the requirements of sections (d)(2), (e), (g), and (h)(4.4).

“Rationality fault diagnostic” for an input component means verification of the accuracy of the input signal while in the range of normal operation and when compared to all other available information.

“Redline engine speed” shall be defined by the manufacturer as either the recommended maximum engine speed as normally displayed on instrument panel tachometers or the engine speed at which fuel shutoff occurs.

“Response rate” for exhaust gas sensors refers to the delay between a change in sensor output in response to a commanded change in the sensed exhaust gas parameter. Specifically, the response rate is the delay from the time when the exhaust gas sensor is exposed to an increase/decrease of the exhaust gas parameter to the time when the exhaust gas sensor indicates the increase/decrease of the sensed parameter (e.g., for an oxygen sensor, response rate is the delay from the time when the sensor is exposed to a change in exhaust gas from richer/leaner than stoichiometric to leaner/richer than stoichiometric to the time when the sensor indicates the lean/rich condition; for a NOx sensor, response rate is the delay from the time when the sensor is exposed to an increase/decrease in NOx concentration to the time when the sensor indicates the increased/decreased NOx concentration).

“Secondary air” refers to air introduced into the exhaust system by means of a pump or aspirator valve or other means that is intended to aid in the oxidation of HC and CO contained in the exhaust gas stream.

“Similar conditions” as used in sections (e)(2), (f)(1), and (f)(2) means engine conditions having an engine speed within 375 rpm, load conditions within 20 percent, and the same warm-up status (i.e., cold or hot) as the engine conditions stored pursuant to (e)(2.4.2)(C), (f)(1.4.5), and (f)(2.4.4). The Executive Officer may approve other definitions of similar conditions based on comparable timeliness and reliability in detecting similar engine operation.

“Start of production” is the time when the manufacturer has produced two percent of the projected volume for the engine or vehicle, whichever is being evaluated in accordance with section (I).

“Supplemental Emission Test (SET) cycle” refers to the driving schedule defined as the “supplemental steady state emission test” in 40 CFR 86.1360–2007.

“SET standard” refers to the certification exhaust emission standards and test procedures applicable to the SET cycle incorporated by refer-

ence in title 13, CCR sections 1956.8(b) and (d) to which the engine is certified.

“Warm-up cycle” means sufficient vehicle operation such that the coolant temperature has risen by at least 40 degrees Fahrenheit from engine start and reaches a minimum temperature of at least 160 degrees Fahrenheit (140 degrees Fahrenheit for applications with diesel engines).

“Weighted sales number” means a manufacturer’s projected sales number for engines to be used in California heavy-duty vehicles multiplied by a weight class factor. Sales numbers for engines for heavy-duty vehicles less than 19,499 pounds GVWR shall be multiplied by 1.0. Sales numbers for engines for heavy-duty vehicles from 19,500 to 33,000 pounds shall be multiplied by 1.68. Sales numbers for engines for heavy-duty vehicles greater than 33,000 pounds and urban buses shall be multiplied by 3.95.

(d) General Requirements

Section (d) sets forth the general requirements of the OBD system. Specific performance requirements for components and systems that shall be monitored are set forth in sections (e) through (g) below. The OBD system is required to detect all malfunctions specified in sections (e) through (g). However, except as specified elsewhere, the OBD system is not required to use a unique monitor to detect each malfunction specified.

(1) The OBD System.

(1.1) If a malfunction is present as specified in sections (e) through (g), the OBD system shall detect the malfunction, store a pending, confirmed, MIL-on, or previously MIL-on fault code in the onboard computer’s memory, and illuminate the MIL as required.

(1.2) The OBD system shall be equipped with a standardized data link connector to provide access to the stored fault codes as specified in section (h).

(1.3) The OBD system shall be designed to operate, without any required scheduled maintenance, for the actual life of the engine in which it is installed and may not be programmed or otherwise designed to deactivate based on age and/or mileage of the vehicle during the actual life of the engine. This section is not intended to alter existing law and enforcement practice regarding a manufacturer’s liability for an engine beyond its useful life, except where an engine has been programmed or otherwise designed so that an OBD system deactivates based on age and/or mileage of the engine.

(1.4) Computer-coded engine operating parameters may not be changeable without the use of specialized tools and procedures (e.g. soldered or potted computer components or sealed (or soldered) computer enclosures). Subject to Executive Officer approval, manufacturers may exempt from this requirement those product lines that are unlikely to require protection. Criteria to be evaluated in making an exemption include current availability of performance chips, performance capability of the engine, and sales volume.

(2) MIL and Fault Code Requirements.

(2.1) MIL Specifications.

(2.1.1) The MIL shall be located on the driver’s side instrument panel and be of sufficient illumination and location to be readily visible under all lighting conditions and shall be amber in color when illuminated. The MIL, when illuminated, shall display the International Standards Organization (ISO) engine symbol. There shall be only one MIL used to indicate all faults detected by the OBD system on a single vehicle.

(2.1.2) The MIL shall illuminate in the key on, engine off position before engine cranking to indicate that the MIL is functional. The MIL shall continuously illuminate during this functional check for a minimum of 15–20 seconds. During this functional check of the MIL, the data stream value for MIL status shall indicate commanded off (see section (h)(4.2)) unless the MIL has also been commanded on for a detected malfunction. This functional check of the MIL is not required during vehicle operation in the key on, engine off position subsequent to the initial engine cranking of an ignition cycle (e.g., due to an engine stall or other non-commanded engine shutoff).

(2.1.3) At the manufacturer’s option, the MIL may be used to indicate readiness status in a standardized format (see section (h)(4.1.3)) in the key on, engine off position.

(2.1.4) A manufacturer may request Executive Officer approval to also use the MIL to indicate which, if any, fault codes are currently stored (e.g., to “blink” the stored codes). The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated that the method used to indicate the fault codes will not be unintentionally activated during a California inspection test or during routine driver operation.

(2.1.5) The MIL may not be used for any purpose other than specified in this regulation.

(2.2) MIL Illumination and Fault Code Storage Protocol.

(2.2.1) For vehicles using the ISO 15765–4 protocol for the standardized functions required in section (h):

(A) Upon detection of a malfunction, the OBD system shall store a pending fault code within 10 seconds indicating the likely area of the malfunction.

(B) After storage of a pending fault code, if the identified malfunction is again detected before the end of the next driving cycle in which monitoring occurs, the OBD system shall illuminate the MIL continuously, keep the pending fault code stored, and store a confirmed fault code within 10 seconds. If a malfunction is not detected before the end of the next driving cycle in which monitoring occurs (i.e., there is no indication of the malfunction at any time during the driving cycle), the corresponding pending fault code set according to section (d)(2.2.1)(A) shall be erased at the end of the driving cycle.

(C) A manufacturer may request Executive Officer approval to employ alternate statistical MIL illumination and fault code storage protocols to those specified in these requirements. The Executive Officer shall grant approval upon determining that the manufacturer has provided data and/or engineering evaluation that demonstrate that the alternative protocols can evaluate system performance and detect malfunctions in a manner that is equally effective and timely. Strategies requiring on average more than six driving cycles for MIL illumination may not be accepted.

(D) The OBD system shall store and erase “freeze frame” conditions (as defined in section (h)(4.3)) present at the time a malfunction is detected. The storage and erasure of freeze frame conditions shall be done in conjunction with the storage and erasure of either pending or confirmed fault codes as required elsewhere in section (d)(2.2).

(E) The OBD system shall illuminate the MIL and store a confirmed fault code within 10 seconds to inform the vehicle operator whenever the engine enters a default or “limp home” mode of operation that can affect emissions or the performance of the OBD system or in the event of a malfunction of an on-board computer(s) itself that can affect the performance of the OBD system. If the default or “limp home” mode of operation is recoverable (i.e., operation automatically returns to normal at the beginning of the following ignition cycle), the OBD system may wait and illuminate the MIL and store the confirmed fault code only if the default or “limp home” mode of operation is again entered before the end of the next ignition cycle in lieu of illuminating the MIL within 10 seconds on the first driving cycle where the default or “limp home” mode of operation is entered.

(F) Before the end of an ignition cycle, the OBD system shall store confirmed fault codes that are currently causing the MIL to be illuminated in NVRAM as permanent fault codes (as defined in section (h)(4.4.1)(F)).

(2.2.2) For vehicles using the SAE J1939 protocol for the standardized functions required in section (h):

(A) Upon detection of a malfunction, the OBD system shall store a pending fault code within 10 seconds indicating the likely area of the malfunction.

(B) After storage of a pending fault code, if the identified malfunction is again detected before the end of the next driving cycle in which monitoring occurs, the OBD system shall illuminate the MIL continuously, keep the pending fault code stored, and store a confirmed fault code within 10 seconds.

toring occurs, the OBD system shall illuminate the MIL continuously, erase the pending fault code, and store a MIL-on fault code within 10 seconds. If a malfunction is not detected before the end of the next driving cycle in which monitoring occurs (i.e., there is no indication of the malfunction at any time during the driving cycle), the corresponding pending fault code set according to section (d)(2.2.2)(A) shall be erased at the end of the driving cycle.

(C) A manufacturer may request Executive Officer approval to employ alternate statistical MIL illumination and fault code storage protocols to those specified in these requirements. The Executive Officer shall grant approval upon determining that the manufacturer has provided data and/or engineering evaluation that demonstrate that the alternative protocols can evaluate system performance and detect malfunctions in a manner that is equally effective and timely. Strategies requiring on average more than six driving cycles for MIL illumination may not be accepted.

(D) Storage and erasure of freeze frame conditions.

(i) The OBD system shall store and erase "freeze frame" conditions (as defined in section (h)(4.3)) present at the time a malfunction is detected.

(ii) The OBD system shall store freeze frame conditions in conjunction with the storage of a pending fault code.

(iii) If the pending fault code is erased in the next driving cycle in which monitoring occurs and a malfunction is not detected (as described under section (d)(2.2.2)(B)), the OBD system may erase the corresponding freeze frame conditions.

(iv) If the pending fault code matures to a MIL-on fault code (as described under section (d)(2.2.2)(B)), the OBD system shall either retain the currently stored freeze frame conditions or replace the stored freeze frame conditions with freeze frame conditions regarding the MIL-on fault code. The OBD system shall erase the freeze frame information in conjunction with the erasure of the previously MIL-on fault code (as described under section (d)(2.3.2)(C)).

(E) The OBD system shall illuminate the MIL and store a MIL-on fault code within 10 seconds to inform the vehicle operator whenever the engine enters a default or "limp home" mode of operation that can affect emissions or the performance of the OBD system or in the event of a malfunction of an on-board computer(s) itself that can affect the performance of the OBD system. If the default or "limp home" mode of operation is recoverable (i.e., operation automatically returns to normal at the beginning of the following ignition cycle), the OBD system may wait and illuminate the MIL only if the default or "limp home" mode of operation is again entered before the end of the next ignition cycle in lieu of illuminating the MIL within 10 seconds on the first driving cycle where the default or "limp home" mode of operation is entered.

(F) Before the end of an ignition cycle, the OBD system shall store MIL-on fault codes that are currently causing the MIL to be illuminated in NVRAM as permanent fault codes (as defined in section (h)(4.4.2)(F)).

(2.3) MIL Extinguishing and Fault Code Erasure Protocol.

(2.3.1) For vehicles using the ISO 15765-4 protocol for the standardized functions required in section (h):

(A) Extinguishing the MIL. Except as otherwise provided in sections (f)(1.4.6), (f)(2.4.5), and (f)(7.4.2) for fuel system, misfire, and evaporative system malfunctions, once the MIL has been illuminated, it may be extinguished after three subsequent sequential driving cycles during which the monitoring system responsible for illuminating the MIL functions and the previously detected malfunction is no longer present provided no other malfunction has been detected that would independently illuminate the MIL according to the requirements outlined above.

(B) Erasing a confirmed fault code. The OBD system may erase a confirmed fault code if the identified malfunction has not been again detected in at least 40 engine warm-up cycles and the MIL is presently not illuminated for that malfunction.

(C) Erasing a permanent fault code. The OBD system shall erase a permanent fault code only if either of the following conditions occur:

(i) The OBD system itself determines that the malfunction that caused the confirmed fault code to be stored is no longer present and is not commanding the MIL on, concurrent with the requirements of section (d)(2.3.1)(A), or

(ii) Subsequent to a clearing of the fault information in the on-board computer (i.e., through the use of a scan tool or battery disconnect), the diagnostic for the malfunction that caused the permanent fault code to be stored has fully executed (i.e., has executed the minimum number of checks necessary for MIL illumination) and determined the malfunction is no longer present.

(2.3.2) For vehicles using the SAE J1939 protocol for the standardized functions required in section (h):

(A) Extinguishing the MIL. Except as otherwise provided in sections (e)(2.4.2)(D) and (e)(6.4.2) for misfire malfunctions and empty reductant tanks, once the MIL has been illuminated, it may be extinguished after three subsequent sequential driving cycles during which the monitoring system responsible for illuminating the MIL functions and the previously detected malfunction is no longer present provided no other malfunction has been detected that would independently illuminate the MIL according to the requirements outlined above.

(B) Erasing a MIL-on fault code. The OBD system may erase a MIL-on fault code in conjunction with extinguishing the MIL as described under section (d)(2.3.2)(A). In addition to the erasure of the MIL-on fault code, the OBD system shall store a previously MIL-on fault code for that failure.

(C) Erasing a previously MIL-on fault code. The OBD system may erase a previously MIL-on fault code if the identified malfunction has not been again detected in at least 40 engine warm-up cycles and the MIL is presently not illuminated for that malfunction.

(D) Erasing a permanent fault code. The OBD system shall erase a permanent fault code only if either of the following conditions occur:

(i) The OBD system itself determines that the malfunction that caused the MIL-on fault code to be stored is no longer present and is not commanding the MIL on, concurrent with the requirements of section (d)(2.3.2)(A), or

(ii) Subsequent to a clearing of the fault information in the on-board computer (i.e., through the use of a scan tool or battery disconnect), the diagnostic for the malfunction that caused the permanent fault code to be stored has fully executed (i.e., has executed the minimum number of checks necessary for MIL illumination) and determined the malfunction is no longer present.

(2.4) Exceptions to MIL and Fault Code Requirements.

(2.4.1) If the engine enters a default mode of operation, a manufacturer may request Executive Officer approval to be exempt from illuminating the MIL if any of the following conditions listed below occurs. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or engineering evaluation that verify the conditions below:

(A) The default strategy causes an overt indication (e.g., illumination of a red engine shut-down warning light) such that the driver is certain to respond and have the problem corrected; or

(B) The default strategy is an AECD that is properly activated due to the occurrence of conditions that have been approved by the Executive Officer.

(2.4.2) For gasoline engines, a manufacturer may elect to meet the MIL and fault code requirements in title 13, CCR section 1968.2(d)(2) in lieu of meeting the requirements of (d)(2).

(3) Monitoring Conditions.

Section (d)(3) sets forth the general monitoring requirements while sections (e) through (g) sets forth the specific monitoring requirements as well as identifies which of the following general monitoring requirements in section (d)(3) are applicable for each monitored component or system identified in sections (e) through (g).

(3.1) For all engines:

(3.1.1) As specifically provided for in sections (e) through (g), manufacturers shall define monitoring conditions, subject to Executive Officer approval, for detecting malfunctions identified in sections (e) through (g). The Executive Officer shall approve manufacturer-defined monitoring conditions that are determined (based on manufacturer-submitted data and/or other engineering documentation) to be: technically necessary to ensure robust detection of malfunctions (e.g., avoid false passes and false indications of malfunctions); designed to ensure monitoring will occur under conditions that may reasonably be expected to be encountered in normal vehicle operation and use; and designed to ensure monitoring will occur during the FTP cycle.

(3.1.2) Monitoring shall occur at least once per driving cycle in which the monitoring conditions are met.

(3.1.3) Manufacturers may request Executive Officer approval to define monitoring conditions that are not encountered during the FTP cycle as required in section (d)(3.1.1). In evaluating the manufacturer's request, the Executive Officer shall consider the degree to which the requirement to run during the FTP cycle restricts in-use monitoring, the technical necessity for defining monitoring conditions that are not encountered during the FTP cycle, data and/or an engineering evaluation submitted by the manufacturer which demonstrate that the component/system does not normally function, or monitoring is otherwise not feasible, during the FTP cycle, and, where applicable in section (d)(3.2), the ability of the manufacturer to demonstrate the monitoring conditions will satisfy the minimum acceptable in-use monitor performance ratio requirement as defined in section (d)(3.2).

(3.2) As specifically provided for in sections (e) through (g), manufacturers shall define monitoring conditions in accordance with the criteria in sections (d)(3.2.1) through (3.2.3).

(3.2.1) Manufacturers shall implement software algorithms in the OBD system to individually track and report in-use performance of the following monitors in the standardized format specified in section (d)(5):

- (A) NMHC converting catalyst (section (e)(5.3.1))
- (B) NOx converting catalyst (section (e)(6.3.1))
- (C) Catalyst (section (f)(6.3));
- (D) Exhaust gas sensor (sections (e)(9.3.1)(A) or (f)(8.3.1)(A));
- (E) Evaporative system (section (f)(7.3.2));
- (F) EGR system (sections (e)(3.3.2) and (3.3.3) or (f)(3.3.1)) and VVT system (sections (e)(10.3) or (f)(9.3));
- (G) Secondary air system (section (f)(5.3.1));
- (H) PM filter (section (e)(8.3));
- (I) Boost pressure control system (sections (e)(4.3.2) and (e)(4.3.3)); and
- (J) NOx adsorber (section (e)(7.3.1)).

The OBD system is not required to track and report in-use performance for monitors other than those specifically identified above.

(3.2.2) For all 2013 and subsequent model year engines, manufacturers shall define monitoring conditions that, in addition to meeting the criteria in sections (d)(3.1) and (d)(3.2.1), ensure that the monitor yields an in-use performance ratio (as defined in section (d)(4)) that meets or exceeds the minimum acceptable in-use monitor performance ratio for in-use vehicles. For purposes of this regulation, the minimum acceptable in-use monitor performance ratio is 0.100 for all monitors specifically required in sections (e) through (g) to meet the monitoring condition requirements of section (d)(3.2).

(3.2.3) Manufacturers may not use the calculated ratio (or any element thereof) or any other indication of monitor frequency as a monitoring condition for a monitor (e.g., using a low ratio to enable more frequent monitoring through diagnostic executive priority or modification of other monitoring conditions, or using a high ratio to enable less frequent monitoring).

(3.2.4) Upon request of a manufacturer or upon the best engineering judgment of the ARB, the Executive Officer may revise the minimum acceptable in-use monitoring performance ratio specified in section (d)(3.2.2) for a specific monitor if the most reliable monitoring method developed requires a lower ratio.

(4) In-Use Monitor Performance Ratio Definition.

(4.1) For monitors required to meet the requirements in section (d)(3.2), the ratio shall be calculated in accordance with the following specifications for the numerator, denominator, and ratio.

(4.2) Numerator Specifications

(4.2.1) Definition: The numerator is defined as a measure of the number of times a vehicle has been operated such that all monitoring conditions necessary for a specific monitor to detect a malfunction have been encountered.

(4.2.2) Specifications for incrementing:

(A) Except as provided for in section (d)(4.2.2)(E), the numerator, when incremented, shall be incremented by an integer of one. The numerator may not be incremented more than once per driving cycle.

(B) The numerator for a specific monitor shall be incremented within 10 seconds if and only if the following criteria are satisfied on a single driving cycle:

(i) Every monitoring condition necessary for the monitor of the specific component to detect a malfunction and store a pending fault code has been satisfied, including enable criteria, presence or absence of related fault codes, sufficient length of monitoring time, and diagnostic executive priority assignments (e.g., diagnostic "A" must execute prior to diagnostic "B"). For the purpose of incrementing the numerator, satisfying all the monitoring conditions necessary for a monitor to determine the component is passing may not, by itself, be sufficient to meet this criteria.

(ii) For monitors that require multiple stages or events in a single driving cycle to detect a malfunction, every monitoring condition necessary for all events to have completed must be satisfied.

(iii) For monitors that require intrusive operation of components to detect a malfunction, a manufacturer shall request Executive Officer approval of the strategy used to determine that, had a malfunction been present, the monitor would have detected the malfunction. Executive Officer approval of the request shall be based on the equivalence of the strategy to actual intrusive operation and the ability of the strategy to accurately determine if every monitoring condition necessary for the intrusive event to occur was satisfied.

(iv) For the secondary air system monitor, the criteria in sections (d)(4.2.2)(B)(i) through (iii) above are satisfied during normal operation of the secondary air system. Monitoring during intrusive operation of the secondary air system later in the same driving cycle solely for the purpose of monitoring may not, by itself, be sufficient to meet this criteria.

(C) For monitors that can generate results in a "gray zone" or "non-detection zone" (i.e., results that indicate neither a passing system nor a malfunctioning system) or in a "non-decision zone" (e.g., monitors that increment and decrement counters until a pass or fail threshold is reached), the manufacturer shall submit a plan for appropriate incrementing of the numerator to the Executive Officer for review and approval. In general, the Executive Officer shall not approve plans that allow the numerator to be incremented when the monitor indicates a result in the "non-detection zone" or prior to the monitor reaching a decision. In reviewing the plan for approval, the Executive Officer shall consider data and/or engineering evaluation submitted by the manufacturer demonstrating the expected frequency of results in the "non-detection zone" and the ability of the monitor to accurately determine if a monitor would have detected a malfunction instead of a result in the "non-detection zone" had an actual malfunction been present.

(D) For monitors that run or complete during engine-off operation, the numerator shall be incremented within 10 seconds after the monitor has completed during engine-off operation or during the first 10 seconds of engine start on the subsequent driving cycle.

(E) Manufacturers utilizing alternate statistical MIL illumination protocols as allowed in sections (d)(2.2.1)(C) and (d)(2.2.2)(C) for any of the monitors requiring a numerator shall submit a plan for appropriate incrementing of the numerator to the Executive Officer for review and approval. Executive Officer approval of the plan shall be conditioned upon the manufacturer providing supporting data and/or engineering evaluation demonstrating the equivalence of the incrementing in the manufacturer's

plan to the incrementing specified in section (d)(4.2.2) for monitors using the standard MIL illumination protocol and the overall equivalence of the manufacturer's plan in determining that the minimum acceptable in-use performance ratio in section (d)(3.2) is satisfied.

(4.3) Denominator Specifications

(4.3.1) Definition: The denominator is defined as a measure of the number of times a vehicle has been operated as defined in (d)(4.3.2).

(4.3.2) Specifications for incrementing:

(A) The denominator, when incremented, shall be incremented by an integer of one. The denominator may not be incremented more than once per driving cycle.

(B) The denominator for each monitor shall be incremented within 10 seconds if and only if the following criteria are satisfied on a single driving cycle:

(i) Cumulative time since start of driving cycle is greater than or equal to 600 seconds while at an elevation of less than 8,000 feet above sea level and at an ambient temperature of greater than or equal to 20 degrees Fahrenheit;

(ii) Cumulative gasoline engine operation at or above 25 miles per hour or diesel engine operation at or above 15% calculated load, either of which occurs for greater than or equal to 300 seconds while at an elevation of less than 8,000 feet above sea level and at an ambient temperature of greater than or equal to 20 degrees Fahrenheit; and

(iii) Continuous vehicle operation at idle (e.g., accelerator pedal released by driver and vehicle speed less than or equal to one mile per hour) for greater than or equal to 30 seconds while at an elevation of less than 8,000 feet above sea level and at an ambient temperature of greater than or equal to 20 degrees Fahrenheit.

(C) In addition to the requirements of section (d)(4.3.2)(B) above, the evaporative system monitor denominator(s) shall be incremented if and only if:

(i) Cumulative time since start of driving cycle is greater than or equal to 600 seconds while at an ambient temperature of greater than or equal to 40 degrees Fahrenheit but less than or equal to 95 degrees Fahrenheit; and

(ii) Engine cold start occurs with engine coolant temperature at engine start greater than or equal to 40 degrees Fahrenheit but less than or equal to 95 degrees Fahrenheit and less than or equal to 12 degrees Fahrenheit higher than ambient temperature at engine start.

(D) In addition to the requirements of section (d)(4.3.2)(B) above, the denominator(s) for the following monitors shall be incremented if and only if the component or strategy is commanded "on" for a time greater than or equal to 10 seconds:

(i) Secondary Air System (section (f)(5))

(ii) Cold Start Emission Reduction Strategy (section (f)(4))

(iii) Components or systems that operate only at engine start-up (e.g., glow plugs, intake air heaters) and are subject to monitoring under "other emission control systems" (section (g)(4)) or comprehensive component output components (section (g)(3))

For purposes of determining this commanded "on" time, the OBD system may not include time during intrusive operation of any of the components or strategies later in the same driving cycle solely for the purposes of monitoring.

(E) In addition to the requirements of section (d)(4.3.2)(B) above, the denominator(s) for the following monitors of output components (except those operated only at engine start-up and subject to the requirements of the previous section (d)(4.3.2)(D)) shall be incremented if and only if the component is commanded to function (e.g., commanded "on", "open", "closed", "locked") on two or more occasions during the driving cycle or for a time greater than or equal to 10 seconds, whichever occurs first:

(i) Variable valve timing and/or control system (sections (e)(10) or (f)(9))

(ii) "Other emission control systems" (section (g)(4))

(iii) Comprehensive component output component (section (g)(3)) (e.g., turbocharger waste-gates, variable length manifold runners)

(F) For monitors of the following components, the manufacturer may request Executive Officer approval to use alternate or additional criteria to that set forth in section (d)(4.3.2)(B) above for incrementing the denominator. Executive Officer approval of the proposed criteria shall be based on the equivalence of the proposed criteria in measuring the frequency of monitor operation relative to the amount of vehicle operation in accordance with the criteria in section (d)(4.3.2)(B) above:

(i) Engine cooling system input components (section (g)(1))

(ii) "Other emission control systems" (section (g)(4))

(iii) Comprehensive component input components that require extended monitoring evaluation (section (g)(3)) (e.g., stuck fuel level sensor rationality)

(G) For monitors of the following components or other emission controls that experience infrequent regeneration events, the manufacturer may request Executive Officer approval to use alternate or additional criteria to that set forth in section (d)(4.3.2)(B) above for incrementing the denominator. Executive Officer approval of the proposed criteria shall be based on the effectiveness of the proposed criteria in measuring the frequency of monitor operation relative to the amount of vehicle operation:

(i) Oxidation catalyst (section (e)(5))

(ii) Particulate matter filters (section (e)(8))

(H) For hybrid vehicles, vehicles that employ alternate engine start hardware or strategies (e.g., integrated starter and generators), or alternate fuel vehicles (e.g., dedicated, bi-fuel, or dual-fuel applications), the manufacturer may request Executive Officer approval to use alternate criteria to that set forth in section (d)(4.3.2)(B) above for incrementing the denominator. In general, the Executive Officer shall not approve alternate criteria for vehicles that only employ engine shut off at or near idle/vehicle stop conditions. Executive Officer approval of the alternate criteria shall be based on the equivalence of the alternate criteria to determine the amount of vehicle operation relative to the measure of conventional vehicle operation in accordance with the criteria in section (d)(4.3.2)(B) above.

(4.4) Ratio Specifications

(4.4.1) Definition: The ratio is defined as the numerator divided by the denominator.

(4.5) Disablement of Numerators and Denominators

(4.5.1) Within 10 seconds of a malfunction being detected (i.e., a pending, confirmed, or MIL-on fault code being stored) that disables a monitor required to meet the monitoring conditions in section (d)(3.2), the OBD system shall disable further incrementing of the corresponding numerator and denominator for each monitor that is disabled. When the malfunction is no longer detected (e.g., the pending code is erased through self-clearing or through a scan tool command), incrementing of all corresponding numerators and denominators shall resume within 10 seconds.

(4.5.2) Within 10 seconds of the start of a PTO (see section (c)) operation that disables a monitor required to meet the monitoring conditions in section (d)(3.2), the OBD system shall disable further incrementing of the corresponding numerator and denominator for each monitor that is disabled. When the PTO operation ends, incrementing of all corresponding numerators and denominators shall resume within 10 seconds.

(4.5.3) The OBD system shall disable further incrementing of all numerators and denominators within 10 seconds if a malfunction of any component used to determine if the criteria in sections (d)(4.3.2)(B) through (C) are satisfied (i.e., vehicle speed/calculated load, ambient temperature, elevation, idle operation, engine cold start, or time of operation) has been detected and the corresponding pending fault code has been stored. Incrementing of all numerators and denominators shall resume within 10 seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(5) Standardized tracking and reporting of monitor performance.

(5.1) For monitors required to track and report in-use monitor performance in section (d)(3.2), the performance data shall be tracked and reported in accordance with the specifications in sections (d)(4), (d)(5), and

(h)(5.1). The OBD system shall separately report an in-use monitor performance numerator and denominator for each of the following components:

(5.1.1) For diesel engines, NMHC catalyst bank 1, NMHC catalyst bank 2, NOx catalyst bank 1, NOx catalyst bank 2, exhaust gas sensor bank 1, exhaust gas sensor bank 2, EGR/VVT system, PM filter, boost pressure control system, and NOx adsorber. The OBD system shall also report a general denominator and an ignition cycle counter in the standardized format specified in sections (d)(5.5), (d)(5.6), and (h)(5.1).

(5.1.2) For gasoline engines, catalyst bank 1, catalyst bank 2, oxygen sensor bank 1, oxygen sensor bank 2, evaporative leak detection system, EGR/VVT system, and secondary air system. The OBD system shall also report a general denominator and an ignition cycle counter in the standardized format specified in sections (d)(5.5), (d)(5.6), and (h)(5.1).

(5.2) Numerator

(5.2.1) The OBD system shall report a separate numerator for each of the components listed in section (d)(5.1).

(5.2.2) For specific components or systems that have multiple monitors that are required to be reported under section (e) (e.g., exhaust gas sensor bank 1 may have multiple monitors for sensor response or other sensor characteristics), the OBD system shall separately track numerators and denominators for each of the specific monitors and report only the corresponding numerator and denominator for the specific monitor that has the lowest numerical ratio. If two or more specific monitors have identical ratios, the corresponding numerator and denominator for the specific monitor that has the highest denominator shall be reported for the specific component.

(5.2.3) The numerator(s) shall be reported in accordance with the specifications in section (h)(5.1.2)(A).

(5.3) Denominator

(5.3.1) The OBD system shall report a separate denominator for each of the components listed in section (d)(5.1).

(5.3.2) The denominator(s) shall be reported in accordance with the specifications in section (h)(5.1.2)(A).

(5.4) Ratio

(5.4.1) For purposes of determining which corresponding numerator and denominator to report as required in section (d)(5.2.2), the ratio shall be calculated in accordance with the specifications in section (h)(5.1.2)(B).

(5.5) Ignition cycle counter

(5.5.1) Definition:

(A) The ignition cycle counter is defined as a counter that indicates the number of ignition cycles a vehicle has experienced as defined in section (d)(5.5.2)(B).

(B) The ignition cycle counter shall be reported in accordance with the specifications in section (h)(5.1.2)(A).

(5.5.2) Specifications for incrementing:

(A) The ignition cycle counter, when incremented, shall be incremented by an integer of one. The ignition cycle counter may not be incremented more than once per ignition cycle.

(B) The ignition cycle counter shall be incremented within 10 seconds if and only if the engine exceeds an engine speed of 50 to 150 rpm below the normal, warmed-up idle speed (as determined in the drive position for vehicles equipped with an automatic transmission) for at least two seconds plus or minus one second.

(C) The OBD system shall disable further incrementing of the ignition cycle counter within 10 seconds if a malfunction of any component used to determine if the criteria in section (d)(5.5.2)(B) are satisfied (i.e., engine speed or time of operation) has been detected and the corresponding pending fault code has been stored. The ignition cycle counter may not be disabled from incrementing for any other condition. Incrementing of the ignition cycle counter shall resume within 10 seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(5.6) General Denominator

(5.6.1) Definition:

(A) The general denominator is defined as a measure of the number of times a vehicle has been operated as defined in section (d)(5.6.2)(B).

(B) The general denominator shall be reported in accordance with the specifications in section (h)(5.1.2)(A).

(5.6.2) Specifications for incrementing:

(A) The general denominator, when incremented, shall be incremented by an integer of one. The general denominator may not be incremented more than once per driving cycle.

(B) The general denominator shall be incremented within 10 seconds if and only if the criteria identified in section (d)(4.3.2)(B) are satisfied on a single driving cycle.

(C) The OBD system shall disable further incrementing of the general denominator within 10 seconds if a malfunction of any component used to determine if the criteria in section (d)(4.3.2)(B) are satisfied (i.e., vehicle speed/load, ambient temperature, elevation, idle operation, or time of operation) has been detected and the corresponding pending fault code has been stored. The general denominator may not be disabled from incrementing for any other condition (e.g., the disablement criteria in sections (d)(4.5.1) and (d)(4.5.2) may not disable the general denominator). Incrementing of the general denominator shall resume within 10 seconds when the malfunction is no longer present (e.g., pending code erased through self-clearing or by a scan tool command).

(6) Malfunction Criteria Determination.

(6.1) In determining the malfunction criteria for diesel engine monitors in sections (e) and (g) that are required to indicate a malfunction before emissions exceed an emission threshold based on any applicable standard (e.g., 2.0 times any of the applicable standards), the manufacturer shall:

(6.1.1) Use the emission test cycle and standard (i.e., FTP or SET) determined by the manufacturer to be more stringent (i.e., to result in higher emissions with the same level of monitored component malfunction). The manufacturer shall use data and/or engineering analysis to determine the test cycle and standard that is more stringent.

(6.1.2) Identify in the certification documentation required under section (j), the test cycle and standard determined by the manufacturer to be the most stringent for each applicable monitor.

(6.1.3) If the Executive Officer reasonably believes that a manufacturer has incorrectly determined the test cycle and standard that is most stringent, the Executive Officer shall require the manufacturer to provide emission data and/or engineering analysis showing that the other test cycle and standard are less stringent.

(6.2) On engines equipped with emission controls that experience infrequent regeneration events, a manufacturer shall adjust the emission test results that are used to determine the malfunction criterion for monitors that are required to indicate a malfunction before emissions exceed a certain emission threshold (e.g., 2.0 times any of the applicable standards). For each monitor, the manufacturer shall adjust the emission result using the procedure described in CFR title 40, part 86.004–28(i) with the component for which the malfunction criteria is being established deteriorated to the malfunction threshold. The adjusted emission value shall be used for purposes of determining whether or not the specified emission threshold is exceeded (e.g., a malfunction must be detected before the adjusted emission value exceeds 2.0 times any applicable standard).

(6.2.1) For purposes of section (d)(6.2), “regeneration” means an event during which emissions levels change while the emission control performance is being restored by design.

(6.2.2) For purposes of section (d)(6.2), “infrequent” means having an expected frequency of less than once per FTP cycle.

(6.3) In lieu of meeting the malfunction criteria for gasoline engine monitors in sections (f) and (g), the manufacturer may request Executive Officer approval to utilize OBD systems certified to the requirements of title 13, CCR section 1968.2 on medium-duty engines or vehicles. The Executive Officer shall approve the request upon finding that the manufacturer has used good engineering judgment in determining equivalent malfunction detection criteria on the heavy-duty engine.

(7) Implementation Schedule

(7.1) Except as specified in sections (d)(7.4) and (d)(7.5) for small volume manufacturers and alternate-fueled engines, for the 2010 through 2012 model year engines:

(7.1.1) Full OBD. Except as specified in section (d)(7.1.3) below, a manufacturer shall implement an OBD system meeting the requirements of section 1971.1 on one engine rating (i.e., the OBD parent rating) within one of the manufacturer's engine families. The OBD parent rating shall be from the manufacturer's heavy-duty engine family with the highest weighted sales number for the 2010 model year and shall be the engine rating with the highest weighted sales number within that engine family.

(7.1.2) Extrapolated OBD. For all other engine ratings within the engine family selected according to section (d)(7.1.1) (i.e., the OBD child ratings), except as specified in section (d)(7.1.3) below, a manufacturer shall implement an OBD system meeting the requirements of section 1971.1 with the exception that the OBD system is not required to detect a malfunction prior to exceeding the emission thresholds specified in the malfunction criteria in sections (e) through (g). In lieu of detecting a malfunction prior to exceeding the emission thresholds, a manufacturer shall submit a plan for Executive Officer review and approval detailing the engineering evaluation the manufacturer will use to establish the malfunction criteria for the OBD child ratings. The Executive Officer shall approve the plan upon determining that the manufacturer is using good engineering judgment to establish the malfunction criteria for robust detection of malfunctions, including consideration of differences of base engine, calibration, emission control components, and emission control strategies.

(7.1.3) For all engine ratings (i.e., OBD parent and OBD child ratings) within the engine family selected according to (d)(7.1.1):

(A) The OBD system is exempt from having to comply with the standardization requirements set forth in the incorporated documents to this regulation (e.g., SAE J1939 defined format) within the following sections:

- (i) (d)(1.2) and (h)(2) (standardized connector)
- (ii) (d)(2.1.1) and (2.1.5) (dedicated standardized MIL)
- (iii) (h)(3) (communication protocol)
- (iv) (h)(4) (standardized communication functions with respect to the requirements to make the data available in a standardized format or in accordance with SAE J1979/1939 specifications)

(v) (h)(5.1.1) and (h)(5.2.1) with respect to the requirements to make the data available in a standardized format or in accordance with SAE J1979/1939 specifications.

(B) The OBD system shall meet the requirements of either sections (d)(2.2.1) and (2.3.1) or (d)(2.2.2) and (2.3.2) regardless of the communication protocol (e.g., standardized, proprietary) used by the OBD system.

(7.1.4) Engine Manufacturer Diagnostic (EMD) Systems. For all engine ratings in the manufacturer's engine families not selected according to section (d)(7.1.1), a manufacturer shall:

(A) Implement an EMD system meeting the requirements of title 13, CCR section 1971 in lieu of meeting the requirements of section 1971.1; and

(B) Monitor the NOx aftertreatment (i.e., catalyst, adsorber) on engines so-equipped. A malfunction shall be detected if:

- (i) The NOx aftertreatment system has no detectable amount of NOx aftertreatment capability (i.e., NOx catalyst conversion or NOx adsorption);
- (ii) The NOx aftertreatment substrate is completely destroyed, removed, or missing; or
- (iii) The NOx aftertreatment assembly is replaced with a straight pipe.

(7.2) Except as specified in section (d)(7.5) for alternate-fueled engines, for the 2013 through 2015 model year engines:

(7.2.1) A manufacturer shall be required to define one or more OBD groups to cover all engine ratings in all engine families.

(7.2.2) Full OBD. A manufacturer shall implement an OBD system meeting the requirements of section 1971.1:

(A) On all engine ratings (i.e., OBD parent and OBD child ratings) within the engine family selected according to section (d)(7.1.1); and

(B) On one engine rating (i.e., OBD parent rating) within each of the manufacturer's OBD groups. The OBD parent rating shall be the engine rating with the highest weighted sales number for the 2013 model year within each OBD group.

(7.2.3) Extrapolated OBD. For all engine ratings not subject to section (d)(7.2.2) (i.e., OBD child ratings), a manufacturer shall implement an OBD system meeting the requirements of section 1971.1 with the exception that the OBD system is not required to detect a malfunction prior to exceeding the emission thresholds specified in the malfunction criteria in sections (e) through (g). In lieu of detecting a malfunction prior to exceeding the emission thresholds, a manufacturer shall submit a plan for Executive Officer review and approval detailing the engineering evaluation the manufacturer will use to establish the malfunction criteria for the OBD child ratings. The Executive Officer shall approve the plan upon determining that the manufacturer is using good engineering judgment to establish the malfunction criteria for robust detection of malfunctions, including consideration of differences of base engine, calibration, emission control components, and emission control strategies.

(7.3) Except as specified in section (d)(7.5) for alternate-fueled engines, for the 2016 and subsequent model year engines:

(7.3.1) A manufacturer shall implement an OBD system meeting the requirements of section 1971.1 on all engine ratings in all engine families.

(7.4) Small volume manufacturers shall be exempt from the requirements of section 1971.1 for 2010 through 2012 model year engines. For purposes of this requirement, a small volume manufacturer is defined as a manufacturer with projected engine sales for California heavy-duty vehicles of less than 1200 engines per year for the 2010 model year.

(7.5) For alternate-fueled engines:

(7.5.1) For 2010 through 2012 model year engines, a manufacturer shall be exempt from the requirements of section 1971.1.

(7.5.2) For 2013 through 2019 model year engines, the manufacturer shall:

(A) Implement an EMD system meeting the requirements of title 13, CCR section 1971 in lieu of meeting the requirements of section 1971.1; and

(B) Monitor the NOx aftertreatment (i.e., catalyst, adsorber) on engines so-equipped. A malfunction shall be detected if:

- (i) The NOx aftertreatment system has no detectable amount of NOx aftertreatment capability (i.e., NOx catalyst conversion or NOx adsorption);
- (ii) The NOx aftertreatment substrate is completely destroyed, removed, or missing; or
- (iii) The NOx aftertreatment assembly is replaced with a straight pipe.

(7.5.3) For 2020 and subsequent model year engines, a manufacturer shall implement an OBD system meeting the requirements of section 1971.1.

(e) Monitoring Requirements For Diesel/Compression-Ignition Engines

(1) Fuel System Monitoring

(1.1) Requirement:

The OBD system shall monitor the fuel delivery system to determine its ability to comply with emission standards. The individual electronic components (e.g., actuators, valves, sensors, pumps) that are used in the fuel system and not specifically addressed in this section shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(1.2) Malfunction Criteria:

(1.2.1) Fuel system pressure control: The OBD system shall detect a malfunction of the fuel system pressure control system (e.g., fuel, hydraulic fluid) when the fuel system pressure control system is unable to

maintain an engine's NMHC, NO_x, or CO emissions at or below 2.0 times the applicable standards or the engine's PM emissions at or below the applicable standard plus 0.02 grams per brake horsepower-hour (g/bhp-hr). For engines in which no failure or deterioration of the fuel system pressure control could result in an engine's emissions exceeding these emission levels, the OBD system shall detect a malfunction when the system has reached its control limits such that the commanded fuel system pressure cannot be delivered.

(1.2.2) Injection quantity: The OBD system shall detect a malfunction of the fuel injection system when the system is unable to deliver the commanded quantity of fuel necessary to maintain an engine's NMHC, CO, and NO_x emissions at or below 2.0 times the applicable standards or the engine's PM emissions at or below the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the fuel injection quantity could result in an engine's emissions exceeding these emission levels, the OBD system shall detect a malfunction when the system has reached its control limits such that the commanded fuel quantity cannot be delivered.

(1.2.3) Injection Timing: The OBD system shall detect a malfunction of the fuel injection system when the system is unable to deliver fuel at the proper crank angle/timing (e.g., injection timing too advanced or too retarded) necessary to maintain an engine's NMHC, CO, and NO_x emissions at or below 2.0 times the applicable standards or the engine's PM emissions at or below the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the fuel injection timing could result in an engine's emissions exceeding these emission levels, the OBD system shall detect a malfunction when the system has reached its control limits such that the commanded fuel injection timing cannot be achieved.

(1.2.4) Feedback control: Except as provided for in section (e)(1.2.5), if the engine is equipped with feedback control of the fuel system (e.g., feedback control of pressure or pilot injection quantity), the OBD system shall detect a malfunction:

(A) If the system fails to begin feedback control within a manufacturer specified time interval;

(B) If a failure or deterioration causes open loop or default operation; or

(C) If feedback control has used up all of the adjustment allowed by the manufacturer.

(1.2.5) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(1.2.4)(C) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(1.2.6) In lieu of detecting the malfunctions specified in sections (e)(1.2.4)(A) and (B) with a fuel system-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for fuel system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(1.2.4)(A) and (B).

(1.3) Monitoring Conditions:

(1.3.1) The OBD system shall monitor continuously for malfunctions identified in sections (e)(1.2.1) and (e)(1.2.4) (i.e., fuel pressure control and feedback operation).

(1.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(1.2.2) and (e)(1.2.3) (i.e., injection quantity and timing) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(1.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(2) Misfire Monitoring

(2.1) Requirement:

(2.1.1) The OBD system shall monitor the engine for misfire causing excess emissions. The OBD system shall be capable of detecting misfire occurring in one or more cylinders. To the extent possible without adding hardware for this specific purpose, the OBD system shall also identify the specific misfiring cylinder.

(2.1.2) If more than one cylinder is continuously misfiring, a separate fault code shall be stored indicating that multiple cylinders are misfiring. When identifying multiple cylinder misfire, the manufacturer OBD system is not required to also identify each of the continuously misfiring cylinders individually through separate fault codes.

(2.2) Malfunction Criteria:

(2.2.1) The OBD system shall detect a misfire malfunction when one or more cylinders are continuously misfiring.

(2.2.2) Additionally, for 2013 and subsequent model year engines equipped with sensors that can detect combustion or combustion quality (e.g., for use in homogeneous charge compression ignition (HCCI) control systems), the OBD system shall detect a misfire malfunction causing the engine's NMHC, CO, or NO_x emissions to exceed 2.0 times the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr.

(A) Manufacturers shall determine the percentage of misfire evaluated in 1000 revolution increments that would cause NMHC, CO, or NO_x emissions from an emission durability demonstration engine to exceed 2.0 times any of the applicable standards or PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr if the percentage of misfire were present from the beginning of the test. To establish this percentage of misfire, the manufacturer shall utilize misfire events occurring at equally spaced, complete engine cycle intervals, across randomly selected cylinders throughout each 1000-revolution increment. If this percentage of misfire is determined to be lower than one percent, the manufacturer may set the malfunction criteria at one percent.

(B) Subject to Executive Officer approval, a manufacturer may employ other revolution increments. The Executive Officer shall grant approval upon determining that the manufacturer has demonstrated that the strategy would be equally effective and timely in detecting misfire.

(2.2.3) A malfunction shall be detected if the percentage of misfire established in section (e)(2.2.2)(A) is exceeded regardless of the pattern of misfire events (e.g., random, equally spaced, continuous).

(2.3) Monitoring Conditions:

(2.3.1) The OBD system shall monitor for misfire during engine idle conditions at least once per driving cycle in which the monitoring conditions for misfire are met. A manufacturer shall submit monitoring conditions to the Executive Officer for approval. The Executive Officer shall approve manufacturer-defined monitoring conditions that are determined (based on manufacturer-submitted data and/or other engineering documentation) to: (i) be technically necessary to ensure robust detection of malfunctions (e.g., avoid false passes and false detection of malfunctions), (ii) require no more than 1000 cumulative engine revolutions, and (iii) do not require any single continuous idle operation of more than 15 seconds to make a determination that a malfunction is present (e.g., a decision can be made with data gathered during several idle operations of 15 seconds or less); or satisfy the requirements of (d)(3.1) with alternate engine operating conditions.

(2.3.2) Manufacturers may request Executive Officer approval to use alternate monitoring conditions (e.g., off-idle). The Executive Officer shall approve alternate monitoring conditions that are determined (based on manufacturer-submitted data and/or other engineering documentation) to ensure equivalent robust detection of malfunctions and equivalent timeliness in detection of malfunctions.

(2.3.3) Additionally, for 2013 and subsequent model year engines equipped with sensors that can detect combustion or combustion quality:

(A) The OBD system shall continuously monitor for misfire under all positive torque engine speeds and load conditions.

(B) If a monitoring system cannot detect all misfire patterns under all required engine speed and load conditions as required in section (e)(2.3.2)(A), the manufacturer may request Executive Officer approval

to accept the monitoring system. In evaluating the manufacturer's request, the Executive Officer shall consider the following factors: the magnitude of the region(s) in which misfire detection is limited, the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events), the frequency with which said region(s) are expected to be encountered in-use, the type of misfire patterns for which misfire detection is troublesome, and demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines). The evaluation shall be based on the following misfire patterns: equally spaced misfire occurring on randomly selected cylinders, single cylinder continuous misfire, and paired cylinder (cylinders firing at the same crank angle) continuous misfire.

(2.4) MIL Illumination and Fault Code Storage:

(2.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(2.4.2) Additionally, for 2013 and subsequent model year engines equipped with sensors that can detect combustion or combustion quality:

(A) Upon detection of the percentage of misfire specified in section (e)(2.2.2)(A), the following criteria shall apply for MIL illumination and fault code storage:

(i) A pending fault code shall be stored no later than after the fourth exceedance of the percentage of misfire specified in section (e)(2.2.2) during a single driving cycle.

(ii) If a pending fault code is stored, the OBD system shall illuminate the MIL and store a confirmed/MIL-on fault code within 10 seconds if the percentage of misfire specified in section (e)(2.2.2) is again exceeded four times during: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(iii) The pending fault code may be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the next 80 driving cycles immediately following initial detection of the malfunction.

(B) Storage of freeze frame conditions.

(i) The OBD system shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing a confirmed/MIL-on fault code and erasing a confirmed/previously MIL-on fault code.

(ii) If freeze frame conditions are stored for a malfunction other than a misfire malfunction when a fault code is stored as specified in section (e)(2.4.2), the stored freeze frame information shall be replaced with freeze frame information regarding the misfire malfunction.

(C) Storage of misfire conditions for similar conditions determination. Upon detection of misfire under section (e)(2.4.2), the OBD system shall store the following engine conditions: engine speed, load, and warm-up status of the first misfire event that resulted in the storage of the pending fault code.

(D) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without an exceedance of the specified percentage of misfire.

(3) Exhaust Gas Recirculation (EGR) System Monitoring

(3.1) Requirement: The OBD system shall monitor the EGR system on engines so-equipped for low flow rate, high flow rate, and slow response malfunctions. For engines equipped with EGR coolers (e.g., heat exchangers), the OBD system shall monitor the cooler for insufficient cooling malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the EGR system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(3.2) Malfunction Criteria:

(3.2.1) Low Flow: The OBD system shall detect a malfunction of the EGR system prior to a decrease from the manufacturer's specified EGR flow rate that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the EGR system that causes a decrease in flow could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has reached its control limits such that it cannot increase EGR flow to achieve the commanded flow rate.

(3.2.2) High Flow: The OBD system shall detect a malfunction of the EGR system, including a leaking EGR valve (i.e., exhaust gas flowing through the valve when the valve is commanded closed), prior to an increase from the manufacturer's specified EGR flow rate that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the EGR system that causes an increase in flow could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has reached its control limits such that it cannot reduce EGR flow to achieve the commanded flow rate.

(3.2.3) Slow Response: The OBD system shall detect a malfunction of the EGR system prior to any failure or deterioration in the capability of the EGR system to achieve the commanded flow rate within a manufacturer-specified time that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. The OBD system shall monitor both the capability of the EGR system to respond to a commanded increase in flow and the capability of the EGR system to respond to a commanded decrease in flow.

(3.2.4) Feedback control: Except as provided for in section (e)(3.2.6), if the engine is equipped with feedback control of the EGR system (e.g., feedback control of flow, valve position, pressure differential across the valve via intake throttle or exhaust backpressure), the OBD system shall detect a malfunction:

(A) If the system fails to begin feedback control within a manufacturer specified time interval;

(B) If a failure or deterioration causes open loop or default operation; or

(C) If feedback control has used up all of the adjustment allowed by the manufacturer.

(3.2.5) EGR Cooler Performance: The OBD system shall detect a malfunction of the EGR system cooler prior to a reduction from the manufacturer's specified cooling performance that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the EGR system cooler could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has no detectable amount of EGR cooling.

(3.2.6) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(3.2.4)(C) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(3.2.7) In lieu of detecting the malfunctions specified in sections (e)(3.2.4)(A) and (B) with an EGR system-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for EGR system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(3.2.4)(A) and (B).

(3.3) Monitoring Conditions:

(3.3.1) The OBD system shall monitor continuously for malfunctions identified in sections (e)(3.2.1), (3.2.2), and (e)(3.2.4) (i.e., EGR low and high flow, feedback control).

(3.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(3.2.3) (i.e., slow response) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (e)(3.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(3.3.3) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(3.2.5) (i.e., cooler performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (e)(3.2.5) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(3.3.4) Manufacturers may request Executive Officer approval to temporarily disable the EGR system check under specific conditions (e.g., when freezing may affect performance of the system). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation which demonstrate that a reliable check cannot be made when these conditions exist.

(3.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(4) Boost Pressure Control System Monitoring

(4.1) Requirement: The OBD system shall monitor the boost pressure control system (e.g., turbocharger) on engines so-equipped for under and over boost malfunctions. For engines equipped with variable geometry turbochargers (VGT), the OBD system shall monitor the VGT system for slow response malfunctions. For engines equipped with charge air cooler systems, the OBD system shall monitor the charge air cooler system for cooling system performance malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the boost pressure control system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(4.2) Malfunction Criteria:

(4.2.1) Underboost: The OBD system shall detect a malfunction of the boost pressure control system prior to a decrease from the manufacturer's commanded boost pressure that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the boost pressure control system that causes a decrease in boost could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has reached its control limits such that it cannot increase boost to achieve the commanded boost pressure.

(4.2.2) Overboost: The OBD system shall detect a malfunction of the boost pressure control system prior to an increase from the manufacturer's commanded boost pressure that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the boost pressure control system that causes an increase in boost could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has reached its control limits such that it cannot decrease boost to achieve the commanded boost pressure.

(4.2.3) VGT slow response: The OBD system shall detect a malfunction prior to any failure or deterioration in the capability of the VGT system to achieve the commanded turbocharger geometry within a manufacturer-specified time that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the VGT system

response could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction of the VGT system when proper functional response of the system to computer commands does not occur.

(4.2.4) Charge Air Undercooling: The OBD system shall detect a malfunction of the charge air cooling system prior to a decrease from the manufacturer's specified cooling rate that would cause an engine's NMHC, CO, or NOx emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed the applicable standard plus 0.02 g/bhp-hr. For engines in which no failure or deterioration of the charge air cooling system that causes a decrease in cooling performance could result in an engine's emissions exceeding these levels, the OBD system shall detect a malfunction when the system has no detectable amount of charge air cooling.

(4.2.5) Feedback control: Except as provided for in section (e)(4.2.6), if the engine is equipped with feedback control of the boost pressure system (e.g., control of VGT position, turbine speed, manifold pressure) the OBD system shall detect a malfunction:

(A) If the system fails to begin feedback control within a manufacturer specified time interval;

(B) If a failure or deterioration causes open loop or default operation; or

(C) If feedback control has used up all of the adjustment allowed by the manufacturer.

(4.2.6) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(4.2.5)(C) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(4.2.7) In lieu of detecting the malfunctions specified in sections (e)(4.2.5)(A) and (B) with a boost pressure system-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for boost pressure system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(4.2.5)(A) and (B).

(4.3) Monitoring Conditions:

(4.3.1) The OBD system shall monitor continuously for malfunctions identified in sections (e)(4.2.1), (4.2.2), and (4.2.5) (i.e., over and under boost, feedback control).

(4.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(4.2.3) (i.e., VGT slow response) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (e)(4.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(4.3.3) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(4.2.4) (i.e., charge air cooler performance) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (e)(4.2.4) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(4.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(5) Non-Methane Hydrocarbon (NMHC) Converting Catalyst Monitoring

(5.1) Requirement: The OBD system shall monitor the NMHC converting catalyst(s) for proper NMHC conversion capability. For engines equipped with catalyzed PM filters that convert NMHC emissions, the

catalyst function of the PM filter shall be monitored in accordance with the PM filter requirements in section (e)(8).

(5.2) Malfunction Criteria:

(5.2.1) For purposes of section (e)(5), each catalyst that converts NMHC shall be monitored either individually or in combination with others.

(5.2.2) Conversion Efficiency:

(A) The OBD system shall detect an NMHC catalyst malfunction when the catalyst conversion capability decreases to the point that NMHC emissions exceed 2.0 times any of the applicable standards.

(B) If no failure or deterioration of the catalyst NMHC conversion capability could result in an engine's NMHC emissions exceeding 2.0 times any of the applicable standards, the OBD system shall detect a malfunction when the catalyst has no detectable amount of NMHC conversion capability.

(5.2.3) Other Aftertreatment Assistance Functions:

(A) For catalysts used to generate an exotherm to assist PM filter regeneration, the OBD system shall detect a malfunction when the catalyst is unable to generate a sufficient exotherm to achieve regeneration of the PM filter.

(B) For catalysts used to generate a feedgas constituency to assist SCR systems (e.g., to increase NO₂ concentration upstream of an SCR system), the OBD system shall detect a malfunction when the catalyst is unable to generate the necessary feedgas constituents for proper SCR system operation.

(C) For catalysts located downstream of a PM filter and used to convert NMHC emissions during PM filter regeneration, the OBD system shall detect a malfunction when the catalyst has no detectable amount of NMHC conversion capability.

(5.2.4) Catalyst System Aging and Monitoring

(A) For purposes of determining the catalyst malfunction criteria in sections (e)(5.2.2) and (5.2.3) for individually monitored catalysts, the manufacturer shall use a catalyst deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning engine operating conditions.

(B) For purposes of determining the catalyst malfunction criteria in sections (e)(5.2.2) and (5.2.3) for catalysts monitored in combination with others, the manufacturer shall submit a catalyst system aging and monitoring plan to the Executive Officer for review and approval. The plan shall include the description, emission control purpose, and location of each component, the monitoring strategy for each component and/or combination of components, and the method for determining the malfunction criteria of sections (e)(5.2.2) and (5.2.3) including the deterioration/aging process. Executive Officer approval of the plan shall be based on the representativeness of the aging to real world catalyst system component deterioration under normal and malfunctioning engine operating conditions, the effectiveness of the method used to determine the malfunction criteria of section (e)(5.2), the ability of the component monitor(s) to pinpoint the likely area of malfunction and ensure the correct components are repaired/replaced in-use, and the ability of the component monitor(s) to accurately verify that each catalyst component is functioning as designed and as required in sections (e)(5.2.2) and (5.2.3).

(5.3) Monitoring Conditions:

(5.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(5.2.2) and (5.2.3) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in sections (e)(5.2.2) and (5.2.3) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(5.4) MIL Illumination and Fault Code Storage:

(5.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(5.4.2) The monitoring method for the catalyst(s) shall be capable of detecting all instances, except diagnostic self-clearing, when a catalyst

fault code has been cleared but the catalyst has not been replaced (e.g., catalyst overtemperature histogram approaches are not acceptable).

(6) Oxides of Nitrogen (NO_x) Converting Catalyst Monitoring

(6.1) Requirement: The OBD system shall monitor the NO_x converting catalyst(s) for proper conversion capability. For engines equipped with selective catalytic reduction (SCR) systems or other catalyst systems that utilize an active/intrusive reductant injection (e.g., active lean NO_x catalysts utilizing diesel fuel injection), the OBD system shall monitor the SCR or active/intrusive reductant injection system for proper performance. The individual electronic components (e.g., actuators, valves, sensors, heaters, pumps) in the SCR or active/intrusive reductant injection system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(6.2) Malfunction Criteria: For purposes of section (e)(6), each catalyst that converts NO_x shall be monitored either individually or in combination with others.

(6.2.1) Conversion Efficiency:

(A) For 2010 through 2012 model year engines:

(i) The OBD system shall detect a catalyst malfunction when the catalyst conversion capability decreases to the point that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.3 g/bhp-hr (e.g., cause emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET).

(ii) If no failure or deterioration of the catalyst NO_x conversion capability could result in an engine's NO_x emissions exceeding any of the applicable standards by more than 0.3 g/bhp-hr, the OBD system shall detect a malfunction when the catalyst has no detectable amount of NO_x conversion capability.

(B) For 2013 and subsequent model year engines:

(i) The OBD system shall detect a catalyst malfunction when the catalyst conversion capability decreases to the point that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.2 g/bhp-hr (e.g., cause emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr).

(ii) If no failure or deterioration of the catalyst system NO_x conversion capability could result in an engine's NO_x emissions exceeding any of the applicable standards by more than 0.2 g/bhp-hr, the OBD system shall detect a malfunction when the catalyst has no detectable amount of NO_x conversion capability.

(6.2.2) Selective Catalytic Reduction (SCR) or Other Active/Intrusive Reductant Injection System Performance:

(A) Reductant Delivery Performance:

(i) For 2010 through 2012 model year engines, the OBD system shall detect a malfunction prior to any failure or deterioration of the system to properly regulate reductant delivery (e.g., urea injection, separate injector fuel injection, post injection of fuel, air assisted injection/mixing) that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.3 g/bhp-hr (e.g., cause emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET). If no failure or deterioration of the SCR system could result in an engine's NO_x emissions exceeding any of the applicable standards by more than 0.3 g/bhp-hr, the OBD system shall detect a malfunction when the system has reached its control limits such that it is no longer able to deliver the desired quantity of reductant.

(ii) For 2013 and subsequent model year engines, the OBD system shall detect a system malfunction prior to any failure or deterioration of the system to properly regulate reductant delivery (e.g., urea injection, separate injector fuel injection, post injection of fuel, air assisted injection/mixing) that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.2 g/bhp-hr (e.g., cause emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr). If no failure or deterioration of the SCR system could result in an engine's NO_x emissions exceeding the applicable standards by more than 0.2 g/bhp-hr, the OBD system shall detect a malfunction when the system

has reached its control limits such that it is no longer able to deliver the desired quantity of reductant.

(B) If the catalyst system uses a reductant other than the fuel used for the engine or uses a reservoir/tank for the reductant that is separate from the fuel tank used for the engine, the OBD system shall detect a malfunction when there is no longer sufficient reductant available (e.g., the reductant tank is empty).

(C) If the catalyst system uses a reservoir/tank for the reductant that is separate from the fuel tank used for the engine, the OBD system shall detect a malfunction when an improper reductant is used in the reductant reservoir/tank (e.g., the reductant tank is filled with something other than the reductant).

(D) Feedback control: Except as provided for in section (e)(6.2.2)(E), if the engine is equipped with feedback control of the reductant injection, the OBD system shall detect a malfunction:

(i) If the system fails to begin feedback control within a manufacturer specified time interval;

(ii) If a failure or deterioration causes open loop or default operation; or

(iii) If feedback control has used up all of the adjustment allowed by the manufacturer.

(E) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(6.2.2)(D)(iii) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(F) In lieu of detecting the malfunctions specified in sections (e)(6.2.2)(D)(i) and (ii) with a reductant injection system-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for reductant injection feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(6.2.2)(D)(i) and (ii).

(6.2.3) Catalyst System Aging and Monitoring

(A) For purposes of determining the catalyst malfunction criteria in section (e)(6.2.1) for individually monitored catalysts, the manufacturer shall use a catalyst deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning engine operating conditions.

(B) For purposes of determining the catalyst malfunction criteria in section (e)(6.2.1) for catalysts monitored in combination with others, the manufacturer shall submit a catalyst system aging and monitoring plan to the Executive Officer for review and approval. The plan shall include the description, emission control purpose, and location of each component, the monitoring strategy for each component and/or combination of components, and the method for determining the malfunction criteria of section (e)(6.2.1) including the deterioration/aging process. Executive Officer approval of the plan shall be based on the representativeness of the aging to real world catalyst system component deterioration under normal and malfunctioning engine operating conditions, the effectiveness of the method used to determine the malfunction criteria of section (e)(6.2.1), the ability of the component monitor(s) to pinpoint the likely area of malfunction and ensure the correct components are repaired/replaced in-use, and the ability of the component monitor(s) to accurately verify that each catalyst component is functioning as designed and as required in section (e)(6.2.1).

(6.3) Monitoring Conditions:

(6.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (e)(6.2.1) (i.e., catalyst efficiency) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section

(e)(6.2.1) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(6.3.2) The OBD system shall monitor continuously for malfunctions identified in section (e)(6.2.2) (e.g., SCR performance).

(6.4) MIL Illumination and Fault Code Storage:

(6.4.1) Except as provided below for reductant faults, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(6.4.2) If the OBD system is capable of discerning that a system fault is being caused by a empty reductant tank:

(A) The manufacturer may request Executive Officer approval to delay illumination of the MIL if the vehicle is equipped with an alternative indicator for notifying the vehicle operator of the malfunction. The Executive Officer shall approve the request upon determining the alternative indicator is of sufficient illumination and location to be readily visible under all lighting conditions and provides equivalent assurance that a vehicle operator will be promptly notified and that corrective action will be undertaken.

(B) If the vehicle is not equipped with an alternative indicator and the MIL illuminates, the MIL may be immediately extinguished and the corresponding fault codes erased once the OBD system has verified that the reductant tank has been properly refilled and the MIL has not been illuminated for any other type of malfunction.

(C) The Executive Officer may approve other strategies that provide equivalent assurance that a vehicle operator will be promptly notified and that corrective action will be undertaken.

(6.4.3) The monitoring method for the catalyst(s) shall be capable of detecting all instances, except diagnostic self-clearing, when a catalyst fault code has been cleared but the catalyst has not been replaced (e.g., catalyst overtemperature histogram approaches are not acceptable).

(7) NOx Adsorber Monitoring

(7.1) Requirement: The OBD system shall monitor the NOx adsorber on engines so-equipped for proper performance. For engines equipped with active/intrusive injection (e.g., in-exhaust fuel and/or air injection) to achieve desorption of the NOx adsorber, the OBD system shall monitor the active/intrusive injection system for proper performance. The individual electronic components (e.g., injectors, valves, sensors) that are used in the active/intrusive injection system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(7.2) Malfunction Criteria:

(7.2.1) NOx adsorber capability:

(A) For 2010 through 2012 model year engines, the OBD system shall detect a NOx adsorber system malfunction when the NOx adsorber capability decreases to the point that would cause an engine's NOx emissions to exceed any of the applicable standards by more than 0.3 g/bhp-hr (e.g., cause emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET). If no failure or deterioration of the NOx adsorber capability could result in an engine's NOx emissions exceeding any of the applicable standards by more than 0.3 g/bhp-hr, the OBD system shall detect a malfunction when the system has no detectable amount of NOx adsorber capability.

(B) For 2013 and subsequent model year engines, the OBD system shall detect a NOx adsorber system malfunction when the NOx adsorber capability decreases to the point that would cause an engine's NOx emissions to exceed any of the applicable standards by more than 0.2 g/bhp-hr (e.g., cause emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET). If no failure or deterioration of the NOx adsorber capability could result in an engine's NOx emissions exceeding any of the applicable standards by more than 0.2 g/bhp-hr, the OBD system shall detect a malfunction when the system has no detectable amount of NOx adsorber capability.

(7.2.2) For systems that utilize active/intrusive injection (e.g., in-cylinder post fuel injection, in-exhaust air-assisted fuel injection) to

achieve desorption of the NOx adsorber, the OBD system shall detect a malfunction if any failure or deterioration of the injection system's ability to properly regulate injection causes the system to be unable to achieve desorption of the NOx adsorber.

(7.2.3) Feedback control: Except as provided for in section (e)(7.2.4), if the engine is equipped with feedback control of the NOx adsorber or active/intrusive injection system (e.g., feedback control of injection quantity, time), the OBD system shall detect a malfunction:

(A) If the system fails to begin feedback control within a manufacturer specified time interval;

(B) If a failure or deterioration causes open loop or default operation; or

(C) If feedback control has used up all of the adjustment allowed by the manufacturer.

(7.2.4) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(7.2.3)(C) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(7.2.5) In lieu of detecting the malfunctions specified in sections (e)(7.2.3)(A) and (B) with a NOx adsorber-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for NOx adsorber or active/intrusive injection system feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(7.2.3)(A) and (B).

(7.3) Monitoring Conditions:

(7.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(7.2.1) (i.e., adsorber capability) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in sections (e)(7.2.1) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(7.3.2) The OBD system shall monitor continuously for malfunctions identified in sections (e)(7.2.2) and (7.2.3) (e.g., injection function, feedback control).

(7.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(8) Particulate Matter (PM) Filter Monitoring

(8.1) Requirement: The OBD system shall monitor the PM filter on engines so-equipped for proper performance. For engines equipped with active regeneration systems that utilize an active/intrusive injection (e.g., in-exhaust fuel injection, in-exhaust fuel/air burner), the OBD system shall monitor the active/intrusive injection system for proper performance. The individual electronic components (e.g., injectors, valves, sensors) that are used in the active/intrusive injection system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(8.2) Malfunction Criteria:

(8.2.1) Filtering Performance:

(A) Except as specified in section (e)(8.2.1)(B) below, for 2010 through 2015 model year engines, the OBD system shall detect a malfunction prior to a decrease in the filtering capability of the PM filter (e.g., cracking) that would cause an engine's PM emissions to exceed either of the following thresholds, whichever is higher: 0.05 g/bhp-hr as measured from an applicable emission test cycle (i.e., FTP or SET); or the applicable standard plus 0.04 g/bhp-hr (e.g., 0.05 g/bhp-hr if the emission standard is 0.01 g/bhp-hr). If no failure or deterioration of the PM filtering performance could result in an engine's PM emissions exceeding these levels, the OBD system shall detect a malfunction when no detectable amount of PM filtering occurs.

(B) For 2013 through 2015 model year engines subject to (d)(7.2.2)(A) and for all 2016 and subsequent model year engines, the OBD system shall detect a malfunction prior to a decrease in the filtering capability of the PM filter that would cause an engine's PM emissions to exceed either of the following thresholds, whichever is higher: 0.03 g/bhp-hr as measured from an applicable emission test cycle (i.e., FTP or SET); or the applicable standard plus 0.02 g/bhp-hr (e.g., 0.03 g/bhp-hr if the emission standard is 0.01 g/bhp-hr). If no failure or deterioration of the PM filtering performance could result in an engine's PM emissions exceeding these levels, the OBD system shall detect a malfunction when no detectable amount of PM filtering occurs.

(8.2.2) Frequent Regeneration: The OBD system shall detect a malfunction when the PM filter regeneration frequency increases from (i.e., occurs more often than) the manufacturer's specified regeneration frequency to a level such that it would cause an engine's NMHC emissions to exceed 2.0 times the applicable standards. If no failure or deterioration causes an increase in the PM filter regeneration frequency that could result in an engine's NMHC emissions exceeding 2.0 times the applicable standards, the OBD system shall detect a malfunction when the PM filter regeneration frequency exceeds the manufacturer's specified design limits for allowable regeneration frequency.

(8.2.3) Incomplete regeneration: The OBD system shall detect a regeneration malfunction when the PM filter does not properly regenerate under manufacturer-defined conditions where regeneration is designed to occur.

(8.2.4) NMHC conversion: For catalyzed PM filters that convert NMHC emissions, the OBD system shall monitor the catalyst function of the PM filter and detect a malfunction when the NMHC conversion capability decreases to the point that NMHC emissions exceed 2.0 times the applicable standards. If no failure or deterioration of the NMHC conversion capability could result in an engine's NMHC emissions exceeding 2.0 times the applicable standards, the OBD system shall detect a malfunction when the system has no detectable amount of NMHC conversion capability.

(8.2.5) Missing substrate: The OBD system shall detect a malfunction if either the PM filter substrate is completely destroyed, removed, or missing, or if the PM filter assembly is replaced with a muffler or straight pipe.

(8.2.6) Active/Intrusive Injection: For systems that utilize active/intrusive injection (e.g., in-cylinder post fuel injection, in-exhaust air-assisted fuel injection) to achieve regeneration of the PM filter, the OBD system shall detect a malfunction if any failure or deterioration of the injection system's ability to properly regulate injection causes the system to be unable to achieve regeneration of the PM filter.

(8.2.7) Feedback Control: Except as provided for in section (e)(8.2.8), if the engine is equipped with feedback control of the PM filter regeneration (e.g., feedback control of oxidation catalyst inlet temperature, PM filter inlet or outlet temperature, in-cylinder or in-exhaust fuel injection), the OBD system shall detect a malfunction:

(A) If the system fails to begin feedback control within a manufacturer specified time interval;

(B) If a failure or deterioration causes open loop or default operation; or

(C) If feedback control has used up all of the adjustment allowed by the manufacturer.

(8.2.8) A manufacturer may request Executive Officer approval to temporarily disable monitoring for the malfunction criteria specified in section (e)(8.2.7)(C) during conditions that a manufacturer cannot robustly distinguish between a malfunctioning system and a properly operating system. The Executive Officer shall approve the disablement upon the manufacturer submitting data and/or analysis demonstrating that the control system, when operating as designed on an engine with all emission controls working properly, routinely operates during these conditions with all of the adjustment allowed by the manufacturer used up.

(8.2.9) In lieu of detecting the malfunctions specified in sections (e)(8.2.7)(A) and (B) with a PM filter-specific monitor, the OBD system may monitor the individual parameters or components that are used as inputs for PM filter regeneration feedback control provided that the monitors detect all malfunctions that meet the criteria in sections (e)(8.2.7)(A) and (B).

(8.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(8.2.1) through (8.2.7) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in sections (e)(8.2.1) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(8.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(9) Exhaust Gas Sensor Monitoring

(9.1) Requirement:

(9.1.1) The OBD system shall monitor all exhaust gas sensors (e.g., oxygen, air-fuel ratio, NO_x) used for emission control system feedback (e.g., EGR control/feedback, SCR control/feedback, NO_x adsorber control/feedback) or as a monitoring device for proper output signal, activity, response rate, and any other parameter that can affect emissions.

(9.1.2) For engines equipped with heated exhaust gas sensors, the OBD system shall monitor the heater for proper performance.

(9.2) Malfunction Criteria:

(9.2.1) Air-Fuel Ratio Sensors:

(A) For sensors located upstream of the aftertreatment:

(i) Sensor performance faults: The OBD system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause an engine's NMHC, CO, or NO_x emissions to exceed 2.0 times any of the applicable standards or the engine's PM emissions to exceed any of the applicable standards plus 0.02 g/bhp-hr.

(ii) Circuit faults: The OBD system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(iii) Feedback faults: The OBD system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NO_x adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(iv) Monitoring capability: To the extent feasible, the OBD system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD system monitoring device (e.g., for catalyst, EGR, SCR, or NO_x adsorber monitoring).

(B) For sensors located downstream of the aftertreatment:

(i) Sensor performance faults:

a. For 2010 through 2012 model year engines, the OBD system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause an engine's NMHC emissions to exceed 2.5 times any of the applicable standards, cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.3 g/bhp-hr (e.g., cause emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET), or cause an engine's PM emissions to exceed (whichever is higher): 0.05 g/bhp-hr as measured from an applicable cycle emission test (i.e., FTP or SET); or any of the applicable standards by more than 0.04 g/bhp-hr (e.g., cause emissions to exceed 0.05 g/bhp-hr if the emission standard is 0.01 g/bhp-hr).

b. For 2013 and subsequent model year engines, the OBD system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset,

or other characteristic(s) that would cause an engine's NMHC emissions to exceed 2.0 times any of the applicable standards, cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.2 g/bhp-hr (e.g., cause emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET), or cause an engine's PM emissions to exceed (whichever is higher): 0.03 g/bhp-hr as measured from an applicable cycle emission test (i.e., FTP or SET); or any of the applicable standards by more than 0.02 g/bhp-hr (e.g., cause emissions to exceed 0.03 g/bhp-hr if the emission standard is 0.01 g/bhp-hr).

(ii) Circuit faults: The OBD system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(iii) Feedback faults: The OBD system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NO_x adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(iv) Monitoring capability: To the extent feasible, the OBD system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD system monitoring device (e.g., for catalyst, EGR, SCR, or NO_x adsorber monitoring).

(9.2.2) NO_x sensors:

(A) Sensor performance faults:

(i) For 2010 through 2012 model year engines, the OBD system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.3 g/bhp-hr (e.g., cause emissions to exceed 0.5 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET), or cause an engine's PM emissions to exceed (whichever is higher): 0.05 g/bhp-hr as measured from an applicable cycle emission test (i.e., FTP or SET); or any of the applicable standards by more than 0.04 g/bhp-hr (e.g., cause emissions to exceed 0.05 g/bhp-hr if the emission standard is 0.01 g/bhp-hr).

(ii) For 2013 and subsequent model year engines, the OBD system shall detect a malfunction prior to any failure or deterioration of the sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause an engine's NO_x emissions to exceed any of the applicable standards by more than 0.2 g/bhp-hr (e.g., cause emissions to exceed 0.4 g/bhp-hr if the emission standard is 0.2 g/bhp-hr) as measured from an applicable cycle emission test (i.e., FTP or SET), or cause an engine's PM emissions to exceed (whichever is higher): 0.03 g/bhp-hr as measured from an applicable cycle emission test (i.e., FTP or SET); or any of the applicable standards by more than 0.02 g/bhp-hr (e.g., cause emissions to exceed 0.03 g/bhp-hr if the emission standard is 0.01 g/bhp-hr).

(B) Circuit faults: The OBD system shall detect malfunctions of the sensor caused by either a lack of circuit continuity or out-of-range values.

(C) Feedback faults: The OBD system shall detect a malfunction of the sensor when a sensor failure or deterioration causes an emission control system (e.g., EGR, SCR, or NO_x adsorber) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(D) Monitoring capability: To the extent feasible, the OBD system shall detect a malfunction of the sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD system monitoring device (e.g., for catalyst, EGR, SCR, or NO_x adsorber monitoring).

(9.2.3) Other exhaust gas sensors:

(A) For other exhaust gas sensors, the manufacturer shall submit a monitoring plan to the Executive Officer for approval. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and an engineering evaluation that demonstrate that the monitoring plan is as reliable and effective as the monitoring plan re-

quired for air–fuel ratio sensors and NOx sensors under sections (e)(9.2.1) and (e)(9.2.2).

(9.2.4) Sensor Heaters:

(A) The OBD system shall detect a malfunction of the heater performance when the current or voltage drop in the heater circuit is no longer within the manufacturer's specified limits for normal operation (i.e., within the criteria required to be met by the component vendor for heater circuit performance at high mileage). Subject to Executive Officer approval, other malfunction criteria for heater performance malfunctions may be used upon the Executive Officer determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate the monitoring reliability and timeliness to be equivalent to the stated criteria in section (e)(9.2.4)(A).

(B) The OBD system shall detect malfunctions of the heater circuit including open or short circuits that conflict with the commanded state of the heater (e.g., shorted to 12 Volts when commanded to 0 Volts (ground)).

(9.3) Monitoring Conditions:

(9.3.1) Exhaust Gas Sensors

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (e)(9.2.1)(A)(i), (9.2.1)(B)(i), and (9.2.2)(A) (e.g., sensor performance faults) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in sections (e)(9.2.1)(A)(i), (9.2.1)(B)(i), and (9.2.2)(A) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(B) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (9.2.1)(A)(iv), (9.2.1)(B)(iv), and (9.2.2)(D) (e.g., monitoring capability) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements) with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(C) Except as provided in section (e)(9.3.1)(D), monitoring for malfunctions identified in sections (e)(9.2.1)(A)(ii), (9.2.1)(A)(iii), (9.2.1)(B)(ii), (9.2.1)(B)(iii), (9.2.2)(B), and (9.2.2)(C) (i.e., circuit continuity, and open–loop malfunctions) shall be conducted continuously.

(D) A manufacturer may request Executive Officer approval to disable continuous exhaust gas sensor monitoring when an exhaust gas sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(9.3.2) Sensor Heaters

(A) Manufacturers shall define monitoring conditions for malfunctions identified in section (e)(9.2.4)(A) (i.e., sensor heater performance) in accordance sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(B) Monitoring for malfunctions identified in section (e)(9.2.4)(B) (i.e., circuit malfunctions) shall be conducted continuously.

(9.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(10) Variable Valve Timing and/or Control (VVT) System Monitoring

(10.1) Requirement: The OBD system shall monitor the VVT system on engines so–equipped for target error and slow response malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the VVT system shall be monitored in accordance with the comprehensive components requirements in section (g)(3).

(10.2) Malfunction Criteria:

(10.2.1) Target Error: The OBD system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a crank angle and/or lift tolerance that would cause an engine's NHMC, NOx, or CO emissions to exceed 2.0 times any of the applicable standards or an engine's PM emissions to exceed a threshold of the applicable standard plus 0.02 g/bhp–hr.

(10.2.2) Slow Response: The OBD system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a manufacturer–specified time that would cause an engine's NHMC, NOx, or CO emissions to exceed 2.0 times any of the applicable standards or an engine's PM emissions to exceed a threshold of the applicable standard plus 0.02 g/bhp–hr.

(10.2.3) For engines in which no failure or deterioration of the VVT system could result in an engine's emissions exceeding the thresholds of sections (e)(10.2.1) or (10.2.2), the OBD system shall detect a malfunction of the VVT system when proper functional response of the system to computer commands does not occur.

(10.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for VVT system malfunctions identified in section (e)(10.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (e)(10.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(10.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(f) Monitoring Requirements for Gasoline/Spark–Ignited Engines

(1) Fuel System Monitoring

(1.1) Requirement: The OBD system shall monitor the fuel delivery system to determine its ability to provide compliance with emission standards.

(1.2) Malfunction Criteria:

(1.2.1) The OBD system shall detect a malfunction of the fuel delivery system (including feedback control based on a secondary oxygen sensor) when the fuel delivery system is unable to maintain an engine's emissions at or below 1.5 times the applicable standards.

(1.2.2) Except as provided for in section (f)(1.2.3) below, if the engine is equipped with adaptive feedback control, the OBD system shall detect a malfunction when the adaptive feedback control has used up all of the adjustment allowed by the manufacturer.

(1.2.3) If the engine is equipped with feedback control that is based on a secondary oxygen (or equivalent) sensor, the OBD system is not required to detect a malfunction of the fuel system solely when the feedback control based on a secondary oxygen sensor has used up all of the adjustment allowed by the manufacturer. However, if a failure or deterioration results in engine emissions that exceed the malfunction criteria in section (f)(1.2.1), the OBD system is required to detect a malfunction.

(1.2.4) The OBD system shall detect a malfunction whenever the fuel control system fails to enter closed–loop operation within an Executive Officer–approved time interval after engine start. Executive Officer approval of the time interval shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(1.2.5) Manufacturers may adjust the malfunction criteria and/or monitoring conditions to compensate for changes in altitude, for temporary introduction of large amounts of purge vapor, or for other similar identifiable operating conditions when they occur.

(1.3) **Monitoring Conditions:** The fuel system shall be monitored continuously for the presence of a malfunction.

(1.4) **MIL Illumination and Fault Code Storage:**

(1.4.1) A pending fault code shall be stored immediately upon the fuel system exceeding the malfunction criteria established pursuant to section (f)(1.2).

(1.4.2) Except as provided below, if a pending fault code is stored, the OBD system shall immediately illuminate the MIL and store a confirmed fault code if a malfunction is again detected during either of the following two events: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to those that occurred when the pending fault code was stored are encountered.

(1.4.3) The pending fault code may be erased at the end of the next driving cycle in which similar conditions have been encountered without an exceedance of the specified fuel system malfunction criteria. The pending code may also be erased if similar conditions are not encountered during the 80 driving cycles immediately after the initial detection of a malfunction for which the pending code was set.

(1.4.4) **Storage of freeze frame conditions.**

(A) The OBD system shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing and erasing a confirmed fault code.

(B) If freeze frame conditions are stored for a malfunction other than a misfire (see section (f)(2)) or fuel system malfunction when a fault code is stored as specified in section (f)(1.4) above, the stored freeze frame information shall be replaced with freeze frame information regarding the fuel system malfunction.

(1.4.5) **Storage of fuel system conditions for determining similar conditions of operation.** Upon detection of a fuel system malfunction under section (f)(1.2), the OBD system shall store the engine speed, load, and warm-up status of the first fuel system malfunction that resulted in the storage of the pending fault code.

(1.4.6) **Extinguishing the MIL.** The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without a malfunction of the fuel system.

(2) **Misfire Monitoring**

(2.1) **Requirement:**

(2.1.1) The OBD system shall monitor the engine for misfire causing catalyst damage and misfire causing excess emissions.

(2.1.2) The OBD system shall identify the specific cylinder that is experiencing misfire. Manufacturers may request Executive Officer approval to store a general misfire fault code instead of a cylinder specific fault code under certain operating conditions. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that the misfiring cylinder cannot be reliably identified when the conditions occur.

(2.1.3) If more than one cylinder is misfiring, a separate fault code shall be stored indicating that multiple cylinders are misfiring except as allowed below. When identifying multiple cylinder misfire, the OBD system is not required to also identify each of the misfiring cylinders individually through separate fault codes. If more than 90 percent of the detected misfires occur in a single cylinder, the OBD system may elect to store the appropriate fault code indicating the specific misfiring cylinder in lieu of the multiple cylinder misfire fault code. If, however, two or more cylinders individually have more than 10 percent of the total number of detected misfires, a multiple cylinder fault code must be stored.

(2.2) **Malfunction Criteria:** The OBD system shall detect a misfire malfunction pursuant to the following:

(2.2.1) **Misfire causing catalyst damage:**

(A) Manufacturers shall determine the percentage of misfire evaluated in 200 revolution increments for each engine speed and load condition that would result in a temperature that causes catalyst damage. The manufacturer shall submit documentation to support this percentage of

misfire as required in section (j)(2.5). For every engine speed and load condition that this percentage of misfire is determined to be lower than five percent, the manufacturer may set the malfunction criteria at five percent.

(B) Subject to Executive Officer approval, a manufacturer may employ a longer interval than 200 revolutions but only for determining, on a given driving cycle, the first misfire exceedance as provided in section (f)(2.4.1)(A) below. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that catalyst damage would not occur due to unacceptably high catalyst temperatures before the interval has elapsed.

(C) A misfire malfunction shall be detected if the percentage of misfire established in section (f)(2.2.1)(A) is exceeded.

(D) For purposes of establishing the temperature at which catalyst damage occurs as required in section (f)(2.2.1)(A), manufacturers may not define catalyst damage at a temperature more severe than what the catalyst system could be operated at for 10 consecutive hours and still meet the applicable standards.

(2.2.2) Misfire causing emissions to exceed 1.5 times the applicable standards:

(A) Manufacturers shall determine the percentage of misfire evaluated in 1000 revolution increments that would cause emissions from an emission durability demonstration engine to exceed 1.5 times any of the applicable standards if the percentage of misfire were present from the beginning of the test. To establish this percentage of misfire, the manufacturer shall utilize misfire events occurring at equally spaced, complete engine cycle intervals, across randomly selected cylinders throughout each 1000-revolution increment. If this percentage of misfire is determined to be lower than one percent, the manufacturer may set the malfunction criteria at one percent.

(B) Subject to Executive Officer approval, a manufacturer may employ other revolution increments. The Executive Officer shall grant approval upon determining that the manufacturer has demonstrated that the strategy would be equally effective and timely in detecting misfire.

(C) A malfunction shall be detected if the percentage of misfire established in section (f)(2.2.2)(A) is exceeded regardless of the pattern of misfire events (e.g., random, equally spaced, continuous).

(2.3) **Monitoring Conditions:**

(2.3.1) The OBD system shall continuously monitor for misfire under the following conditions:

(A) From no later than the end of the second crankshaft revolution after engine start,

(B) During the rise time and settling time for engine speed to reach the desired idle engine speed at engine start-up (i.e., "flare-up" and "flare-down"), and

(C) Under all positive torque engine speeds and load conditions except within the following range: the engine operating region bound by the positive torque line (i.e., engine load with the transmission in neutral), and the two following engine operating points: an engine speed of 3000 rpm with the engine load at the positive torque line, and the redline engine speed (defined in section (c)) with the engine's manifold vacuum at four inches of mercury lower than that at the positive torque line.

(2.3.2) If a monitoring system cannot detect all misfire patterns under all required engine speed and load conditions as required in section (f)(2.3.1) above, the manufacturer may request Executive Officer approval to accept the monitoring system. In evaluating the manufacturer's request, the Executive Officer shall consider the following factors: the magnitude of the region(s) in which misfire detection is limited, the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events), the frequency with which said region(s) are expected to be encountered in-use, the type of misfire patterns for which misfire detection is troublesome, and demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines). The evaluation shall be based on the follow-

ing misfire patterns: equally spaced misfire occurring on randomly selected cylinders, single cylinder continuous misfire, and paired cylinder (cylinders firing at the same crank angle) continuous misfire.

(2.3.3) A manufacturer may request Executive Officer approval of a monitoring system that has reduced misfire detection capability during the portion of the first 1000 revolutions after engine start that a cold start emission reduction strategy that reduces engine torque (e.g., spark retard strategies) is active. The Executive Officer shall approve the request upon determining that the manufacturer has demonstrated that the probability of detection is greater than or equal to 75 percent during the worst case condition (i.e., lowest generated torque) for a vehicle operated continuously at idle (park/neutral idle) on a cold start between 50 and 86 degrees Fahrenheit and that the technology cannot reliably detect a higher percentage of the misfire events during the conditions.

(2.3.4) A manufacturer may request Executive Officer approval to disable misfire monitoring or employ an alternate malfunction criterion when misfire cannot be distinguished from other effects.

(A) Upon determining that the manufacturer has presented documentation that demonstrates the disablement interval or period of use of an alternate malfunction criterion is limited only to that necessary for avoiding false detection, the Executive Officer shall approve the disablement or use of the alternate malfunction criterion for conditions involving:

- (i) rough road,
- (ii) fuel cut,
- (iii) gear changes for manual transmission vehicles,
- (iv) traction control or other vehicle stability control activation such as anti-lock braking or other engine torque modifications to enhance vehicle stability,
- (v) off-board control or intrusive activation of vehicle components or diagnostics during service or assembly plant testing,
- (vi) portions of intrusive evaporative system or EGR diagnostics that can significantly affect engine stability (i.e., while the purge valve is open during the vacuum pull-down of a evaporative system leak check but not while the purge valve is closed and the evaporative system is sealed or while an EGR diagnostic causes the EGR valve to be intrusively cycled on and off during positive torque conditions), or
- (vii) engine speed, load, or torque transients due to throttle movements more rapid than occurs over the FTP cycle for the worst case engine within each engine family.

(B) Additionally, the Executive Officer will approve a manufacturer's request in accordance with sections (g)(5.3), (g)(5.4), and (g)(5.6) to disable misfire monitoring when the fuel level is 15 percent or less of the nominal capacity of the fuel tank, when PTO units are active, or while engine coolant temperature is below 20 degrees Fahrenheit. The Executive Officer will approve a request to continue disablement on engine starts when engine coolant temperature is below 20 degrees Fahrenheit at engine start until engine coolant temperature exceeds 70 degrees Fahrenheit.

(C) In general, the Executive Officer shall not approve disablement for conditions involving normal air conditioning compressor cycling from on-to-off or off-to-on, automatic transmission gear shifts (except for shifts occurring during wide open throttle operation), transitions from idle to off-idle, normal engine speed or load changes that occur during the engine speed rise time and settling time (i.e., "flare-up" and "flare-down") immediately after engine starting without any vehicle operator-induced actions (e.g., throttle stabs), or excess acceleration (except for acceleration rates that exceed the maximum acceleration rate obtainable at wide open throttle while the vehicle is in gear due to abnormal conditions such as slipping of a clutch).

(D) The Executive Officer may approve misfire monitoring disablement or use of an alternate malfunction criterion for any other condition on a case by case basis upon determining that the manufacturer has demonstrated that the request is based on an unusual or unforeseen circumstance and that it is applying the best available computer and monitoring technology.

(2.3.5) For engines with more than eight cylinders that cannot meet the requirements of section (f)(2.3.1), a manufacturer may request Executive Officer approval to use alternative misfire monitoring conditions. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that misfire detection throughout the required operating region cannot be achieved when employing proven monitoring technology (i.e., a technology that provides for compliance with these requirements on other engines) and provided misfire is detected to the fullest extent permitted by the technology. However, the Executive Officer may not grant the request if the misfire detection system is unable to monitor during all positive torque operating conditions encountered during an FTP cycle.

(2.4) MIL Illumination and Fault Code Storage:

(2.4.1) Misfire causing catalyst damage. Upon detection of the percentage of misfire specified in section (f)(2.2.1) above, the following criteria shall apply for MIL illumination and fault code storage:

(A) Pending fault codes

(i) A pending fault code shall be stored immediately if, during a single driving cycle, the specified percentage of misfire is exceeded three times when operating in the positive torque region encountered during an FTP cycle or is exceeded on a single occasion when operating at any other engine speed and load condition in the positive torque region defined in section (f)(2.3.1).

(ii) Immediately after a pending fault code is stored as specified in section (f)(2.4.1)(A)(i) above, the MIL shall blink once per second at all times while misfire is occurring during the driving cycle.

a. The MIL may be extinguished during those times when misfire is not occurring during the driving cycle.

b. If, at the time a misfire malfunction occurs, the MIL is already illuminated for a malfunction other than misfire, the MIL shall blink as previously specified in section (f)(2.4.1)(A)(ii) while misfire is occurring. If misfiring ceases, the MIL shall stop blinking but remain illuminated as required by the other malfunction.

(B) Confirmed fault codes

(i) If a pending fault code for exceeding the percentage of misfire set forth in section (f)(2.2.1) is stored, the OBD system shall immediately store a confirmed fault code if the percentage of misfire specified in section (f)(2.2.1) is again exceeded one or more times during either: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(ii) If a pending fault code for exceeding the percentage of misfire set forth in section (f)(2.2.2) is stored from a previous driving cycle, the OBD system shall immediately store a confirmed fault code if the percentage of misfire specified in section (f)(2.2.1) is exceeded one or more times regardless of the conditions encountered.

(iii) Upon storage of a confirmed fault code, the MIL shall blink as specified in subparagraph (f)(2.4.1)(A)(ii) above as long as misfire is occurring and the MIL shall remain continuously illuminated if the misfiring ceases.

(C) Erasure of pending fault codes

Pending fault codes shall be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without any exceedance of the specified percentage of misfire. The pending code may also be erased if similar driving conditions are not encountered during the next 80 driving cycles subsequent to the initial detection of a malfunction.

(D) Exemptions for engines with fuel shutoff and default fuel control. Notwithstanding sections (f)(2.4.1)(A) and (B) above, in engines that provide for fuel shutoff and default fuel control to prevent over fueling during catalyst damage misfire conditions, the MIL is not required to

blink. Instead, the MIL may illuminate continuously in accordance with the requirements for continuous MIL illumination in sections (f)(2.4.1)(B)(iii) above upon detection of misfire, provided that the fuel shutoff and default control are activated as soon as misfire is detected. Fuel shutoff and default fuel control may be deactivated only to permit fueling outside of the misfire range. Manufacturers may also periodically, but not more than once every 30 seconds, deactivate fuel shutoff and default fuel control to determine if the specified catalyst damage percentage of misfire is still being exceeded. Normal fueling and fuel control may be resumed if the specified catalyst damage percentage of misfire is no longer being exceeded.

(E) Manufacturers may request Executive Officer approval of strategies that continuously illuminate the MIL in lieu of blinking the MIL during extreme catalyst damage misfire conditions (i.e., catalyst damage misfire occurring at all engine speeds and loads). Executive Officer approval shall be granted upon determining that the manufacturer employs the strategy only when catalyst damage misfire levels cannot be avoided during reasonable driving conditions and the manufacturer has demonstrated that the strategy will encourage operation of the vehicle in conditions that will minimize catalyst damage (e.g., at low engine speeds and loads).

(2.4.2) Misfire causing emissions to exceed 1.5 times the FTP standards. Upon detection of the percentage of misfire specified in section (f)(2.2.2), the following criteria shall apply for MIL illumination and fault code storage:

(A) Misfire within the first 1000 revolutions after engine start.

(i) A pending fault code shall be stored no later than after the first exceedance of the specified percentage of misfire during a single driving cycle if the exceedance occurs within the first 1000 revolutions after engine start (defined in section (c)) during which misfire detection is active.

(ii) If a pending fault code is stored, the OBD system shall illuminate the MIL and store a confirmed fault code within 10 seconds if an exceedance of the specified percentage of misfire is again detected in the first 1000 revolutions during any subsequent driving cycle, regardless of the conditions encountered during the driving cycle.

(iii) The pending fault code shall be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the next 80 driving cycles immediately following the initial detection of the malfunction.

(B) Exceedances after the first 1000 revolutions after engine start.

(i) A pending fault code shall be stored no later than after the fourth exceedance of the percentage of misfire specified in section (f)(2.2.2) during a single driving cycle.

(ii) If a pending fault code is stored, the OBD system shall illuminate the MIL and store a confirmed fault code within 10 seconds if the percentage of misfire specified in section (f)(2.2.2) is again exceeded four times during: (a) the driving cycle immediately following the storage of the pending fault code, regardless of the conditions encountered during the driving cycle; or (b) on the next driving cycle in which similar conditions (see section (c)) to the engine conditions that occurred when the pending fault code was stored are encountered.

(iii) The pending fault code may be erased at the end of the next driving cycle in which similar conditions to the engine conditions that occurred when the pending fault code was stored have been encountered without an exceedance of the specified percentage of misfire. The pending code may also be erased if similar conditions are not encountered during the next 80 driving cycles immediately following initial detection of the malfunction.

(2.4.3) Storage of freeze frame conditions.

(A) The OBD system shall store and erase freeze frame conditions either in conjunction with storing and erasing a pending fault code or in conjunction with storing and erasing a confirmed fault code.

(B) If freeze frame conditions are stored for a malfunction other than a misfire or fuel system malfunction (see section (f)(1)) when a fault code is stored as specified in section (f)(2.4) above, the stored freeze frame information shall be replaced with freeze frame information regarding the misfire malfunction.

(2.4.4) Storage of misfire conditions for similar conditions determination. Upon detection of misfire under sections (f)(2.4.1) or (2.4.2), the OBD system shall store the following engine conditions: engine speed, load, and warm-up status of the first misfire event that resulted in the storage of the pending fault code.

(2.4.5) Extinguishing the MIL. The MIL may be extinguished after three sequential driving cycles in which similar conditions have been encountered without an exceedance of the specified percentage of misfire.

(3) Exhaust Gas Recirculation (EGR) System Monitoring

(3.1) Requirement: The OBD system shall monitor the EGR system on engines so-equipped for low and high flow rate malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the EGR system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(3.2) Malfunction Criteria:

(3.2.1) The OBD system shall detect a malfunction of the EGR system prior to a decrease from the manufacturer's specified EGR flow rate that would cause an engine's emissions to exceed 1.5 times any of the applicable standards. For engines in which no failure or deterioration of the EGR system that causes a decrease in flow could result in an engine's emissions exceeding 1.5 times any of the applicable standards, the OBD system shall detect a malfunction when the system has no detectable amount of EGR flow.

(3.2.2) The OBD system shall detect a malfunction of the EGR system prior to an increase from the manufacturer's specified EGR flow rate that would cause an engine's emissions to exceed 1.5 times any of the applicable standards. For engines in which no failure or deterioration of the EGR system that causes an increase in flow could result in an engine's emissions exceeding 1.5 times any of the applicable standards, the OBD system shall detect a malfunction when the system has reached its control limits such that it cannot reduce EGR flow.

(3.3) Monitoring Conditions:

(3.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(3.2) (i.e., flow rate) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (f)(3.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(3.3.2) Manufacturers may request Executive Officer approval to temporarily disable the EGR system check under conditions when monitoring may not be reliable (e.g., when freezing may affect performance of the system). The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation which demonstrate that a reliable check cannot be made when these conditions exist.

(3.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(4) Cold Start Emission Reduction Strategy Monitoring

(4.1) Requirement: If an engine incorporates a specific engine control strategy to reduce cold start emissions, the OBD system shall monitor the key components (e.g., idle air control valve), other than secondary air, while the control strategy is active to ensure proper operation of the control strategy. Secondary air systems shall be monitored under the provisions of section (f)(5).

(4.2) Malfunction Criteria:

(4.2.1) The OBD system shall detect a malfunction prior to any failure or deterioration of the individual components associated with the cold start emission reduction control strategy that would cause an engine's

emissions to exceed 1.5 times the applicable standards. Manufacturers shall:

(A) Establish the malfunction criteria based on data from one or more representative engine(s).

(B) Provide an engineering evaluation for establishing the malfunction criteria for the remainder of the manufacturer's product line. The Executive Officer shall waive the evaluation requirement each year if, in the judgment of the Executive Officer, technological changes do not affect the previously determined malfunction criteria.

(4.2.2) For components where no failure or deterioration of the component used for the cold start emission reduction strategy could result in an engine's emissions exceeding 1.5 times the applicable standards, the individual component shall be monitored for proper functional response in accordance with the malfunction criteria in section (g)(3.2) while the control strategy is active.

(4.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(4.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(4.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(5) Secondary Air System Monitoring

(5.1) Requirement:

(5.1.1) The OBD system on engines equipped with any form of secondary air delivery system shall monitor the proper functioning of the secondary air delivery system including all air switching valve(s). The individual electronic components (e.g., actuators, valves, sensors) in the secondary air system shall be monitored in accordance with the comprehensive component requirements in section (g)(3).

(5.1.2) For purposes of section (f)(5), "air flow" is defined as the air flow delivered by the secondary air system to the exhaust system. For engines using secondary air systems with multiple air flow paths/distribution points, the air flow to each bank (i.e., a group of cylinders that share a common exhaust manifold, catalyst, and control sensor) shall be monitored in accordance with the malfunction criteria in section (f)(5.2).

(5.1.3) For purposes of section (f)(5), "normal operation" is defined as the condition when the secondary air system is activated during catalyst and/or engine warm-up following engine start. "Normal operation" does not include the condition when the secondary air system is intrusively turned on solely for the purpose of monitoring.

(5.2) Malfunction Criteria:

(5.2.1) Except as provided in section (f)(5.2.3), the OBD system shall detect a secondary air system malfunction prior to a decrease from the manufacturer's specified air flow during normal operation that would cause an engine's emissions to exceed 1.5 times any of the applicable standards.

(5.2.2) Except as provided in section (f)(5.2.3), the OBD system shall detect a secondary air system malfunction prior to an increase from the manufacturer's specified air flow during normal operation that would cause an engine's emissions to exceed 1.5 times any of the applicable standards.

(5.2.3) For engines in which no deterioration or failure of the secondary air system would result in an engine's emissions exceeding 1.5 times any of the applicable standards, the OBD system shall detect a malfunction when no detectable amount of air flow is delivered during normal operation of the secondary air system.

(5.3) Monitoring Conditions:

(5.3.1) Manufacturers shall define the monitoring conditions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (f)(5.2) during normal operation of the secondary air system shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(5.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(6) Catalyst Monitoring

(6.1) Requirement: The OBD system shall monitor the catalyst system for proper conversion capability.

(6.2) Malfunction Criteria:

(6.2.1) The OBD system shall detect a catalyst system malfunction when the catalyst system's conversion capability decreases to the point that any of the following occurs:

(A) Non-Methane Hydrocarbon (NMHC) emissions exceed 1.75 times the applicable standards to which the engine has been certified.

(B) The average FTP test NMHC conversion efficiency of the monitored portion of the catalyst system falls below 50 percent (i.e., the cumulative NMHC emissions measured at the outlet of the monitored catalyst(s) are more than 50 percent of the cumulative engine-out emissions measured at the inlet of the catalyst(s)). With Executive Officer approval, manufacturers may use a conversion efficiency malfunction criteria of less than 50 percent if the catalyst system is designed such that the monitored portion of the catalyst system must be replaced along with an adjacent portion of the catalyst system sufficient to ensure that the total portion replaced will meet the 50 percent conversion efficiency criteria. Executive Officer approval shall be based on data and/or engineering evaluation demonstrating the conversion efficiency of the monitored portion and the total portion designed to be replaced, and the likelihood of the catalyst system design to ensure replacement of the monitored and adjacent portions of the catalyst system.

(C) Oxides of nitrogen (NOx) emissions exceed 1.75 times the applicable NOx standard to which the engine has been certified.

(6.2.2) For purposes of determining the catalyst system malfunction criteria in section (f)(6.2.1):

(A) The manufacturer shall use a catalyst system deteriorated to the malfunction criteria using methods established by the manufacturer to represent real world catalyst deterioration under normal and malfunctioning operating conditions.

(B) Except as provided below in section (f)(6.2.2)(C), the malfunction criteria shall be established by using a catalyst system with all monitored and unmonitored (downstream of the sensor utilized for catalyst monitoring) catalysts simultaneously deteriorated to the malfunction criteria.

(C) For engines using fuel shutoff to prevent over-fueling during misfire conditions (see section (f)(2.4.1)(D)), the malfunction criteria shall be established by using a catalyst system with all monitored catalysts simultaneously deteriorated to the malfunction criteria while unmonitored catalysts shall be deteriorated to the end of the engine's useful life.

(6.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(6.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (f)(6.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(6.4) MIL Illumination and Fault Code Storage:

(6.4.1) General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(6.4.2) The monitoring method for the catalyst(s) shall be capable of detecting when a catalyst fault code has been cleared (except OBD system self-clearing), but the catalyst has not been replaced (e.g., catalyst overtemperature histogram approaches are not acceptable).

(7) Evaporative System Monitoring

(7.1) Requirement: The OBD system shall verify purge flow from the evaporative system and shall monitor the complete evaporative system, excluding the tubing and connections between the purge valve and the intake manifold, for vapor leaks to the atmosphere. Individual components of the evaporative system (e.g. valves, sensors) shall be monitored in accordance with the comprehensive components requirements in section (g)(3) (e.g., for circuit continuity, out of range values, rationality, proper functional response).

(7.2) Malfunction Criteria:

(7.2.1) For purposes of section (f)(7), an “orifice” is defined as an O’Keefe Controls Co. precision metal “Type B” orifice with NPT connections with a diameter of the specified dimension (e.g., part number B-31-SS for a stainless steel 0.031 inch diameter orifice).

(7.2.2) The OBD system shall detect an evaporative system malfunction when any of the following conditions exist:

(A) No purge flow from the evaporative system to the engine can be detected by the OBD system; or

(B) The complete evaporative system contains a leak or leaks that cumulatively are greater than or equal to a leak caused by a 0.150 inch diameter orifice.

(7.2.3) A manufacturer may request the Executive Officer to revise the orifice size in section (f)(7.2.2)(B) if the most reliable monitoring method available cannot reliably detect a system leak of the magnitudes specified. The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or engineering analysis that demonstrate the need for the request.

(7.2.4) Upon request by the manufacturer and upon determining that the manufacturer has submitted data and/or engineering evaluation which support the request, the Executive Officer shall revise the orifice size in section (f)(7.2.2)(B) upward to exclude detection of leaks that cannot cause evaporative or running loss emissions to exceed 1.5 times the applicable evaporative emission standards.

(7.3) Monitoring Conditions:

(7.3.1) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(7.2.2)(A) (i.e., purge flow) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(7.3.2) Manufacturers shall define the monitoring conditions for malfunctions identified in section (f)(7.2.2)(B) (i.e., 0.150 inch leak detection) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (f)(7.2.2)(B) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(7.3.3) Manufacturers may disable or abort an evaporative system monitor when the fuel tank level is over 85 percent of nominal tank capacity or during a refueling event.

(7.3.4) Manufacturers may request Executive Officer approval to execute the evaporative system monitor only on driving cycles determined by the manufacturer to be cold starts if the condition is needed to ensure reliable monitoring. The Executive Officer shall approve the request upon determining that data and/or an engineering evaluation submitted by the manufacturer demonstrate that a reliable check can only be made on driving cycles when the cold start criteria are satisfied. However, in making a decision, the Executive Officer will not approve conditions that exclude engine starts from being considered as cold starts solely on the basis that ambient temperature exceeds (i.e., indicates a higher temperature than) engine coolant temperature at engine start.

(7.3.5) Manufacturers may temporarily disable the evaporative purge system to perform an evaporative system leak check.

(7.4) MIL Illumination and Fault Code Storage:

(7.4.1) Except as provided below for fuel cap leaks, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(7.4.2) If the OBD system is capable of discerning that a system leak is being caused by a missing or improperly secured fuel cap:

(A) The manufacturer is not required to illuminate the MIL or store a fault code if the vehicle is equipped with an alternative indicator for notifying the vehicle operator of the malfunction. The alternative indicator shall be of sufficient illumination and location to be readily visible under all lighting conditions.

(B) If the vehicle is not equipped with an alternative indicator and the MIL illuminates, the MIL may be extinguished and the corresponding fault codes erased once the OBD system has verified that the fuel cap has

been securely fastened and the MIL has not been illuminated for any other type of malfunction.

(C) The Executive Officer may approve other strategies that provide equivalent assurance that a vehicle operator will be promptly notified of a missing or improperly secured fuel cap and that corrective action will be undertaken.

(8) Exhaust Gas Sensor Monitoring

(8.1) Requirement:

(8.1.1) The OBD system shall monitor the output signal, response rate, and any other parameter which can affect emissions of all primary (fuel control) exhaust gas sensors (e.g., oxygen, wide-range air/fuel) for malfunction. Both the lean-to-rich and rich-to-lean response rates shall be monitored.

(8.1.2) The OBD system shall also monitor all secondary exhaust gas sensors (those used for secondary fuel trim control or as a monitoring device) for proper output signal, activity, and response rate.

(8.1.3) For engines equipped with heated exhaust gas sensors, the OBD system shall monitor the heater for proper performance.

(8.2) Malfunction Criteria:

(8.2.1) Primary Sensors:

(A) The OBD system shall detect a malfunction prior to any failure or deterioration of the exhaust gas sensor output voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) (including drift or bias corrected for by secondary sensors) that would cause an engine’s emissions to exceed 1.5 times any of the applicable standards.

(B) The OBD system shall detect malfunctions of the exhaust gas sensor caused by either a lack of circuit continuity or out-of-range values.

(C) The OBD system shall detect a malfunction of the exhaust gas sensor when a sensor failure or deterioration causes the fuel system to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(D) The OBD system shall detect a malfunction of the exhaust gas sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, or other characteristics are no longer sufficient for use as an OBD system monitoring device (e.g., for catalyst monitoring).

(8.2.2) Secondary Sensors:

(A) The OBD system shall detect a malfunction prior to any failure or deterioration of the exhaust gas sensor voltage, resistance, impedance, current, response rate, amplitude, offset, or other characteristic(s) that would cause an engine’s emissions to exceed 1.5 times any of the applicable standards.

(B) The OBD system shall detect malfunctions of the exhaust gas sensor caused by a lack of circuit continuity.

(C) To the extent feasible, the OBD system shall detect a malfunction of the exhaust gas sensor when the sensor output voltage, resistance, impedance, current, amplitude, activity, offset, or other characteristics are no longer sufficient for use as an OBD system monitoring device (e.g., for catalyst monitoring).

(D) The OBD system shall detect malfunctions of the exhaust gas sensor caused by out-of-range values.

(E) The OBD system shall detect a malfunction of the exhaust gas sensor when a sensor failure or deterioration causes the fuel system (e.g., fuel control) to stop using that sensor as a feedback input (e.g., causes default or open-loop operation).

(8.2.3) Sensor Heaters:

(A) The OBD system shall detect a malfunction of the heater performance when the current or voltage drop in the heater circuit is no longer within the manufacturer’s specified limits for normal operation (i.e., within the criteria required to be met by the component vendor for heater circuit performance at high mileage). Subject to Executive Officer approval, other malfunction criteria for heater performance malfunctions may be used upon the Executive Officer determining that the manufacturer has submitted data and/or an engineering evaluation that demon-

strate the monitoring reliability and timeliness to be equivalent to the stated criteria in section (f)(8.2.3)(A).

(B) The OBD system shall detect malfunctions of the heater circuit including open or short circuits that conflict with the commanded state of the heater (e.g., shorted to 12 Volts when commanded to 0 Volts (ground)).

(8.3) Monitoring Conditions:

(8.3.1) Primary Sensors

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (f)(8.2.1)(A) and (D) (e.g., proper response rate) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in sections (f)(8.2.1)(A) and (D) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(B) Except as provided in section (f)(8.3.1)(C), monitoring for malfunctions identified in sections (f)(8.2.1)(B) and (C) (i.e., circuit continuity, out-of-range, and open-loop malfunctions) shall be conducted continuously.

(C) A manufacturer may request Executive Officer approval to disable continuous exhaust gas sensor monitoring when an exhaust gas sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(8.3.2) Secondary Sensors

(A) Manufacturers shall define monitoring conditions for malfunctions identified in sections (f)(8.2.2)(A), (B), and (C) (e.g., proper sensor activity) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(B) Except as provided in section (f)(8.3.2)(C), monitoring for malfunctions identified in sections (f)(8.2.2)(D) and (E) (i.e., out-of-range malfunctions) shall be conducted continuously.

(C) A manufacturer may request Executive Officer approval to disable continuous exhaust gas sensor monitoring when an exhaust gas sensor malfunction cannot be distinguished from other effects (e.g., disable out-of-range low monitoring during fuel cut conditions). The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(8.3.3) Sensor Heaters

(A) Manufacturers shall define monitoring conditions for malfunctions identified in section (f)(8.2.3)(A) (i.e., sensor heater performance) in accordance sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(B) Monitoring for malfunctions identified in section (f)(8.2.3)(B) (i.e., circuit malfunctions) shall be conducted continuously.

(8.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(9) Variable Valve Timing and/or Control (VVT) System Monitoring

(9.1) Requirement: The OBD system shall monitor the VVT system on engines so-equipped for target error and slow response malfunctions. The individual electronic components (e.g., actuators, valves, sensors) that are used in the VVT system shall be monitored in accordance with the comprehensive components requirements in section (g)(3).

(9.2) Malfunction Criteria:

(9.2.1) Target Error: The OBD system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a crank angle and/or lift tolerance that would cause an engine's emissions to exceed 1.5 times any of the applicable standards.

(9.2.2) Slow Response: The OBD system shall detect a malfunction prior to any failure or deterioration in the capability of the VVT system to achieve the commanded valve timing and/or control within a manufacturer-specified time that would cause an engine's emissions to exceed 1.5 times any of the applicable standards for gasoline engines.

(9.2.3) For engines in which no failure or deterioration of the VVT system could result in an engine's emissions exceeding 1.5 times any of the applicable standards, the OBD system shall detect a malfunction of the VVT system when proper functional response of the system to computer commands does not occur.

(9.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for VVT system malfunctions identified in section (f)(9.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2). For purposes of tracking and reporting as required in section (d)(3.2.1), all monitors used to detect malfunctions identified in section (f)(9.2) shall be tracked separately but reported as a single set of values as specified in section (d)(5.2.2).

(9.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(g) Monitoring Requirements For All Engines

(1) Engine Cooling System Monitoring

(1.1) Requirement:

(1.1.1) The OBD system shall monitor the thermostat on engines so-equipped for proper operation.

(1.1.2) The OBD system shall monitor the engine coolant temperature (ECT) sensor for circuit continuity, out-of-range values, and rationality faults.

(1.1.3) For engines that use a system other than the cooling system and ECT sensor (e.g., oil temperature, cylinder head temperature) for an indication of engine operating temperature for emission control purposes (e.g., to modify spark or fuel injection timing or quantity), the manufacturer shall submit a monitoring plan to the Executive Officer for approval. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and an engineering evaluation that demonstrate that the monitoring plan is as reliable and effective as the monitoring required for the engine cooling system under section (g)(1).

(1.2) Malfunction Criteria:

(1.2.1) Thermostat

(A) The OBD system shall detect a thermostat malfunction if, within an Executive Officer-approved time interval after engine start, any of the following conditions occur:

(i) The coolant temperature does not reach the highest temperature required by the OBD system to enable other diagnostics;

(ii) The coolant temperature does not reach a warmed-up temperature within 20 degrees Fahrenheit of the manufacturer's nominal thermostat regulating temperature. Subject to Executive Officer approval, a manufacturer may utilize lower temperatures for this criterion upon the Executive Officer determining that the manufacturer has demonstrated that the fuel, spark timing, and/or other coolant temperature-based modifications to the engine control strategies would not cause an emission increase of 50 or more percent of any of the applicable standards (e.g., 50 degree Fahrenheit emission test).

(B) Executive Officer approval of the time interval after engine start shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(C) With Executive Officer approval, a manufacturer may use alternate malfunction criteria and/or monitoring conditions (see section (g)(1.3)) that are a function of temperature at engine start on engines that do not reach the temperatures specified in the malfunction criteria when the thermostat is functioning properly. Executive Officer approval shall be granted upon determining that the manufacturer has submitted data that demonstrate that a properly operating system does not reach the specified temperatures and that the possibility for cooling system malfunction

tions to go undetected and disable other OBD monitors is minimized to the extent technically feasible.

(D) A manufacturer may request Executive Officer approval to be exempted from the requirements of thermostat monitoring. Executive Officer approval shall be granted upon determining that the manufacturer has demonstrated that a malfunctioning thermostat cannot cause a measurable increase in emissions during any reasonable driving condition nor cause any disablement of other monitors.

(1.2.2) ECT Sensor

(A) Circuit Continuity. The OBD system shall detect a malfunction when a lack of circuit continuity or out-of-range values occur.

(B) Time to Reach Closed-Loop/Feedback Enable Temperature.

(i) The OBD system shall detect a malfunction if the ECT sensor does not achieve the highest stabilized minimum temperature which is needed for closed-loop/feedback control of all emission control systems (e.g., fuel system, EGR system) within an Executive Officer-approved time interval after engine start.

(ii) The time interval shall be a function of starting ECT and/or a function of intake air temperature. Executive Officer approval of the time interval shall be granted upon determining that the data and/or engineering evaluation submitted by the manufacturer supports the specified times.

(iii) Manufacturers are exempted from the requirements of section (g)(1.2.2)(B) if the manufacturer does not utilize ECT to enable closed-loop/feedback control of any emission control system.

(C) Stuck in Range Below the Highest Minimum Enable Temperature. To the extent feasible when using all available information, the OBD system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature below the highest minimum enable temperature required by the OBD system to enable other diagnostics (e.g., an OBD system that requires ECT to be greater than 140 degrees Fahrenheit to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature below 140 degrees Fahrenheit). Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (g)(1.2.1) or (g)(1.2.2)(B) will detect ECT sensor malfunctions as defined in section (g)(1.2.2)(C).

(D) Stuck in Range Above the Lowest Maximum Enable Temperature.

(i) To the extent feasible when using all available information, the OBD system shall detect a malfunction if the ECT sensor inappropriately indicates a temperature above the lowest maximum enable temperature required by the OBD system to enable other diagnostics (e.g., an OBD system that requires ECT to be less than 90 degrees Fahrenheit at engine start to enable a diagnostic must detect malfunctions that cause the ECT sensor to inappropriately indicate a temperature above 90 degrees Fahrenheit).

(ii) Manufacturers are exempted from this requirement for temperature regions in which the monitors required under sections (g)(1.2.1), (g)(1.2.2)(B), or (g)(1.2.2)(C) (i.e., ECT sensor or thermostat malfunctions) will detect ECT sensor malfunctions as defined in section (g)(1.2.2)(D) or in which the MIL will be illuminated under the requirements of sections (d)(2.2.1)(E) or (d)(2.2.2)(E) for default mode operation (e.g., overtemperature protection strategies).

(iii) Manufacturers are exempted from the requirements of section (g)(1.2.2)(D) for temperature regions where the temperature gauge indicates a temperature in the red zone (engine overheating zone) for vehicles that have a temperature gauge (not a warning light) on the instrument panel and utilize the same ECT sensor for input to the OBD system and the temperature gauge.

(1.3) Monitoring Conditions:

(1.3.1) Thermostat

(A) Manufacturers shall define the monitoring conditions for malfunctions identified in section (g)(1.2.1)(A) in accordance with section (d)(3.1). Additionally, except as provided for in sections (g)(1.3.1)(B) and (C), monitoring for malfunctions identified in section (g)(1.2.1)(A) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates, at engine start, a temperature lower than the

temperature established as the malfunction criteria in section (g)(1.2.1)(A).

(B) Manufacturers may disable thermostat monitoring at ambient engine start temperatures below 20 degrees Fahrenheit.

(C) Manufacturers may request Executive Officer approval to suspend or disable thermostat monitoring if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 percent of the warm-up time, hot restart conditions). In general, the Executive Officer shall not approve disablement of the monitor on engine starts where the ECT at engine start is more than 35 degrees Fahrenheit lower than the thermostat malfunction threshold temperature determined under section (g)(1.2.1)(A). The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or engineering analysis that demonstrate the need for the request.

(1.3.2) ECT Sensor

(A) Except as provided below in section (g)(1.3.2)(E), monitoring for malfunctions identified in section (g)(1.2.2)(A) (i.e., circuit continuity and out-of-range) shall be conducted continuously.

(B) Manufacturers shall define the monitoring conditions for malfunctions identified in section (g)(1.2.2)(B) in accordance with section (d)(3.1). Additionally, except as provided for in section (g)(1.3.2)(D), monitoring for malfunctions identified in section (g)(1.2.2)(B) shall be conducted once per driving cycle on every driving cycle in which the ECT sensor indicates a temperature lower than the closed-loop enable temperature at engine start (i.e., all engine start temperatures greater than the ECT sensor out-of-range low temperature and less than the closed-loop enable temperature).

(C) Manufacturers shall define the monitoring conditions for malfunctions identified in sections (g)(1.2.2)(C) and (D) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(D) Manufacturers may suspend or delay the time to reach closed-loop enable temperature diagnostic if the vehicle is subjected to conditions which could lead to false diagnosis (e.g., vehicle operation at idle for more than 50 to 75 percent of the warm-up time).

(E) A manufacturer may request Executive Officer approval to disable continuous ECT sensor monitoring when an ECT sensor malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or engineering evaluation that demonstrate a properly functioning sensor cannot be distinguished from a malfunctioning sensor and that the disablement interval is limited only to that necessary for avoiding false detection.

(1.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(2) Crankcase Ventilation (CV) System Monitoring

(2.1) Requirement:

(2.1.1) The OBD system shall monitor the CV system on engines so-equipped for system integrity. Engines not required to be equipped with CV systems shall be exempt from monitoring of the CV system.

(2.1.2) For diesel engines, the manufacturer shall submit a plan for Executive Officer approval of the monitoring strategy, malfunction criteria, and monitoring conditions prior to OBD certification. Executive Officer approval shall be based on the effectiveness of the monitoring strategy to monitor the performance of the CV system to the extent feasible with respect to the malfunction criteria in section (g)(2.2) below and the monitoring conditions required by the diagnostic.

(2.2) Malfunction Criteria:

(2.2.1) For the purposes of section (g)(2), "CV system" is defined as any form of crankcase ventilation system, regardless of whether it utilizes positive pressure. "CV valve" is defined as any form of valve or orifice used to restrict or control crankcase vapor flow. Further, any additional external CV system tubing or hoses used to equalize crankcase pressure or to provide a ventilation path between various areas of the engine (e.g., crankcase and valve cover) are considered part of the CV sys-

tem “between the crankcase and the CV valve” and subject to the malfunction criteria in section (g)(2.2.2) below.

(2.2.2) Except as provided below, the OBD system shall detect a malfunction of the CV system when a disconnection of the system occurs between either the crankcase and the CV valve, or between the CV valve and the intake manifold.

(2.2.3) The Executive Officer shall exempt a manufacturer from detecting a disconnection between the crankcase and the CV valve upon determining that the CV system is designed such that the CV valve is fastened directly to the crankcase in a manner which makes it significantly more difficult to remove the valve from the crankcase rather than disconnect the line between the valve and the intake manifold (taking aging effects into consideration). The manufacturer shall file a request and submit data and/or engineering evaluation in support of the exemption.

(2.2.4) The Executive Officer shall exempt a manufacturer from detecting a disconnection between the crankcase and the CV valve for system designs that utilize tubing between the valve and the crankcase upon determining that the connections between the valve and the crankcase are: (1) resistant to deterioration or accidental disconnection, (2) significantly more difficult to disconnect than the line between the valve and the intake manifold, and (3) not subject to disconnection per manufacturer’s repair procedures for non-CV system repair work. The manufacturer shall file a request and submit data and/or engineering evaluation in support of the exemption.

(2.2.5) The Executive Officer shall exempt a manufacturer from detecting a disconnection between the CV valve and the intake manifold upon determining that the disconnection (1) causes the vehicle to stall immediately during idle operation; or (2) is unlikely to occur due to a CV system design that is integral to the induction system (e.g., machined passages rather than tubing or hoses). The manufacturer shall file a request and submit data and/or engineering evaluation in support of the exemption.

(2.3) Monitoring Conditions: Manufacturers shall define the monitoring conditions for malfunctions identified in section (g)(2.2) in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(2.4) MIL Illumination and Fault Code Storage: General requirements for MIL illumination and fault code storage are set forth in section (d)(2). The stored fault code need not specifically identify the CV system (e.g., a fault code for idle speed control or fuel system monitoring can be stored) if the manufacturer demonstrates that additional monitoring hardware would be necessary to make this identification, and provided the manufacturer’s diagnostic and repair procedures for the detected malfunction include directions to check the integrity of the CV system.

(3) Comprehensive Component Monitoring

(3.1) Requirement:

(3.1.1) Except as provided in section (g)(4), the OBD system shall monitor for malfunction any electronic engine component/system not otherwise described in sections (e)(1) through (g)(2) that either provides input to (directly or indirectly) or receives commands from the on-board computer(s), and: (1) can affect emissions during any reasonable in-use driving condition, or (2) is used as part of the diagnostic strategy for any other monitored system or component.

(A) Input Components: Input components required to be monitored may include the crank angle sensor, knock sensor, throttle position sensor, cam position sensor, intake air temperature sensor, boost pressure sensor, manifold pressure sensor, mass air flow sensor, exhaust temperature sensor, exhaust pressure sensor, fuel pressure sensor, fuel composition sensor (e.g. flexible fuel vehicles), and electronic components used to comply with any applicable engine idling requirements of title 13, CCR section 1956.8.

(B) Output Components/Systems: Output components/systems required to be monitored may include the idle speed control system, glow plug system, variable length intake manifold runner systems, supercharger or turbocharger electronic components, heated fuel preparation systems, the wait-to-start lamp on diesel applications, and the MIL.

(3.1.2) For purposes of criteria (1) in section (g)(3.1.1) above, the manufacturer shall determine whether an engine input or output component/system can affect emissions. If the Executive Officer reasonably believes that a manufacturer has incorrectly determined that a component/system cannot affect emissions, the Executive Officer shall require the manufacturer to provide emission data showing that the component/system, when malfunctioning and installed in a suitable test vehicle, does not have an emission effect. Emission data may be requested for any reasonable driving condition.

(3.1.3) For purposes of section (g)(3), “electronic engine components/systems” does not include components that are driven by the engine and are not related to the control of the fueling, air handling, or emissions of the engine (e.g., PTO components, air conditioning system components, and power steering components).

(3.2) Malfunction Criteria:

(3.2.1) Input Components:

(A) The OBD system shall detect malfunctions of input components caused by a lack of circuit continuity, out-of-range values, and, where feasible, rationality faults. To the extent feasible, the rationality fault diagnostics shall verify that a sensor output is neither inappropriately high nor inappropriately low (i.e., shall be “two-sided” diagnostics).

(B) To the extent feasible, the OBD system shall separately detect and store different fault codes that distinguish rationality faults from lack of circuit continuity and out-of-range faults. For input component lack of circuit continuity and out-of-range faults, the OBD system shall, to the extent feasible, separately detect and store different fault codes for each distinct malfunction (e.g., out-of-range low, out-of-range high, open circuit). The OBD system is not required to store separate fault codes for lack of circuit continuity faults that cannot be distinguished from other out-of-range circuit faults.

(C) For input components that are used to activate alternate strategies that can affect emissions (e.g., AECs, engine shutdown systems or strategies to meet NOx idling standards required by title 13, CCR section 1956.8), the OBD system shall detect rationality malfunctions that cause the system to erroneously activate or deactivate the alternate strategy. To the extent feasible when using all available information, the rationality fault diagnostics shall detect a malfunction if the input component inappropriately indicates a value that activates or deactivates the alternate strategy. For example, if an alternate strategy requires the intake air temperature to be greater than 120 degrees Fahrenheit to activate, the OBD system shall detect malfunctions that cause the intake air temperature sensor to inappropriately indicate a temperature above 120 degrees Fahrenheit.

(D) For engines that require precise alignment between the camshaft and the crankshaft, the OBD system shall monitor the crankshaft position sensor(s) and camshaft position sensor(s) to verify proper alignment between the camshaft and crankshaft in addition to monitoring the sensors for circuit continuity and rationality malfunctions. Proper alignment monitoring between a camshaft and a crankshaft shall only be required in cases where both are equipped with position sensors. For engines equipped with VVT systems and a timing belt or chain, the OBD system shall detect a malfunction if the alignment between the camshaft and crankshaft is off by one or more cam/crank sprocket cogs (e.g., the timing belt/chain has slipped by one or more teeth/cogs). If a manufacturer demonstrates that a single tooth/cog misalignment cannot cause a measurable increase in emissions during any reasonable driving condition, the OBD system shall detect a malfunction when the minimum number of teeth/cogs misalignment needed to cause a measurable emission increase has occurred.

(3.2.2) Output Components/Systems:

(A) The OBD system shall detect a malfunction of an output component/system when proper functional response of the component and system to computer commands does not occur. If a functional check is not feasible, the OBD system shall detect malfunctions of output components/systems caused by a lack of circuit continuity or circuit fault (e.g., short to ground or high voltage). For output component lack of circuit

continuity faults and circuit faults, the OBD system is not required to store different fault codes for each distinct malfunction (e.g., open circuit, shorted low). Manufacturers are not required to activate an output component/system when it would not normally be active exclusively for the purposes of performing functional monitoring of output components/systems as required in section (g)(3).

(B) The idle control system shall be monitored for proper functional response to computer commands.

(i) For gasoline engines using monitoring strategies based on deviation from target idle speed, a malfunction shall be detected when either of the following conditions occur:

a. The idle speed control system cannot achieve the target idle speed within 200 revolutions per minute (rpm) above the target speed or 100 rpm below the target speed. The Executive Officer shall allow larger engine speed tolerances upon determining that a manufacturer has submitted data and/or an engineering evaluation which demonstrate that the tolerances can be exceeded without a malfunction being present.

b. The idle speed control system cannot achieve the target idle speed within the smallest engine speed tolerance range required by the OBD system to enable any other monitors.

(ii) For diesel engines, a malfunction shall be detected when either of the following conditions occur:

a. The idle fuel control system cannot achieve the target idle speed or fuel injection quantity within ± 50 percent of the manufacturer-specified fuel quantity and engine speed tolerances.

b. The idle fuel control system cannot achieve the target idle speed or fueling quantity within the smallest engine speed or fueling quantity tolerance range required by the OBD system to enable any other monitors.

(C) Glow plugs/intake air heater systems shall be monitored for proper functional response to computer commands and for circuit continuity faults. The glow plug/intake air heater circuit(s) shall be monitored for proper current and voltage drop. The Executive Officer shall approve other monitoring strategies based on manufacturer's data and/or engineering analysis demonstrating equally reliable and timely detection of malfunctions. Except as provided below, the OBD system shall detect a malfunction when a single glow plug no longer operates within the manufacturer's specified limits for normal operation. If a manufacturer demonstrates that a single glow plug failure cannot cause a measurable increase in emissions during any reasonable driving condition, the OBD system shall detect a malfunction for the minimum number of glow plugs needed to cause an emission increase. Further, to the extent feasible on existing engine designs (without adding additional hardware for this purpose) and on all new design engines, the stored fault code shall identify the specific malfunctioning glow plug(s).

(D) The wait-to-start lamp circuit and the MIL circuit shall be monitored for malfunctions that cause either lamp to fail to illuminate when commanded on (e.g., burned out bulb).

(3.3) Monitoring Conditions:

(3.3.1) Input Components:

(A) Except as provided in section (g)(3.3.1)(C), input components shall be monitored continuously for proper range of values and circuit continuity.

(B) For rationality monitoring (where applicable) manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that rationality monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(C) A manufacturer may request Executive Officer approval to disable continuous input component proper range of values or circuit continuity monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning input component cannot be distinguished from a malfunctioning input component and that the dis-

ablement interval is limited only to that necessary for avoiding false detection.

(3.3.2) Output Components/Systems:

(A) Except as provided in section (g)(3.3.2)(D), monitoring for circuit continuity and circuit faults shall be conducted continuously.

(B) Except as provided in section (g)(3.3.2)(C), for functional monitoring, manufacturers shall define the monitoring conditions for detecting malfunctions in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements).

(C) For the idle control system, manufacturers shall define the monitoring conditions for functional monitoring in accordance with sections (d)(3.1) and (d)(3.2) (i.e., minimum ratio requirements), with the exception that functional monitoring shall occur every time the monitoring conditions are met during the driving cycle in lieu of once per driving cycle as required in section (d)(3.1.2).

(D) A manufacturer may request Executive Officer approval to disable continuous output component circuit continuity or circuit fault monitoring when a malfunction cannot be distinguished from other effects. The Executive Officer shall approve the disablement upon determining that the manufacturer has submitted test data and/or documentation that demonstrate a properly functioning output component cannot be distinguished from a malfunctioning output component and that the disablement interval is limited only to that necessary for avoiding false detection.

(3.4) MIL Illumination and Fault Code Storage:

(3.4.1) Except as provided in sections (g)(3.4.2) and (3.4.3) below, general requirements for MIL illumination and fault code storage are set forth in section (d)(2).

(3.4.2) Exceptions to general requirements for MIL illumination. MIL illumination is not required in conjunction with storing a confirmed or MIL-on fault code for any comprehensive component if:

(A) the component or system, when malfunctioning, could not cause engine emissions to increase by 15 percent or more of the FTP standard during any reasonable driving condition; and

(B) the component or system is not used as part of the diagnostic strategy for any other monitored system or component.

(3.4.3) Exceptions for MIL circuit faults. MIL illumination is not required if a malfunction in the MIL circuit that prevents the MIL from illuminating (e.g., burned out bulb or LED) has been detected. However, the electronic MIL status (see section (h)(4.2)) shall be reported as MIL commanded-on and a confirmed or MIL-on fault code (see section (h)(4.4)) shall be stored.

(4) Other Emission Control System Monitoring

(4.1) Requirement: For other emission control systems that are: (1) not identified or addressed in sections (e)(1) through (g)(3) (e.g., hydrocarbon traps, HCCI control systems), or (2) identified or addressed in section (g)(3) but not corrected or compensated for by an adaptive control system (e.g., swirl control valves), manufacturers shall submit a plan for Executive Officer approval of the monitoring strategy, malfunction criteria, and monitoring conditions prior to introduction on a production engine. Executive Officer approval shall be based on the effectiveness of the monitoring strategy, the malfunction criteria utilized, the monitoring conditions required by the diagnostic, and, if applicable, the determination that the requirements of section (g)(4.2) below are satisfied.

(4.2) For engines that utilize emission control systems that alter intake air flow or cylinder charge characteristics by actuating valve(s), flap(s), etc. in the intake air delivery system (e.g., swirl control valve systems), the manufacturers, in addition to meeting the requirements of section (g)(4.1) above, may elect to have the OBD system monitor the shaft to which all valves in one intake bank are physically attached in lieu of monitoring the intake air flow, cylinder charge, or individual valve(s)/flap(s) for proper functional response. For non-metal shafts or segmented shafts, the monitor shall verify all shaft segments for proper functional response (e.g., by verifying the segment or portion of the shaft furthest from the actuator properly functions). For systems that have more than

one shaft to operate valves in multiple intake banks, manufacturers are not required to add more than one set of detection hardware (e.g., sensor, switch) per intake bank to meet this requirement.

(5) Exceptions To Monitoring Requirements

(5.1) Upon request of a manufacturer or upon the best engineering judgment of the ARB, the Executive Officer may revise the emission threshold for any monitor in sections (e) through (g) or revise the PM filter malfunction criteria of section (e)(8.2.1) to exclude detection of specific failure modes (e.g., partially melted substrates) if the most reliable monitoring method developed requires a higher threshold (or, in the case of section (e)(8.2.1), the exclusion of specific failure modes) to prevent significant errors of commission in detecting a malfunction.

(5.2) For 2010 through 2012 model year diesel engines, in determining the malfunction criteria for diesel engine monitors in sections (e)(1), (3), (4), (5), (8.2.2), (8.2.4), (9.2.1)(A), and (e)(10), the manufacturer shall use a threshold of 2.5 times any of the applicable NMHC, CO, or NOx standards in lieu of 2.0 times any of the applicable standards.

(5.3) Manufacturers may request Executive Officer approval to disable an OBD system monitor at ambient engine start temperatures below 20 degrees Fahrenheit (low ambient temperature conditions may be determined based on intake air or engine coolant temperature at engine start) or at elevations above 8000 feet above sea level. The Executive Officer shall approve the request upon determining that the manufacturer has provided data and/or an engineering evaluation that demonstrate that monitoring during the conditions would be unreliable. A manufacturer may further request, and the Executive Officer shall approve, that an OBD system monitor be disabled at other ambient engine start temperatures upon determining that the manufacturer has demonstrated with data and/or an engineering evaluation that misdiagnosis would occur at the ambient temperatures because of its effect on the component itself (e.g., component freezing).

(5.4) Manufacturers may request Executive Officer approval to disable monitoring systems that can be affected by low fuel level or running out of fuel (e.g., misfire detection) when the fuel level is 15 percent or less of the nominal capacity of the fuel tank. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the fuel levels would be unreliable and the OBD system is able to detect a malfunction if the component(s) used to determine fuel level erroneously indicates a fuel level that causes the disablement.

(5.5) Manufacturers may disable monitoring systems that can be affected by vehicle battery or system voltage levels.

(5.5.1) For monitoring systems affected by low vehicle battery or system voltages, manufacturers may disable monitoring systems when the battery or system voltage is below 11.0 Volts. Manufacturers may request Executive Officer approval to utilize a voltage threshold higher than 11.0 Volts to disable system monitoring. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring at the voltages would be unreliable and that either operation of a vehicle below the disablement criteria for extended periods of time is unlikely or the OBD system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(5.5.2) For monitoring systems affected by high vehicle battery or system voltages, manufacturers may request Executive Officer approval to disable monitoring systems when the battery or system voltage exceeds a manufacturer-defined voltage. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data and/or an engineering evaluation that demonstrate that monitoring above the manufacturer-defined voltage would be unreliable and that either the electrical charging system/alternator warning light is illuminated (or voltage gauge is in the "red zone") or the OBD system monitors the battery or system voltage and will detect a malfunction at the voltage used to disable other monitors.

(5.6) A manufacturer may disable affected monitoring systems in vehicles designed to accommodate the installation of PTO units (as defined

in section (c)), provided disablement occurs only while the PTO unit is active, and the OBD readiness status is cleared by the on-board computer (i.e., all monitors set to indicate "not complete") while the PTO unit is activated (see section (h)(4.1) below). If the disablement occurs, the readiness status may be restored to its state prior to PTO activation when the disablement ends.

(h) Standardization Requirements

(1) Reference Documents:

The following Society of Automotive Engineers (SAE) and International Organization of Standards (ISO) documents are incorporated by reference into this regulation:

(1.1) SAE J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms — Equivalent to ISO/TR 15031-2:April 30, 2002", April 2002 (SAE J1930).

(1.2) SAE J1962 "Diagnostic Connector — Equivalent to ISO/DIS 15031-3: December 14, 2001", April 2002 (SAE J1962).

(1.3) SAE J1978 "OBD II Scan Tool — Equivalent to ISO/DIS 15031-4: December 14, 2001", April 2002 (SAE J1978).

(1.4) SAE J1979 "E/E Diagnostic Test Modes — Equivalent to ISO/DIS 15031-5:April 30, 2002", April 2002 (SAE J1979).

(1.5) SAE J2012 "Diagnostic Trouble Code Definitions — Equivalent to ISO/DIS 15031-6:April 30, 2002", April 2002 (SAE J2012).

(1.6) ISO 15765-4:2001 "Road Vehicles-Diagnostics on Controller Area Network (CAN) — Part 4: Requirements for emission-related systems", December 2001 (ISO 15765-4).

(1.7) SAE J1939 March 2005 — "Recommended Practice for a Serial Control and Communications Vehicle Network" and the associated subparts included in SAE HS-1939, "Truck and Bus Control and Communications Network Standards Manual", 2005 Edition (SAE J1939).

(1.8) SAE J2403 "Medium/Heavy-Duty E/E Systems Diagnosis Nomenclature," August 2004 (SAE J2403).

(2) Diagnostic Connector:

A standard data link connector conforming to SAE J1962 or SAE J1939-13 specifications (except as specified in section (h)(2.3)) shall be incorporated in each vehicle.

(2.1) The connector shall be located in the driver's side foot-well region of the vehicle interior in the area bound by the driver's side of the vehicle and the driver's side edge of the center console (or the vehicle centerline if the vehicle does not have a center console) and at a location no higher than the bottom of the steering wheel when in the lowest adjustable position. The connector may not be located on or in the center console (i.e., neither on the horizontal faces near the floor-mounted gear selector, parking brake lever, or cup-holders nor on the vertical faces near the car stereo, climate system, or navigation system controls). The location of the connector shall be capable of being easily identified and accessed (e.g., to connect an off-board tool). For vehicles equipped with a driver's side door, the connector shall be capable of being easily identified and accessed by a technician standing (or "crouched") on the ground outside the driver's side of the vehicle with the driver's side door open.

(2.2) If the connector is covered, the cover must be removable by hand without the use of any tools and be labeled "OBD" to aid technicians in identifying the location of the connector. Access to the diagnostic connector may not require opening or the removal of any storage accessory (e.g., ashtray, coinbox). The label shall be submitted to the Executive Officer for review and approval, at or before the time the manufacturer submits its certification application. The Executive Officer shall approve the label upon determining that it clearly identifies that the connector is located behind the cover and is consistent with language and/or symbols commonly used in the automotive industry.

(2.3) If the ISO 15765-4 protocol (see section (h)(3)) is used for the required OBD standardized functions, the connector shall meet the "Type A" specifications of SAE J1962. Any pins in the connector that provide electrical power shall be properly fused to protect the integrity and usefulness of the connector for diagnostic purposes and may not exceed 20.0 Volts DC regardless of the nominal vehicle system or battery voltage (e.g., 12V, 24V, 42V).

(2.4) If the SAE J1939 protocol (see section (h)(3)) is used for the required OBD standardized functions, the connector shall meet the specifications of SAE J1939-13. Any pins in the connector that provide electrical power shall be properly fused to protect the integrity and usefulness of the connector for diagnostic purposes.

(2.5) Manufacturers may equip vehicles with additional diagnostic connectors for manufacturer-specific purposes (i.e., purposes other than the required OBD functions). However, if the additional connector conforms to the "Type A" specifications of SAE J1962 or the specifications of SAE J1939-13 and is located in the vehicle interior near the required connector of section (h)(2.3) or (2.4), the connector(s) must be clearly labeled to identify which connector is used to access the standardized OBD information required in section (h).

(3) Communications to a Scan Tool:

All OBD control modules (e.g., engine, auxiliary emission control module) on a single vehicle shall use the same protocol for communication of required emission-related messages from on-board to off-board network communications to a scan tool meeting SAE J1978 specifications or designed to communicate with an SAE J1939 network. Engine manufacturers shall not alter normal operation of the engine emission control system due to the presence of off-board test equipment accessing information required by section (h). The OBD system shall use one of the following standardized protocols:

(3.1) ISO 15765-4. All required emission-related messages using this protocol shall use a 500 kbps baud rate.

(3.2) SAE J1939. This protocol may only be used on vehicles with diesel engines.

(4) Required Emission Related Functions:

The following standardized functions shall be implemented in accordance with the specifications in SAE J1979 or SAE J1939 to allow for access to the required information by a scan tool meeting SAE J1978 specifications or designed to communicate with an SAE J1939 network:

(4.1) Readiness Status: In accordance with SAE J1979/J1939-73 specifications, the OBD system shall indicate "complete" or "not complete" for each of the installed monitored components and systems identified in sections (e)(1) through (f)(9), and (g)(3) except (f)(4). All components or systems identified in (f)(1), (f)(2), or (g)(3) that are monitored continuously shall always indicate "complete". Components or systems that are not subject to continuous monitoring shall immediately indicate "complete" upon the respective diagnostic(s) being fully executed and determining that the component or system is not malfunctioning. A component or system shall also indicate "complete" if after the requisite number of decisions necessary for determining MIL status has been fully executed, the monitor indicates a malfunction for the component or system. The status for each of the monitored components or systems shall indicate "not complete" whenever fault memory has been cleared or erased by a means other than that allowed in section (d)(2). Normal vehicle shut down (i.e., key off, engine off) may not cause the status to indicate "not complete".

(4.1.1) Subject to Executive Officer approval, a manufacturer may request that the readiness status for a monitor be set to indicate "complete" without monitoring having been completed if monitoring is disabled for a multiple number of driving cycles due to the continued presence of extreme operating conditions (e.g., cold ambient temperatures, high altitudes). Executive Officer approval shall be based on the conditions for monitoring system disablement and the number of driving cycles specified without completion of monitoring before readiness is indicated as "complete".

(4.1.2) For the evaporative system monitor, the readiness status shall be set in accordance with section (h)(4.1) when both the functional check of the purge valve and, if applicable, the leak detection monitor of the orifice size specified in section (f)(7.2.2)(B) (e.g., 0.150 inch) indicate that they are complete.

(4.1.3) If the manufacturer elects to additionally indicate readiness status through the MIL in the key on, engine off position as provided for in section (d)(2.1.3), the readiness status shall be indicated in the following

manner: If the readiness status for all monitored components or systems is "complete", the MIL shall remain continuously illuminated in the key on, engine off position for at least 15-20 seconds. If the readiness status for one or more of the monitored components or systems is "not complete", after 15-20 seconds of operation in the key on, engine off position with the MIL illuminated continuously, the MIL shall blink once per second for 5-10 seconds. The data stream value for MIL status (section (h)(4.2)) shall indicate "commanded off" during this sequence unless the MIL has also been "commanded on" for a detected fault.

(4.2) Data Stream: The following signals shall be made available on demand through the standardized data link connector in accordance with SAE J1979/J1939 specifications. The actual signal value shall always be used instead of a default or limp home value.

(4.2.1) For all gasoline engines:

(A) Calculated load value, engine coolant temperature, engine speed, vehicle speed, time elapsed since engine start; and

(B) Absolute load, fuel level (if used to enable or disable any other diagnostics), barometric pressure (directly measured or estimated), engine control module system voltage, commanded equivalence ratio; and

(C) Number of stored confirmed fault codes, catalyst temperature (if directly measured or estimated for purposes of enabling the catalyst monitor(s)), monitor status (i.e., disabled for the rest of this driving cycle, complete this driving cycle, or not complete this driving cycle) since last engine shut-off for each monitor used for readiness status, distance traveled (or engine run time for engines not utilizing vehicle speed information) while MIL activated, distance traveled (or engine run time for engines not utilizing vehicle speed information) since fault memory last cleared, and number of warm-up cycles since fault memory last cleared, OBD requirements to which the engine is certified (e.g., California OBD, EPA OBD, European OBD, non-OBD) and MIL status (i.e., commanded-on or commanded-off).

(4.2.2) For all diesel engines:

(A) Calculated load (engine torque as a percentage of maximum torque available at the current engine speed), driver's demand engine torque (as a percentage of maximum engine torque), actual engine torque (as a percentage of maximum engine torque), reference engine maximum torque, reference maximum engine torque as a function of engine speed (suspect parameter numbers (SPN) 539 through 543 defined by SAE J1939 within parameter group number (PGN) 65251 for engine configuration), engine coolant temperature, engine oil temperature (if used for emission control or any OBD diagnostics), engine speed, time elapsed since engine start; and

(B) Fuel level (if used to enable or disable any other diagnostics), vehicle speed (if used for emission control or any OBD diagnostics), barometric pressure (directly measured or estimated), engine control module system voltage; and

(C) Number of stored confirmed/MIL-on fault codes, monitor status (i.e., disabled for the rest of this driving cycle, complete this driving cycle, or not complete this driving cycle) since last engine shut-off for each monitor used for readiness status, distance traveled (or engine run time for engines not utilizing vehicle speed information) while MIL activated, distance traveled (or engine run time for engines not utilizing vehicle speed information) since fault memory last cleared, number of warm-up cycles since fault memory last cleared, OBD requirements to which the engine is certified (e.g., California OBD, California OBD-child rating (i.e., for engines subject to (d)(7.1.2) or (d)(7.2.3)) EPA OBD, European OBD, non-OBD), and MIL status (i.e., commanded-on or commanded-off);

(D) NOx NTE control area status (i.e., inside control area, outside control area, inside manufacturer-specific NOx NTE carve-out area, or deficiency active area) and PM NTE control area status (i.e., inside control area, outside control area, inside manufacturer-specific PM NTE carve-out area, or deficiency active area).

(E) For purposes of the calculated load and torque parameters in section (h)(4.2.2)(A), manufacturers shall report the most accurate values that are calculated within the applicable electronic control unit (e.g., the

engine control module). "Most accurate values", in this context, shall be of sufficient accuracy, resolution, and filtering to be used for the purposes of in-use emission testing with the engine still in a vehicle (e.g., using portable emission measurement equipment).

(4.2.3) For all engines so equipped:

(A) Absolute throttle position, relative throttle position, fuel control system status (e.g., open loop, closed loop), fuel trim, fuel pressure, ignition timing advance, fuel injection timing, intake air/manifold temperature, engine intercooler temperature, manifold absolute pressure, air flow rate from mass air flow sensor, secondary air status (upstream, downstream, or atmosphere), ambient air temperature, commanded purge valve duty cycle/position, commanded EGR valve duty cycle/position, actual EGR valve duty cycle/position, EGR error between actual and commanded, PTO status (active or not active), redundant absolute throttle position (for electronic throttle or other systems that utilize two or more sensors), absolute pedal position, redundant absolute pedal position, commanded throttle motor position, fuel rate, boost pressure, commanded/target boost pressure, turbo inlet air temperature, fuel rail pressure, commanded fuel rail pressure, PM filter inlet pressure, PM filter inlet temperature, PM filter outlet pressure, PM filter outlet temperature, PM filter delta pressure, exhaust pressure sensor output, exhaust gas temperature sensor output, injection control pressure, commanded injection control pressure, turbocharger/turbine speed, variable geometry turbo position, commanded variable geometry turbo position, turbocharger compressor inlet temperature, turbocharger compressor inlet pressure, turbocharger turbine inlet temperature, turbocharger turbine outlet temperature, wastegate valve position, glow plug lamp status; and

(B) Oxygen sensor output, air/fuel ratio sensor output, NOx sensor output, and evaporative system vapor pressure.

(4.3) Freeze Frame.

(4.3.1) "Freeze frame" information required to be stored pursuant to sections (d)(2.2.1)(D), (d)(2.2.2)(D), (f)(1.4.4), and (f)(2.4.3) shall be made available on demand through the standardized data link connector in accordance with SAE J1979/J1939-73 specifications.

(4.3.2) "Freeze frame" conditions must include the fault code which caused the data to be stored and all of the signals required in sections (h)(4.2.1)(A) and (4.2.2)(A). Freeze frame conditions shall also include all of the signals required on the engine in sections (h)(4.2.1)(B), (4.2.2)(B), and (4.2.3)(A) that are used for diagnostic or control purposes in the specific diagnostic or emission-critical powertrain control unit that stored the fault code.

(4.3.3) Only one frame of data is required to be recorded. Manufacturers may choose to store additional frames provided that at least the required frame can be read by a scan tool meeting SAE J1978 specifications or designed to communicate with an SAE J1939 network.

(4.4) Fault Codes

(4.4.1) For vehicles using the ISO 15765-4 protocol for the standardized functions required in section (h):

(A) For all monitored components and systems, stored pending, confirmed, and permanent fault codes shall be made available through the diagnostic connector in a standardized format in accordance with SAE J1979 specifications. Standardized fault codes conforming to SAE J2012 shall be employed.

(B) The stored fault code shall, to the fullest extent possible, pinpoint the likely cause of the malfunction. To the extent feasible, manufacturers shall use separate fault codes for every diagnostic where the diagnostic and repair procedure or likely cause of the failure is different. In general, rationality and functional diagnostics shall use different fault codes than the respective circuit continuity diagnostics. Additionally, input component circuit continuity diagnostics shall use different fault codes for distinct malfunctions (e.g., out-of-range low, out-of-range high, open circuit).

(C) Manufacturers shall use appropriate SAE-defined fault codes of SAE J2012 (e.g., P0xxx, P2xxx) whenever possible. With Executive Officer approval, manufacturers may use manufacturer-defined fault codes in accordance with SAE J2012 specifications (e.g., P1xxx). Factors to be

considered by the Executive Officer for approval shall include the lack of available SAE-defined fault codes, uniqueness of the diagnostic or monitored component, expected future usage of the diagnostic or component, and estimated usefulness in providing additional diagnostic and repair information to service technicians. Manufacturer-defined fault codes shall be used consistently (i.e., the same fault code may not be used to represent two different failure modes) across a manufacturer's entire product line.

(D) A pending or confirmed fault code (as required in sections (d) and (e) through (g)) shall be stored and available to an SAE J1978 scan tool within 10 seconds after a diagnostic has determined that a malfunction has occurred. A permanent fault code shall be stored and available to an SAE J1978 scan tool no later than the end of an ignition cycle in which the corresponding confirmed fault code causing the MIL to be illuminated has been stored.

(E) Pending fault codes:

(i) Pending fault codes for all components and systems (including continuously and non-continuously monitored components) shall be made available through the diagnostic connector in accordance with SAE J1979 specifications (e.g., Mode/Service \$07).

(ii) A pending fault code(s) shall be stored and available through the diagnostic connector for all currently malfunctioning monitored component(s) or system(s), regardless of the MIL illumination status or confirmed fault code status (e.g., even after a pending fault has matured to a confirmed fault code and the MIL is illuminated, a pending fault code shall be stored and available if the most recent monitoring event indicates the component is malfunctioning).

(iii) Manufacturers using alternate statistical protocols for MIL illumination as allowed in section (d)(2.2.1)(C) shall submit to the Executive Officer a protocol for setting pending fault codes. The Executive Officer shall approve the proposed protocol upon determining that, overall, it is equivalent to the requirements in sections (h)(4.4.1)(E)(i) and (ii) and that it effectively provides service technicians with a quick and accurate indication of a pending failure.

(F) Permanent fault codes:

(i) Permanent fault codes for all components and systems shall be made available through the diagnostic connector in a standardized format that distinguishes permanent fault codes from both pending fault codes and confirmed fault codes.

(ii) A confirmed fault code shall be stored as a permanent fault code no later than the end of the ignition cycle and subsequently at all times that the confirmed fault code is commanding the MIL on (e.g., for currently failing systems but not during the 40 warm-up cycle self-healing process described in section (d)(2.3.1)(B)).

(iii) Permanent fault codes shall be stored in NVRAM and may not be erasable by any scan tool command (generic or enhanced) or by disconnecting power to the on-board computer.

(iv) Permanent fault codes shall be erasable if the engine control module is reprogrammed and the readiness status (refer to section (h)(4.1)) for all monitored components and systems are set to "not complete."

(v) The OBD system shall have the ability to store a minimum of four current confirmed fault codes as permanent fault codes in NVRAM. If the number of confirmed fault codes currently commanding the MIL on exceeds the maximum number of permanent fault codes that can be stored, the OBD system shall store the earliest detected confirmed fault codes as permanent fault codes. If additional confirmed fault codes are stored when the maximum number of permanent fault codes is already stored in NVRAM, the OBD system may not replace any existing permanent fault code with the additional confirmed fault codes.

(4.4.2) For vehicles using the SAE J1939 protocol for the standardized functions required in section (h):

(A) For all monitored components and systems, stored pending, MIL-on, and previously MIL-on fault codes shall be made available through the diagnostic connector in a standardized format in accordance with SAE J1939 specifications (i.e., Diagnostic Message (DM) 6, DM12, and

DM23). Standardized fault codes conforming to SAE J1939 shall be employed.

(B) The stored fault code shall, to the fullest extent possible, pinpoint the likely cause of the malfunction. To the extent feasible, manufacturers shall use separate fault codes for every diagnostic where the diagnostic and repair procedure or likely cause of the failure is different. In general, rationality and functional diagnostics shall use different fault codes than the respective circuit continuity diagnostics. Additionally, input component circuit continuity diagnostics shall use different fault codes for distinct malfunctions (e.g., out-of-range low, out-of-range high, open circuit).

(C) Manufacturers shall use appropriate SAE-defined fault codes of SAE J1939 whenever possible. With Executive Officer approval, manufacturers may use manufacturer-defined fault codes in accordance with SAE J1939 specifications. Factors to be considered by the Executive Officer for approval shall include the lack of available SAE-defined fault codes, uniqueness of the diagnostic or monitored component, expected future usage of the diagnostic or component, and estimated usefulness in providing additional diagnostic and repair information to service technicians. Manufacturer-defined fault codes shall be used consistently (i.e., the same fault code may not be used to represent two different failure modes) across a manufacturer's entire product line.

(D) A pending or MIL-on fault code (as required in sections (d), (e), and (g)) shall be stored and available to an SAE J1939 scan tool within 10 seconds after a diagnostic has determined that a malfunction has occurred. A permanent fault code shall be stored and available to an SAE J1939 scan tool no later than the end of an ignition cycle in which the corresponding MIL-on fault code causing the MIL to be illuminated has been stored.

(E) Pending fault codes:

(i) Pending fault codes for all components and systems (including continuously and non-continuously monitored components) shall be made available through the diagnostic connector in accordance with SAE J1939 specifications (i.e., DM6).

(ii) Manufacturers using alternate statistical protocols for MIL illumination as allowed in section (d)(2.2.2)(C) shall submit to the Executive Officer a protocol for setting pending fault codes. The Executive Officer shall approve the proposed protocol upon determining that, overall, it is equivalent to the requirements in sections (h)(4.4.2)(E)(i) and that it effectively provides service technicians with a quick and accurate indication of a pending failure.

(F) Permanent fault codes:

(i) Permanent fault codes for all components and systems shall be made available through the diagnostic connector in a standardized format that distinguishes permanent fault codes from pending fault codes, MIL-on fault codes, and previously MIL-on fault codes.

(ii) A MIL-on fault code shall be stored as a permanent fault code no later than the end of the ignition cycle and subsequently at all times that the MIL-on fault code is commanding the MIL on (e.g., for currently failing systems).

(iii) Permanent fault codes shall be stored in NVRAM and may not be erasable by any scan tool command (generic or enhanced) or by disconnecting power to the on-board computer.

(iv) Permanent fault codes shall be erasable if the engine control module is reprogrammed and the readiness status (refer to section (h)(4.1)) for all monitored components and systems are set to "not complete."

(v) The OBD system shall have the ability to store a minimum of four current MIL-on fault codes as permanent fault codes in NVRAM. If the number of MIL-on fault codes currently commanding the MIL on exceeds the maximum number of permanent fault codes that can be stored, the OBD system shall store the earliest detected MIL-on fault codes as permanent fault codes. If additional MIL-on fault codes are stored when the maximum number of permanent fault codes is already stored in NVRAM, the OBD system may not replace any existing permanent fault code with the additional MIL-on fault codes.

(4.5) Test Results

(4.5.1) Except as provided in section (h)(4.5.7), for all monitored components and systems identified in sections (e)(1) through (f)(9), results of the most recent monitoring of the components and systems and the test limits established for monitoring the respective components and systems shall be stored and available through the data link in accordance with the standardized format specified in SAE J1979 for the ISO 15765-4 protocol or SAE J1939.

(4.5.2) The test results shall be reported such that properly functioning components and systems (e.g., "passing" systems) do not store test values outside of the established test limits. Test limits shall include both minimum and maximum acceptable values and shall be defined so that a test result equal to either test limit is a "passing" value, not a "failing" value.

(4.5.3) The test results shall be standardized such that the name of the monitored component (e.g., catalyst bank 1) can be identified by a generic scan tool and the test results and limits can be scaled and reported with the appropriate engineering units by a generic scan tool.

(4.5.4) The test results shall be stored until updated by a more recent valid test result or the fault memory of the OBD system computer is cleared. Upon fault memory being cleared, test results reported for monitors that have not yet completed with valid test results since the last time the fault memory was cleared shall report values of zero for the test result and test limits.

(4.5.5) All test results and test limits shall always be reported and the test results shall be stored until updated by a more recent valid test result or the fault memory of the OBD system computer is cleared.

(4.5.6) The OBD system shall store and report unique test results for each separate diagnostic.

(4.5.7) The requirements of section (h)(4.5) do not apply to continuous fuel system monitoring, cold start emission reduction strategy monitoring, and continuous circuit monitoring.

(4.6) Software Calibration Identification: On all vehicles, a single software calibration identification number (CAL ID) for each diagnostic or emission critical control unit(s) shall be made available through the standardized data link connector in accordance with the SAE J1979/J1939 specifications. A unique CAL ID shall be used for every emission-related calibration and/or software set having at least one bit of different data from any other emission-related calibration and/or software set. Control units coded with multiple emission or diagnostic calibrations and/or software sets shall indicate a unique CAL ID for each variant in a manner that enables an off-board device to determine which variant is being used by the vehicle. Control units that utilize a strategy that will result in MIL illumination if the incorrect variant is used (e.g., control units that contain variants for manual and automatic transmissions but will illuminate the MIL if the variant selected does not match the type of transmission on the vehicle) are not required to use unique CAL IDs.

(4.7) Software Calibration Verification Number

(4.7.1) All vehicles shall use an algorithm to calculate a single calibration verification number (CVN) that verifies the on-board computer software integrity for each diagnostic or emission critical electronically reprogrammable control unit. The CVN shall be made available through the standardized data link connector in accordance with the SAE J1979/J1939 specifications. The CVN shall be capable of being used to determine if the emission-related software and/or calibration data are valid and applicable for that vehicle and CAL ID.

(4.7.2) Manufacturers shall submit information for Executive Officer approval of the algorithm used to calculate the CVN. Executive Officer approval of the algorithm shall be based on the complexity of the algorithm and the determination that the same CVN is difficult to achieve with modified calibration values.

(4.7.3) The CVN shall be calculated at least once per driving cycle and stored until the CVN is subsequently updated. Except for immediately after a reprogramming event or a non-volatile memory clear or for the first 30 seconds of engine operation after a volatile memory clear or battery disconnect, the stored value shall be made available through the data link connector to a generic scan tool in accordance with SAE J1979/J1939

specifications. The stored CVN value may not be erased when fault memory is erased by a generic scan tool in accordance with SAE J1979/J1939 specifications or during normal vehicle shut down (i.e., key off, engine off).

(4.7.4) For purposes of Inspection and Maintenance (I/M) testing, manufacturers shall make the CVN and CAL ID combination information available for all vehicles in a standardized electronic format that allows for off-board verification that the CVN is valid and appropriate for a specific vehicle and CAL ID.

(4.8) Vehicle Identification Number:

(4.8.1) All vehicles shall have the vehicle identification number (VIN) available in a standardized format through the standardized data link connector in accordance with SAE J1979/J1939 specifications. Only one electronic control unit per vehicle shall report the VIN to an SAE J1978/J1939 scan tool.

(4.8.2) If the VIN is reprogrammable, all emission-related diagnostic information identified in section (h)(4.9.1) shall be erased in conjunction with reprogramming of the VIN.

(4.9) Erasure of Emission-Related Diagnostic Information:

(4.9.1) For purposes of section (h)(4.9), "emission-related diagnostic information" includes all the following:

(A) Readiness status (section (h)(4.1))

(B) Data stream information (section (h)(4.2)) including number of stored confirmed/MIL-on fault codes, distance traveled while MIL activated, number of warm-up cycles since fault memory last cleared, and distance traveled since fault memory last cleared.

(C) Freeze frame information (section (h)(4.3))

(D) Pending, confirmed, MIL-on, and previously MIL-on fault codes (section (h)(4.4.))

(E) Test results (section (h)(4.5))

(4.9.2) For all vehicles, the emission-related diagnostic information shall be erased if commanded by a scan tool (generic or enhanced) and may be erased if the power to the on-board computer is disconnected. If any of the emission-related diagnostic information is commanded to be erased by a scan tool (generic or enhanced), all emission-related diagnostic information from all diagnostic or emission critical control units shall be erased. The OBD system may not allow a scan tool to erase a subset of the emission-related diagnostic information (e.g., the OBD system may not allow a scan tool to erase only one of three stored fault codes or only information from one control unit without erasing information from the other control unit(s)).

(5) Tracking Requirements:

(5.1) In-use Performance Ratio Tracking Requirements:

(5.1.1) For each monitor required in sections (e) through (g) to separately report an in-use performance ratio, manufacturers shall implement software algorithms to report a numerator and denominator in the standardized format specified below and in accordance with the SAE J1979/J1939 specifications.

(5.1.2) Numerical Value Specifications:

(A) For the numerator, denominator, general denominator, and ignition cycle counter:

(i) Each number shall have a minimum value of zero and a maximum value of 65,535 with a resolution of one.

(ii) Each number shall be reset to zero only when a non-volatile random access memory (NVRAM) reset occurs (e.g., reprogramming event) or, if the numbers are stored in keep-alive memory (KAM), when KAM is lost due to an interruption in electrical power to the control module (e.g., battery disconnect). Numbers may not be reset to zero under any other circumstances including when a scan tool command to clear fault codes or reset KAM is received.

(iii) If either the numerator or denominator for a specific component reaches the maximum value of 65,535 ± 2 , both numbers shall be divided by two before either is incremented again to avoid overflow problems.

(iv) If the ignition cycle counter reaches the maximum value of 65,535 ± 2 , the ignition cycle counter shall rollover and increment to zero on the next ignition cycle to avoid overflow problems.

(v) If the general denominator reaches the maximum value of 65,535 ± 2 , the general denominator shall rollover and increment to zero on the next driving cycle that meets the general denominator definition to avoid overflow problems.

(vi) If a vehicle is not equipped with a component (e.g., oxygen sensor bank 2, secondary air system), the corresponding numerator and denominator for that specific component shall always be reported as zero.

(B) For the ratio:

(i) The ratio shall have a minimum value of zero and a maximum value of 7.99527 with a resolution of 0.000122.

(ii) A ratio for a specific component shall be considered to be zero whenever the corresponding numerator is equal to zero and the corresponding denominator is not zero.

(iii) A ratio for a specific component shall be considered to be the maximum value of 7.99527 if the corresponding denominator is zero or if the actual value of the numerator divided by the denominator exceeds the maximum value of 7.99527.

(5.2) Engine Run Time Tracking Requirements:

(5.2.1) For all gasoline and diesel engines, manufacturers shall implement software algorithms to individually track and report in a standardized format the engine run time while being operated in the following conditions:

(A) Total engine run time;

(B) Total idle run time (with "idle" defined as accelerator pedal released by driver, vehicle speed less than or equal to one mile per hour, engine speed greater than or equal to 50 to 150 rpm below the normal, warmed-up idle speed (as determined in the drive position for vehicles equipped with an automatic transmission), and PTO not active);

(C) Total run time with PTO active.

(5.2.2) Numerical Value Specifications:

(A) For each counter specified in section (h)(5.2.1):

(i) Each number shall be a four-byte value with a minimum value of zero, a resolution of one second per bit, and an accuracy of \pm ten seconds per driving cycle.

(ii) Each number shall be reset to zero only when a non-volatile memory reset occurs (e.g., reprogramming event). Numbers may not be reset to zero under any other circumstances including when a scan tool (generic or enhanced) command to clear fault codes or reset KAM is received.

(iii) If any of the individual counters reach the maximum value, all counters shall be divided by two before any are incremented again to avoid overflow problems.

(iv) The counters shall be made available to a generic scan tool in accordance with the SAE J1979/J1939 specifications and may be rescaled when transmitted, if required by the SAE specifications, from a resolution of one second per bit to no more than three minutes per bit.

(6) Service Information:

(6.1) Engine manufacturers shall provide the aftermarket service and repair industry emission-related service information as set forth in sections (h)(6.3) through (6.5).

(6.2) The Executive Officer shall waive the requirements of sections (h)(6.3) through (6.5) upon determining that the ARB or U.S. EPA has adopted a service information regulation or rule that is in effect and operative and requires engine manufacturers to provide emission-related service information:

(A) of comparable or greater scope than required under these provisions;

(B) in an easily accessible format and in a timeframe that is equivalent to or exceeds the timeframes set forth below; and

(C) at fair and reasonable cost.

(6.3) Manufacturers shall make readily available, at a fair and reasonable price to the automotive repair industry, vehicle repair procedures which allow effective emission-related diagnosis and repairs to be performed using only the SAE J1978/J1939 generic scan tool and commonly available, non-microprocessor based tools.

(6.4) As an alternative to publishing repair procedures required under section (h)(6.3), a manufacturer may publish repair procedures referencing the use of manufacturer-specific or enhanced equipment provided the manufacturer makes available to the aftermarket scan tool industry the information needed to manufacture scan tools to perform the same emission-related diagnosis and repair procedures (excluding any reprogramming) in a comparable manner as the manufacturer-specific diagnostic scan tool.

(6.5) Manufacturers shall make available:

(6.5.1) Information to utilize the test results reported as required in section (h)(4.5). The information must include a description of the test and test result, typical passing and failing values, associated fault codes with the test result, and scaling, units, and conversion factors necessary to convert the results to engineering units.

(6.5.2) A generic description of each of the diagnostics used to meet the requirements of this regulation. The generic description must include a text description of how the diagnostic is performed, typical enable conditions, typical malfunction thresholds, typical monitoring time, fault codes associated with the diagnostic, and test results (section (h)(4.5)) associated with the diagnostic. Vehicles that have diagnostics not adequately represented by the typical values identified above shall be specifically identified along with the appropriate typical values.

(6.5.3) Information necessary to execute each of the diagnostics used to meet the requirements of sections (e)(1) through (f)(9). The information must include either a description of sample driving patterns designed to be operated in-use or a written description of the conditions the vehicle needs to operate in to execute each of the diagnostics necessary to change the readiness status from "not complete" to "complete" for all monitors. The information shall be able to be used to exercise all necessary monitors in a single driving cycle as well as be able to be used to exercise the monitors to individually change the readiness status for each specific monitor from "not complete" to "complete".

(7) Exceptions to Standardization Requirements.

(7.1) For 2020 and subsequent model year alternate-fueled engines derived from a diesel-cycle engine, a manufacturer may meet the standardized requirements of section (h) that are applicable to diesel engines in lieu of the requirements applicable to gasoline engines.

(i) Monitoring System Demonstration Requirements for Certification
(1) General.

(1.1) Certification requires that manufacturers submit emission test data from one or more durability demonstration test engines (test engines).

(1.2) The Executive Officer may approve other demonstration protocols if the manufacturer can provide comparable assurance that the malfunction criteria are chosen based on meeting the malfunction criteria requirements and that the timeliness of malfunction detection is within the constraints of the applicable monitoring requirements.

(1.3) For flexible fuel engines capable of operating on more than one fuel or fuel combinations, the manufacturer shall submit a plan for providing emission test data to the Executive Officer for approval. The Executive Officer shall approve the plan if it is determined to be representative of expected in-use fuel or fuel combinations and provides accurate and timely evaluation of the monitored systems.

(2) Selection of Test Engines:

(2.1) Prior to submitting any applications for certification for a model year, a manufacturer shall notify the Executive Officer of the engine families and engine ratings within each family planned for that model year. The Executive Officer will then select the engine family(ies) and the specific engine rating within the engine family(ies) that the manufacturer shall use as demonstration test engines to provide emission test data. The selection of test vehicles for production vehicle evaluation, as specified in section (l)(2), may take place during this selection process.

(2.2) Number of test engines:

(2.2.1) For the 2010 model year, a manufacturer shall provide emission test data of a test engine from the OBD parent rating.

(2.2.2) For the 2011 and 2012 model years, a manufacturer certifying one to seven engine families in a model year shall provide emission test data of a test engine from one OBD child rating. A manufacturer certifying eight or more engine families in a model year shall provide emission test data of test engines from two OBD child ratings. The Executive Officer may waive the requirement for submittal of data of one or more of the test engines if data have been previously submitted for all of the OBD parent and OBD child ratings.

(2.2.3) For the 2013 and subsequent model years, a manufacturer certifying one to five engine families in a model year shall provide emission test data of a test engine from one engine rating. A manufacturer certifying six to ten engine families in a model year shall provide emission test data from test engines from two engine ratings. A manufacturer certifying eleven or more engine families in a model year shall provide emission test data of test engines from three engine ratings. The Executive Officer may waive the requirement for submittal of data of one or more of the test engines if data have been previously submitted for all of the engine ratings.

(2.2.4) For a given model year, a manufacturer may elect to provide emission data of test engines from more engine ratings than required by section (i)(2.2.1) through (2.2.3). For each additional engine rating tested in that given model year, the Executive Officer shall reduce the number of engine ratings required for testing in one future model year under sections (i)(2.2.2) through (2.2.3) by one.

(2.3) For the test engine(s), a manufacturer shall use an engine(s) aged for a minimum of 125 hours plus exhaust aftertreatment emission controls aged to be representative of useful life. Manufacturers are required to submit for Executive Officer approval a description of the accelerated aging process and/or supporting data. The Executive Officer shall approve the process upon determining that the submitted description and/or data demonstrate that the process ensures that deterioration of the exhaust aftertreatment emission controls is stabilized sufficiently such that it is representative of the performance of the emission control at the end of the useful life.

(3) Required Testing:

Except as provided below, the manufacturer shall perform single-fault testing based on the applicable test with the following components/systems set at their malfunction criteria limits as determined by the manufacturer for meeting the requirements of sections (e), (f), and (g) or sections (d)(7.1.2) and (d)(7.2.3) for extrapolated OBD systems.

(3.1) Required testing for Diesel/Compression Ignition Engines:

(3.1.1) Fuel System: The manufacturer shall perform a separate test for each malfunction limit established by the manufacturer for the fuel system parameters (e.g., fuel pressure, injection timing) specified in sections (e)(1.2.1) through (e)(1.2.3). When performing a test for a specific parameter, the fuel system shall be operating at the malfunction criteria limit for the applicable parameter only. All other parameters shall be with normal characteristics. In conducting the fuel system demonstration tests, the manufacturer may use computer modifications to cause the fuel system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.1.2) Misfire Monitoring: For 2010 through 2012 model year engines, a misfire demonstration test is not required for diesel engines. For 2013 and subsequent model year engines, the manufacturer shall perform a test at the malfunction criteria limit specified in section (e)(2.2.2).

(3.1.3) EGR System: The manufacturer shall perform a test at each flow, slow response, and cooling limit calibrated to the malfunction criteria (e.g., 2.0 times the standard) in sections (e)(3.2.1) through (3.2.3) and (e)(3.2.5). In conducting the EGR system slow response demonstration tests, the manufacturer may use computer modifications to cause the EGR system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.1.4) Boost Pressure Control System: The manufacturer shall perform a test at each boost, response, and cooling limit calibrated to the malfunction criteria (e.g., 2.0 times the FTP standard) in sections (e)(4.2.1) through (4.2.3) and (e)(4.2.4).

(3.1.5) NMHC Catalyst: The manufacturer shall perform a separate test for each monitored NMHC catalyst(s) (e.g., oxidation catalyst). The catalyst(s) being evaluated shall be deteriorated to the applicable malfunction criteria established by the manufacturer in section (e)(5.2.2) using methods established by the manufacturer in accordance with section (e)(5.2.4). For each monitored NMHC catalyst(s), the manufacturer shall also demonstrate that the OBD system will detect a catalyst malfunction with the catalyst at its maximum level of deterioration (i.e., the substrate(s) completely removed from the catalyst container or “empty” can). Emission data are not required for the empty can demonstration.

(3.1.6) NOx Catalyst: The manufacturer shall perform a separate test for each monitored NOx catalyst(s) (e.g., SCR catalyst). The catalyst(s) being evaluated shall be deteriorated to the applicable malfunction criteria established by the manufacturer in sections (e)(6.2.1)(A)(i), (e)(6.2.1)(B)(i), and (e)(6.2.2)(A) using methods established by the manufacturer in accordance with section (e)(6.2.3). For each monitored NOx catalyst(s), the manufacturer shall also demonstrate that the OBD system will detect a catalyst malfunction with the catalyst at its maximum level of deterioration (i.e., the substrate(s) completely removed from the catalyst container or “empty” can). Emission data are not required for the empty can demonstration.

(3.1.7) NOx Adsorber: The manufacturer shall perform a test using a NOx adsorber(s) deteriorated to the malfunction criteria in section (e)(7.2.1). The manufacturer shall also demonstrate that the OBD system will detect a NOx adsorber malfunction with the NOx adsorber at its maximum level of deterioration (i.e., the substrate(s) completely removed from the container or “empty” can). Emission data are not required for the empty can demonstration.

(3.1.8) PM Filter: The manufacturer shall perform a test using a PM filter(s) deteriorated to each applicable malfunction criteria in sections (e)(8.2.1), (e)(8.2.2), and (e)(8.2.4). The manufacturer shall also demonstrate that the OBD system will detect a PM filter malfunction with the filter at its maximum level of deterioration (i.e., the filter(s) completely removed from the filter container or “empty” can). Emission data are not required for the empty can demonstration.

(3.1.9) Exhaust Gas Sensor: The manufacturer shall perform a test for each exhaust gas sensor parameter calibrated to the malfunction criteria (e.g., 2.0 times the FTP standard) in sections (e)(9.2.1)(A)(i), (e)(9.2.1)(B)(i)a. through b., and (e)(9.2.2)(A)(i) through (ii). When performing a test, all exhaust gas sensors used for the same purpose (e.g., for the same feedback control loop, for the same control feature on parallel exhaust banks) shall be operating at the malfunction criteria limit for the applicable parameter only. All other exhaust gas sensor parameters shall be with normal characteristics.

(3.1.10) VVT System: The manufacturer shall perform a test at each target error limit and slow response limit calibrated to the malfunction criteria (e.g., 2.0 times the FTP standard) in sections (e)(10.2.1) and (e)(10.2.2). In conducting the VVT system demonstration tests, the manufacturer may use computer modifications to cause the VVT system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.1.11) For each of the testing requirements of section (i)(3.1), if the manufacturer has established that only a functional check is required because no failure or deterioration of the specific tested system could result in an engine’s emissions exceeding the emission malfunction criteria (e.g., 2.0 times any of the applicable standards), the manufacturer is not required to perform a demonstration test; however the manufacturer is required to provide the data and/or engineering analysis used to determine that only a functional test of the system(s) is required.

(3.2) Required testing for Gasoline/Spark-Ignited Engines:

(3.2.1) Fuel System:

(A) For engines with adaptive feedback based on the primary fuel control sensor(s), the manufacturer shall perform a test with the adaptive feedback based on the primary fuel control sensor(s) at the rich limit(s) and a test at the lean limit(s) established by the manufacturer in section (f)(1.2.1) to detect a malfunction before emissions exceed 1.5 times the applicable standards.

(B) For engines with feedback based on a secondary fuel control sensor(s) and subject to the malfunction criteria in section (f)(1.2.1), the manufacturer shall perform a test with the feedback based on the secondary fuel control sensor(s) at the rich limit(s) and a test at the lean limit(s) established by the manufacturer in section (f)(1.2.1) to detect a malfunction before emissions exceed 1.5 times the applicable standards.

(C) For other fuel metering or control systems, the manufacturer shall perform a test at the criteria limit(s).

(D) For purposes of fuel system testing, the fault(s) induced may result in a uniform distribution of fuel and air among the cylinders. Non-uniform distribution of fuel and air used to induce a fault may not cause misfire. In conducting the fuel system demonstration tests, the manufacturer may use computer modifications to cause the fuel system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.2.2) Misfire: The manufacturer shall perform a test at the malfunction criteria limit specified in section (f)(2.2.2).

(3.2.3) EGR System: The manufacturer shall perform a test at each flow limit calibrated to the malfunction criteria (e.g., 1.5 times the standard) in sections (f)(3.2.1) and (f)(3.2.2).

(3.2.4) Cold Start Emission Reduction Strategy: The manufacturer shall perform a test at the malfunction criteria for each component monitored according to section (f)(4.2.1).

(3.2.5) Secondary Air System: The manufacturer shall perform a test at each flow limit calibrated to the malfunction criteria in sections (f)(5.2.1) and (f)(5.2.2).

(3.2.6) Catalyst: The manufacturer shall perform a test using a catalyst system deteriorated to the malfunction criteria in section (f)(6.2.1) using methods established by the manufacturer in accordance with section (f)(6.2.2). The manufacturer shall also demonstrate that the OBD system will detect a catalyst system malfunction with the catalyst system at its maximum level of deterioration (i.e., the substrate(s) completely removed from the catalyst container or “empty” can). Emission data are not required for the empty can demonstration.

(3.2.7) Exhaust Gas Sensor: The manufacturer shall perform a test with all primary exhaust gas sensors used for fuel control simultaneously possessing a response rate deteriorated to the malfunction criteria limit in section (f)(8.2.1)(A). Manufacturers shall also perform a test for any other primary or secondary exhaust gas sensor parameter under sections (f)(8.2.1)(A) and (f)(8.2.2)(A) that can cause engine emissions to exceed 1.5 times the applicable standards (e.g., shift in air/fuel ratio at which oxygen sensor switches, decreased amplitude). When performing additional test(s), all primary and secondary (if applicable) exhaust gas sensors used for emission control shall be operating at the malfunction criteria limit for the applicable parameter only. All other primary and secondary exhaust gas sensor parameters shall be with normal characteristics.

(3.2.8) VVT System: The manufacturer shall perform a test at each target error limit and slow response limit calibrated to the malfunction criteria (e.g., 1.5 times the FTP standard) in sections (f)(9.2.1) and (f)(9.2.2). In conducting the VVT system demonstration tests, the manufacturer may use computer modifications to cause the VVT system to operate at the malfunction limit if the manufacturer can demonstrate to the Executive Officer that the computer modifications produce test results equivalent to an induced hardware malfunction.

(3.2.9) For each of the testing requirements of section (i)(3.2), if the manufacturer has established that only a functional check is required because no failure or deterioration of the specific tested system could result in an engine’s emissions exceeding the emission malfunction criteria (e.g., 1.5 times any of the applicable standards), the manufacturer is not

required to perform a demonstration test; however the manufacturer is required to provide the data and/or engineering analysis used to determine that only a functional test of the system(s) is required.

(3.3) Required Testing for All Engines:

(3.3.1) Other Emission Control Systems: The manufacturer shall conduct demonstration tests for all other emission control components (e.g., hydrocarbon traps, adsorbers) designed and calibrated to an emission threshold malfunction criteria (e.g., 1.5 times the applicable emission standards) under the provisions of section (g)(4).

(3.3.2) For each of the testing requirements of section (i)(3.3), if the manufacturer has established that only a functional check is required because no failure or deterioration of the specific tested system could result in an engine's emissions exceeding the emission malfunction criteria (e.g., 1.5 times any of the applicable standards), the manufacturer is not required to perform a demonstration test; however the manufacturer is required to provide the data and/or engineering analysis used to determine that only a functional test of the system(s) is required.

(3.4) The manufacturer may electronically simulate deteriorated components but may not make any engine control unit modifications (unless otherwise provided above) when performing demonstration tests. All equipment necessary to duplicate the demonstration test must be made available to the ARB upon request.

(4) Testing Protocol:

(4.1) Preconditioning: The manufacturer shall use an applicable cycle for preconditioning test engines prior to conducting each of the above emission tests. Upon determining that a manufacturer has provided data and/or engineering evaluation that demonstrate that additional preconditioning is necessary to stabilize the emission control system, the Executive Officer shall allow the manufacturer to perform a single additional preconditioning cycle, identical to the initial preconditioning cycle following a 20 minute hot soak after the initial preconditioning cycle. The manufacturer may not require the test engine to be cold soaked prior to conducting preconditioning cycles in order for the monitoring system testing to be successful.

(4.2) Test Sequence:

(4.2.1) The manufacturer shall set the system or component on the test engine for which detection is to be tested at the criteria limit(s) prior to conducting the applicable preconditioning cycle(s). If a second preconditioning cycle is permitted in accordance with section (i)(4.1) above, the manufacturer may adjust the system or component to be tested before conducting the second preconditioning cycle. The manufacturer may not replace, modify, or adjust the system or component after the last preconditioning cycle has taken place.

(4.2.2) After preconditioning, the test engine shall be operated over the applicable cycle to allow for the initial detection of the tested system or component malfunction. This test cycle may be omitted from the testing protocol if it is unnecessary. If required by the designated monitoring strategy, a cold soak may be performed prior to conducting this test cycle.

(4.2.3) The test engine shall then be operated over the applicable exhaust emission test.

(4.3) A manufacturer required to test more than one test engine (section (i)(2.2)) may utilize internal calibration sign-off test procedures (e.g., forced cool downs, less frequently calibrated emission analyzers) instead of official test procedures to obtain the emission test data required in section (i) for all but one of the required test engines. The manufacturer may elect this option if the data from the alternative test procedure are representative of official emission test results. Manufacturers using this option are still responsible for meeting the malfunction criteria specified in sections (e) through (g) when emission tests are performed in accordance with official test procedures.

(4.4) A manufacturer may request Executive Officer approval to utilize an alternate testing protocol for demonstration of MIL illumination if the engine dynamometer emission test cycle does not allow all of a monitor's enable conditions to be satisfied. A manufacturer may request the use of an alternate engine dynamometer test cycle or the use of chassis testing to demonstrate proper MIL illumination. In evaluating the

manufacturer's request, the Executive Officer shall consider the technical necessity for using an alternate test cycle and the degree to which the alternate test cycle demonstrates that in-use operation with the malfunctioning component will properly result in MIL illumination.

(5) Evaluation Protocol:

(5.1) Full OBD engine ratings subject to sections (d)(7.1.1), (d)(7.2.2), or (d)(7.3) shall be evaluated according to the following protocol.

(5.1.1) For all tests conducted under section (i), the MIL shall be illuminated upon detection of the tested system or component malfunction before the end of the first engine start portion of the exhaust test of the complete applicable test in accordance with requirements of sections (e) through (g).

(5.1.2) If the MIL illuminates prior to emissions exceeding the applicable malfunction criteria specified in sections (e) through (g), no further demonstration is required. With respect to the misfire monitor demonstration test, if a manufacturer has elected to use the minimum misfire malfunction criteria of one percent as allowed in sections (e)(2.2.2)(A) and (f)(2.2.2)(A), no further demonstration is required if the MIL illuminates with misfire implanted at the malfunction criteria limit.

(5.1.3) If the MIL does not illuminate when the system or component is set at its limit(s), the criteria limit or the OBD system is not acceptable.

(A) Except for testing of the catalyst or PM filter system, if the MIL first illuminates after emissions exceed the applicable malfunction criteria specified in sections (e) through (g), the test engine shall be retested with the tested system or component adjusted so that the MIL will illuminate before emissions exceed the applicable malfunction criteria specified in sections (e) through (g). If the component cannot be adjusted to meet this criterion because a default fuel or emission control strategy is used when a malfunction is detected (e.g., open loop fuel control used after an oxygen sensor malfunction is determined), the test engine shall be retested with the component adjusted to the worst acceptable limit (i.e., the applicable monitor indicates the component is performing at or slightly better than the malfunction criteria). When tested with the component adjusted to the worst acceptable limit, the MIL must not illuminate during the test and the engine emissions must be below the applicable malfunction criteria specified in sections (e) through (g).

(B) In testing the catalyst or PM filter system, if the MIL first illuminates after emissions exceed the applicable emission threshold(s) specified in sections (e) and (f), the tested engine shall be retested with a less deteriorated catalyst/PM filter system (i.e., more of the applicable engine out pollutants are converted or trapped). For the OBD system to be approved, testing shall be continued until either of the following conditions are satisfied:

(i) The MIL is illuminated and emissions do not exceed the thresholds specified in sections (e) or (f); or

(ii) The manufacturer demonstrates that the MIL illuminates within the upper and lower limits of the threshold identified below. The manufacturer shall demonstrate acceptable limits by continuing testing until the test results show:

a. The MIL is illuminated and emissions exceed the thresholds specified in sections (e) or (f) by 10 percent or less of the applicable standard (e.g., emissions are less than 1.85 times the applicable standard for a malfunction criterion of 1.75 times the standard); and

b. The MIL is not illuminated and emissions are below the thresholds specified in sections (e) or (f) by no more than 20 percent of the standard (e.g., emissions are between 1.55 and 1.75 times the applicable standard for a malfunction criterion of 1.75 times the standard).

(5.1.4) If an OBD system is determined unacceptable by the above criteria, the manufacturer may recalibrate and retest the system on the same test engine. In such a case, the manufacturer must confirm, by retesting, that all systems and components that were tested prior to recalibration and are affected by the recalibration function properly under the OBD system as recalibrated.

(5.2) OBD child ratings subject to sections (d)(7.1.2) or (d)(7.2.3) (i.e., extrapolated OBD) shall be evaluated according to the following protocol.

(5.2.1) For all tests conducted under section (i), the MIL shall be illuminated upon detection of the tested system or component malfunction before the end of the first engine start portion of the exhaust test of the complete applicable test in accordance with the malfunction criteria established by the manufacturer under sections (d)(7.1.2) and (d)(7.2.3).

(5.2.2) Except for testing of the catalyst or PM filter system, if the MIL first illuminates after the tested component or system significantly exceeds the applicable malfunction criteria established by the manufacturer, the test engine shall be retested with the tested system or component adjusted so that the MIL will illuminate at the applicable malfunction criteria established by the manufacturer.

(5.2.3) In testing the catalyst or PM filter system, if the MIL first illuminates after the tested component or system significantly exceeds the applicable malfunction criteria established by the manufacturer, the tested engine shall be retested with a less deteriorated catalyst/PM filter system (i.e., more of the applicable engine out pollutants are converted or trapped). For the OBD system to be approved, testing shall be continued until either of the following conditions are satisfied:

(A) The MIL is illuminated and the tested component or system is at the applicable malfunction criteria established by the manufacturer; or

(B) The manufacturer demonstrates that the MIL illuminates within the upper and lower limits of the threshold identified below. The manufacturer shall demonstrate acceptable limits by continuing testing until the test results show:

(i) The MIL is illuminated and monitoring results indicate the tested component or system exceeds the malfunction criteria established by the manufacturer by 10 percent or less of the monitored parameter; and

(ii) The MIL is not illuminated and monitoring results indicate the tested component or system is below the malfunction criteria established by the manufacturer by 10 percent or less of the monitored parameter.

(6) Confirmatory Testing:

(6.1) The ARB may perform confirmatory testing to verify the emission test data submitted by the manufacturer under the requirements of section (i) comply with the requirements of section (i) and the malfunction criteria identified in sections (e) through (g). This confirmatory testing is limited to the engine rating represented by the demonstration engine(s).

(6.2) The ARB or its designee may install appropriately deteriorated or malfunctioning components (or simulate a deteriorated or malfunctioning component) in an otherwise properly functioning test engine of an engine rating represented by the demonstration test engine(s) in order to test any of the components or systems required to be tested in section (i). Upon request by the Executive Officer, the manufacturer shall make available an engine and all test equipment (e.g., malfunction simulators, deteriorated components) necessary to duplicate the manufacturer's testing. The Executive Officer shall make the request within six months of reviewing and approving the demonstration test engine data submitted by the manufacturer for the specific engine rating.

(j) Certification Documentation

(1) When submitting an application for certification of an engine, the manufacturer shall submit the following documentation. If any of the items listed below are standardized for all of a manufacturer's engines, the manufacturer may, for each model year, submit one set of documents covering the standardized items for all of its engines.

(1.1) For the required documentation not standardized across all engines, the manufacturer may propose to the Executive Officer that it be allowed to submit documentation for certification from one engine that is representative of other engines. The Executive Officer shall approve the engine as representative if the engine possesses the most stringent emission standards and OBD monitoring requirements and covers all of the emission control devices for the engines covered by the submitted documentation. Upon approval, this grouping shall be known as an "OBD certification documentation group".

(1.2) With Executive Officer approval, one or more of the documentation requirements of section (j) may be waived or modified if the in-

formation required would be redundant or unnecessarily burdensome to generate.

(1.3) To the extent possible, the certification documentation shall use SAE J1930 or J2403 terms, abbreviations, and acronyms.

(2) The following information shall be submitted as part of the certification application. Except as provided below for demonstration data, the Executive Officer will not issue an Executive Order certifying the covered engines without the information having been provided. The information must include:

(2.1) A description of the functional operation of the OBD system including a complete written description for each monitoring strategy that outlines every step in the decision-making process of the monitor. Algorithms, diagrams, samples of data, and/or other graphical representations of the monitoring strategy shall be included where necessary to adequately describe the information.

(2.2) A table, in the standardized format detailed in Attachment A of ARB Mail-Out #95-20, May 22, 1995, incorporated by reference.

(2.2.1) The table must include the following information for each monitored component or system (either computer-sensed or -controlled) of the emission control system:

(A) Corresponding fault code

(B) Monitoring method or procedure for malfunction detection

(C) Primary malfunction detection parameter and its type of output signal

(D) Fault criteria limits used to evaluate output signal of primary parameter

(E) Other monitored secondary parameters and conditions (in engineering units) necessary for malfunction detection

(F) Monitoring time length and frequency of checks

(G) Criteria for storing fault code

(H) Criteria for illuminating malfunction indicator light

(I) Criteria used for determining out-of-range values and input component rationality checks

(2.2.2) Wherever possible, the table shall use the following engineering units:

(A) Degrees Celsius (°C) for all temperature criteria

(B) KiloPascals (KPa) for all pressure criteria related to manifold or atmospheric pressure

(C) Grams (g) for all intake air mass criteria

(D) Pascals (Pa) for all pressure criteria related to evaporative system vapor pressure

(E) Miles per hour (mph) for all vehicle speed criteria

(F) Relative percent (%) for all relative throttle position criteria (as defined in SAE J1979/J1939)

(G) Voltage (V) for all absolute throttle position criteria (as defined in SAE J1979/J1939)

(H) Per crankshaft revolution (/rev) for all changes per ignition event based criteria (e.g., g/rev instead of g/stroke or g/firing)

(I) Per second (/sec) for all changes per time based criteria (e.g., g/sec)

(J) Percent of nominal tank volume (%) for all fuel tank level criteria

(2.3) A logic flowchart describing the step-by-step evaluation of the enable criteria and malfunction criteria for each monitored emission-related component or system.

(2.4) Emission test data, a description of the testing sequence (e.g., the number and types of preconditioning cycles), approximate time (in seconds) of MIL illumination during the test, fault code(s) and freeze frame information stored at the time of detection, corresponding test results (e.g. SAE J1979 Mode/Service \$06, SAE J1939 Diagnostic Message 8 (DM8)) stored during the test, and a description of the modified or deteriorated components used for fault simulation with respect to the demonstration tests specified in section (i). The freeze frame data are not required for engines subject to sections (d)(7.1.2) or (d)(7.2.3). The Executive Officer may approve conditional certification of an engine prior to the submittal of this data for ARB review and approval. Factors to be considered by the Executive Officer in approving the late submis-

sion of information identified in section (j)(2.4) shall include the reason for the delay in the data collection, the length of time until data will be available, and the demonstrated previous success of the manufacturer in submitting the data prior to certification.

(2.5) For gasoline engines, data supporting the misfire monitor, including:

(2.5.1) The established percentage of misfire that can be tolerated without damaging the catalyst over the full range of engine speed and load conditions.

(2.5.2) Data demonstrating the probability of detection of misfire events of the misfire monitoring system over the full engine speed and load operating range for the following misfire patterns: random cylinders misfiring at the malfunction criteria established in section (f)(2.2.2), one cylinder continuously misfiring, and paired cylinders continuously misfiring.

(2.5.3) Data identifying all disablement of misfire monitoring that occurs during the FTP. For every disablement that occurs during the cycles, the data should identify: when the disablement occurred relative to the driver's trace, the number of engine revolutions that each disablement was present for, and which disable condition documented in the certification application caused the disablement.

(2.5.4) Manufacturers are not required to use the durability demonstration engine to collect the misfire data for sections (j)(2.5.1) through (2.5.3).

(2.6) Data supporting the limit for the time between engine starting and attaining the designated heating temperature for after-start heated catalyst systems.

(2.7) Data supporting the criteria used to detect a malfunction of the fuel system, EGR system, boost pressure control system, catalyst, NOx adsorber, PM filter, cold start emission reduction strategy, secondary air, evaporative system, VVT system, exhaust gas sensors, and other emission controls which causes emissions to exceed the applicable malfunction criteria specified in sections (e), (f), and (g). For diesel engine monitors in sections (e) and (g) that are required to indicate a malfunction before emissions exceed an emission threshold based on any applicable standard (e.g., 1.5 times any of the applicable standards), the test cycle and standard determined by the manufacturer to be the most stringent for each applicable monitor in accordance with section (d)(6.1).

(2.8) A listing of all electronic powertrain input and output signals (including those not monitored by the OBD system) that identifies which signals are monitored by the OBD system. For input and output signals that are monitored as comprehensive components, the listing shall also identify the specific fault code for each malfunction criteria (e.g., out of range low, out of range high, open circuit, rationality low, rationality high).

(2.9) A written description of all parameters and conditions necessary to begin closed-loop/feedback control of emission control systems (e.g., fuel system, boost pressure, EGR flow, SCR reductant delivery, PM filter regeneration, fuel system pressure).

(2.10) A written identification of the communication protocol utilized by each engine for communication with an SAE J1978/J1939 scan tool.

(2.11) A pictorial representation or written description of the diagnostic connector location including any covers or labels.

(2.12) A written description of the method used by the manufacturer to meet the requirements of section (g)(2) for CV system monitoring including diagrams or pictures of valve and/or hose connections.

(2.13) A written description of each AECD utilized by the manufacturer including the sensor signals and/or calculated values used to invoke each AECD, the engineering data and/or analysis demonstrating the need for such an AECD, the actions taken when each AECD is activated, the expected in-use frequency of operation of each AECD, and the expected emission impact from each AECD activation.

(2.14) A written description of each NOx and PM NTE deficiency and emission carve-out utilized by the manufacturer including the sensor signals and/or calculated values used to invoke each NTE deficiency or carve-out, the engineering data and/or analysis demonstrating the need

for such an NTE deficiency or carve-out, the actions taken when each NTE deficiency or carve-out is activated, the expected in-use frequency of operation of each NTE deficiency or carve-out, and the expected emission impact from each NTE deficiency or carve-out activation.

(2.15) Build specifications provided to engine purchasers or chassis manufacturers detailing all specifications or limitations imposed on the engine purchaser relevant to OBD requirements or emission compliance (e.g., allowable MIL locations, connector location specifications, cooling system heat rejection rates). A description of the method or copies of agreements used to ensure engine purchasers or chassis manufacturers will comply with the OBD and emission relevant build specifications (e.g., signed agreements, required audit/evaluation procedures).

(2.16) Any other information determined by the Executive Officer to be necessary to demonstrate compliance with the requirements of this regulation.

(k) Deficiencies

(1) The Executive Officer, upon receipt of an application from the manufacturer, may certify OBD systems installed on engines even though the systems do not comply with one or more of the requirements of title 13, CCR section 1971.1. In granting the certification, the Executive Officer shall consider the following factors: the extent to which the requirements of section 1971.1 are satisfied overall based on a review of the engine applications in question, the relative performance of the resultant OBD system compared to systems fully compliant with the requirements of section 1971.1, and a demonstrated good-faith effort on the part of the manufacturer to: (1) meet the requirements in full by evaluating and considering the best available monitoring technology; and (2) come into compliance as expeditiously as possible.

(2) For 2013 and subsequent model year engines, manufacturers of OBD systems for which deficiencies have been granted are subject to fines pursuant to section 43016 of the California Health and Safety Code. The specified fines apply to: (1) the third and subsequently identified deficiency(ies), ordered according to section (k)(3), and (2) a monitoring system deficiency where a required monitoring strategy is completely absent from the OBD system.

(3) The fines for engines specified in section (k)(2) above are in the amount of \$50 per deficiency per engine for non-compliance with any of the monitoring requirements specified in sections (e), (f), and (g)(4), and \$25 per deficiency per engine for non-compliance with any other requirement of section 1971.1. In determining the identified order of deficiencies, deficiencies subject to a \$50 fine are identified first. Total fines per engine under section (k) may not exceed \$500 per engine and are payable to the State Treasurer for deposit in the Air Pollution Control Fund.

(4) Manufacturers must re-apply for Executive Officer approval of a deficiency each model year. In considering the request to carry-over a deficiency, the Executive Officer shall consider the factors identified in section (k)(1) including the manufacturer's progress towards correcting the deficiency. The Executive Officer may not allow manufacturers to carry over monitoring system deficiencies for more than two model years unless it can be demonstrated that substantial engine hardware modifications and additional lead time beyond two years would be necessary to correct the deficiency, in which case the Executive Officer shall allow the deficiency to be carried over for three model years.

(5) Except as allowed in section (k)(6), deficiencies may not be retroactively granted after certification.

(6) Request for retroactive deficiencies

(6.1) During the first 6 months after commencement of normal production, manufacturers may request that the Executive Officer grant a deficiency and amend an engine's certification to conform to the granting of the deficiencies for each aspect of the monitoring system: (a) identified by the manufacturer (during testing required by section (l)(2) or any other testing) to be functioning different than the certified system or otherwise not meeting the requirements of any aspect of section 1971.1; and (b) reported to the Executive Officer. If the Executive Officer grants the deficiencies and amended certification, their approval would be retroactive to the start of production.

(6.2) Executive Officer approval of the request for a retroactive deficiency shall be granted provided that the conditions necessary for a pre-certification deficiency determination are satisfied (see section (k)(1)) and the manufacturer could not have reasonably anticipated the identified problem before commencement of production.

(6.3) In granting the amended certification, the Executive Officer shall include any approved post-production deficiencies together with all previously approved deficiencies in computing fines in accordance with section (k)(2).

(l) Production Engine/Vehicle Evaluation Testing

(1) Verification of Standardized Requirements.

(1.1) Requirement: Manufacturers shall perform testing to verify that 2013 and subsequent model year production vehicles meet the requirements of section (h)(3) and (h)(4) relevant to proper communication of required emission-related messages to an SAE J1978/J1939 scan tool.

(1.2) Selection of Test Vehicles:

(1.2.1) Engine manufacturers shall perform this testing every model year on ten unique production vehicles (i.e., engine rating and chassis application combination) per engine family. If there are less than ten unique production vehicles for a certain engine family, the manufacturer shall test each unique production vehicle in that engine family. Manufacturers shall perform this testing within either three months of the start of engine production or one month of the start of vehicle production, whichever is later. Manufacturers may request Executive Officer approval to group multiple production vehicles together and test one representative vehicle per group. The Executive Officer shall approve the request upon finding that the software and hardware designed to comply with the standardization requirements of section (h) (e.g., communication protocol message timing, number of supported data stream parameters, engine and vehicle communication network architecture) in the representative vehicle are identical to all others in the group and that any differences in the production vehicles are not relevant with respect to meeting the criteria in section (l)(1.4).

(1.2.2) For 2016 and subsequent model year engines, the Executive Officer shall reduce the maximum required number of vehicles to be tested from ten per engine family to five per engine family for a manufacturer based on the demonstrated previous success of the manufacturer to meet the requirements of section (l)(1). For purposes of this requirement, a manufacturer shall be determined to be successful in meeting the requirements of section (l)(1) if zero vehicles fail the testing required by section (l)(1) for two consecutive years.

(1.2.3) For 2019 and subsequent model year engines, the Executive Officer shall further reduce the maximum required number of vehicles to be tested to three per engine family for a manufacturer based on the demonstrated previous success of the manufacturer to meet the requirements of section (l)(1). For purposes of this requirement, a manufacturer shall be determined to be successful in meeting the requirements of section (l)(1) if zero vehicles fail the testing required by section (l)(1) for three consecutive years.

(1.2.4) The Executive Officer may waive the requirement for submittal of data from one or more of the production vehicles if data have been previously submitted for all of the production vehicles. Manufacturers may request Executive Officer approval to carry over data collected in previous model years. The Executive Officer shall approve the request upon finding that the software and hardware designed to comply with the standardization requirements of section (h) are identical to the previous model year and no other hardware or software changes that affect compliance with the standardization requirements have been made.

(1.3) Test Equipment: For the testing required in section (l)(1), manufacturers shall utilize an off-board device to conduct the testing. Prior to conducting testing, manufacturers are required to request and receive Executive Officer approval of the off-board device that the manufacturer will use to perform the testing. The Executive Officer shall approve the request upon determining that the manufacturer has submitted data, specifications, and/or engineering analysis that demonstrate that the off-board device is able to verify that vehicles tested are able to

perform all of the required functions in section (l)(1.4) with any other off-board device designed and built in accordance with the SAE J1978/J1939 generic scan tool specifications.

(1.4) Required Testing:

(1.4.1) The testing shall verify that communication can be properly established between all emission-related on-board computers and any SAE J1978/J1939 scan tool designed to adhere strictly to the communication protocols allowed in section (h)(3);

(1.4.2) The testing shall verify that all emission-related information is properly communicated between all emission-related on-board computers and any SAE J1978/J1939 scan tool in accordance with the requirements of section (h) and the applicable ISO and SAE specifications including specifications for physical layer, network layer, message structure, and message content.

(1.4.3) The testing shall further verify that the following information can be properly communicated to any SAE J1978/J1939 scan tool:

(A) The current readiness status from all on-board computers required to support readiness status in accordance with SAE J1979/J1939-73 and section (h)(4.1) in the key on, engine off position and while the engine is running;

(B) The MIL command status while the MIL is commanded off and while the MIL is commanded on in accordance with SAE J1979/J1939 and section (h)(4.2) in the key on, engine off position and while the engine is running, and in accordance with SAE J1979/J1939 and sections (d)(2.1.2) during the MIL functional check and, if applicable, (h)(4.1.3) during the MIL readiness status check while the engine is off;

(C) All data stream parameters required in section (h)(4.2) in accordance with SAE J1979/J1939 including, if applicable, the proper identification of each data stream parameter as supported in SAE J1979 (e.g., Mode/Service \$01, PID \$00);

(D) The CAL ID, CVN, and VIN in accordance with SAE J1979/J1939 and sections (h)(4.6) through (4.8);

(E) An emission-related fault code (permanent, confirmed, pending, MIL-on, and previously MIL-on) in accordance with SAE J1979/J1939-73 (including correctly indicating the number of stored fault codes (e.g., Mode/Service \$01, PID \$01, Data A for SAE J1979)) and section (h)(4.4);

(1.4.4) The testing shall also verify that the on-board computer(s) can properly respond to any SAE J1978/J1939 scan tool request to clear emission-related fault codes and reset readiness status in accordance with section (h)(4.9).

(1.5) Reporting of Results:

(1.5.1) The manufacturer shall submit to the Executive Officer the following, based on the results of testing:

(A) If a variant meets all the requirements of section (l)(1.4), a statement specifying that the variant passed all the tests, or

(B) If any variant does not meet the requirements of section (l)(1.4), a written report to the Executive Officer for approval within one month of testing the specific variant. The written report shall include the problem(s) identified and the manufacturer's proposed corrective action (if any) to remedy the problem(s). Factors to be considered by the Executive Officer in approving the proposed corrective action shall include the severity of the problem(s), the ability of the vehicle to be tested in a California inspection program (e.g., roadside inspection, fleet self-inspection program), the ability of service technicians to access the required diagnostic information, the impact on equipment and tool manufacturers, and the amount of time prior to implementation of the proposed corrective action.

(1.5.2) Upon request of the Executive Officer, a manufacturer shall submit a report of the results of any testing conducted pursuant to section (l)(1) to the Executive Officer for review.

(1.5.3) In accordance with section (k)(6), manufacturers may request Executive Officer approval for a retroactive deficiency to be granted for items identified during this testing.

(1.6) Alternative Testing Protocols. Manufacturers may request Executive Officer approval to use other testing protocols. The Executive

Officer shall approve the protocol if the manufacturer can demonstrate that the alternate testing methods and equipment provide an equivalent level of verification of compliance with the standardized requirements to the requirements of section (l)(1).

(2) Verification of Monitoring Requirements.

(2.1) Within either the first six months of the start of engine production or the first three months of the start of vehicle production, whichever is later, manufacturers shall conduct a complete evaluation of the OBD system of one or more production vehicles (test vehicles) and submit the results of the evaluation to the Executive Officer.

(2.2) Selection of test vehicles:

(2.2.1) For each engine selected for monitoring system demonstration in section (j), the manufacturer shall evaluate one production vehicle equipped with an engine from the same engine family and rating as the demonstration engine. The Executive Officer shall select the specific production vehicle(s) to be tested.

(2.2.2) A manufacturer required to test more than one test vehicle may test an engine in lieu of a vehicle for all but one of the required test vehicles.

(2.2.3) The Executive Officer may waive the requirements for submittal of evaluation results from one or more of the test vehicles if data have been previously submitted for all of the engine ratings and variants.

(2.3) Evaluation requirements:

(2.3.1) The evaluation shall demonstrate the ability of the OBD system on the selected production vehicle to detect a malfunction, illuminate the MIL, and, where applicable, store an appropriate fault code readable by a scan tool conforming to SAE J1978/J1939 when a malfunction is present and the monitoring conditions have been satisfied for each individual diagnostic required by title 13, CCR section 1971.1.

(2.3.2) The evaluation shall verify that malfunctions detected by non-MIL illuminating diagnostics of components used to enable any other OBD system diagnostic (e.g., fuel level sensor) will not inhibit the ability of other OBD system diagnostics to properly detect malfunctions.

(2.3.3) The evaluation shall verify that the software used to track the numerator and denominator for purposes of determining in-use monitoring frequency correctly increments as required in section (d)(4).

(2.3.4) Malfunctions may be mechanically implanted or electronically simulated but internal on-board computer hardware or software changes may not be used to simulate malfunctions. For monitors that are required to indicate a malfunction before emissions exceed an emission threshold based on any applicable standard (e.g., 2.0 times any of the applicable standards), manufacturers are not required to use malfunctioning components/systems set exactly at their malfunction criteria limits. Emission testing to confirm that the malfunction is detected before the appropriate emission standards are exceeded is not required.

(2.3.5) Manufacturers shall submit a proposed test plan for Executive Officer approval prior to evaluation testing being performed. The test plan shall identify the method used to induce a malfunction for each diagnostic. If the Executive Officer determines that the requirements of section (l)(2) are satisfied, the proposed test plan shall be approved.

(2.3.6) Subject to Executive Officer approval, manufacturers may omit demonstration of specific diagnostics. The Executive Officer shall approve a manufacturer's request if the demonstration cannot be reasonably performed without causing physical damage to the vehicle (e.g., on-board computer internal circuit faults).

(2.3.7) For evaluation of test vehicles selected in accordance with section (l)(2.2), manufacturers are not required to demonstrate diagnostics that were previously demonstrated prior to certification as required in section (i).

(2.4) Manufacturers shall submit a report of the results of all testing conducted pursuant to section (l)(2) to the Executive Officer for review. This report shall identify the method used to induce a malfunction in each diagnostic, the MIL illumination status, and the fault code(s) stored.

(2.5) In accordance with section (k)(6), manufacturers may request Executive Officer approval for a retroactive deficiency to be granted for items identified during this testing.

(3) Verification and Reporting of In-use Monitoring Performance.

(3.1) Manufacturers are required to collect and report in-use monitoring performance data representative of production vehicles (i.e., engine rating and chassis application combination). Manufacturers shall collect and report the data to the ARB within twelve months after the production vehicles were first introduced into commerce.

(3.2) Manufacturers shall separate production vehicles into monitoring performance groups, as defined by sections (l)(3.2.1) and (3.2.2) below, and submit data representative of each group:

(3.2.1) Emission architecture. Engines shall be separated by emission architecture. All engines that use the same or similar emission control architecture and monitoring system shall be in the same emission architecture category.

(3.2.2) Monitoring performance group. Within an emission architecture category, engines shall be separated by vehicle application. The separate monitoring performance groups shall be based on three classifications: engines intended primarily for line-haul chassis applications, engines intended primarily for urban delivery chassis applications, and all other engines.

(3.3) Manufacturers may request Executive Officer approval to use an alternate grouping method to collect representative data. Executive Officer approval shall be granted upon determining that the proposed groupings include production vehicles using similar emission controls, OBD strategies, monitoring condition calibrations, and vehicle application driving/usage patterns such that they are expected to have similar in-use monitoring performance. If approved by the Executive Officer, the manufacturer may submit one set of data for each of the approved groupings.

(3.4) For each group, the data must include all of the in-use performance tracking data reported through SAE J1979/J1939 (i.e., all numerators, denominators, the general denominator, and the ignition cycle counter), the date the data were collected, the odometer reading, the VIN, and the ECM software calibration identification number.

(3.5) Manufacturers shall submit a plan to the Executive Officer for review and approval that details the types of production vehicles in each group, the number of vehicles per group to be sampled, the sampling method, the time line to collect the data, and the reporting format. The Executive Officer shall approve the plan upon determining that it provides for effective collection of data from a sample of vehicles that, at a minimum, is fifteen vehicles per group, will likely result in the collection and submittal of data within the required time frame, will generate data that are representative of California drivers and temperatures, and does not, by design, exclude or include specific vehicles in an attempt to collect data only from vehicles with the highest in-use performance ratios.

(3.6) Upon request of the manufacturer, the Executive Officer may for good cause extend the twelve month time requirement set forth in section (l)(3.1) up to a maximum of eighteen months. In granting additional time, the Executive Officer shall consider, among other things, information submitted by the manufacturer to justify the delay, sales volume of the group(s), and the sampling mechanism utilized by the manufacturer to procure vehicles for data collection. If an extension beyond twelve months is granted, the manufacturer shall additionally be required to submit an interim report within twelve months for data collected up to the time of the interim report.

(m) Intermediate In-Use Compliance Standards

(1) For 2010 through 2012 model year engines:

(1.1) For monitors that are required to indicate a malfunction before emissions exceed a certain emission threshold (e.g., 2.5 times any of the applicable standards):

(1.1.1) On the OBD parent rating (i.e., the engine rating subject to the "full OBD" requirement under section (d)(7.1.1)), the Executive Officer may not consider an OBD system noncompliant unless a representative sample indicates emissions exceed 2.0 times the malfunction criteria (e.g., 5.0 times the standard if the malfunction criterion is 2.5 times the standard) without MIL illumination on either of the applicable standards (i.e., FTP or SET).

(1.1.2) On the OBD child ratings (i.e., the engine ratings subject to the “extrapolated OBD” requirement under section (d)(7.1.2)), the Executive Officer may not consider an OBD system noncompliant based on emission levels.

(1.2) The Executive Officer shall use only the test cycle and standard determined and identified by the manufacturer at the time of certification in accordance with section (d)(6.1) as the most stringent for purposes of determining OBD system noncompliance in section (m)(1.1.1).

(2) For 2013 through 2015 model year engines:

(2.1) For monitors that are required to indicate a malfunction before emissions exceed a certain emission threshold (e.g., 2.0 times any of the applicable standards):

(2.1.1) On all OBD parent ratings and OBD child ratings subject to section (d)(7.2.2), the Executive Officer may not consider an OBD system noncompliant unless a representative sample indicates emissions exceed 2.0 times the malfunction criteria (e.g., 4.0 times the standard if the malfunction criterion is 2.0 times the standard) without MIL illumination on either of the applicable standards (i.e., FTP or SET).

(2.1.2) On all other engine ratings, the Executive Officer may not consider an OBD system noncompliant based on emission levels.

(2.2) The Executive Officer shall use only the test cycle and standard determined and identified by the manufacturer at the time of certification in accordance with section (d)(6.1) as the most stringent for purposes of determining OBD system noncompliance in section (m)(2.1.1).

(2.3) For monitors subject to meeting the minimum in-use monitor performance ratio of 0.100 in section (d)(3.2.2), the Executive Officer may not consider an OBD system noncompliant unless a representative sample indicates the in-use ratio is below 0.050.

(3) For 2016 through 2019 model year engines:

(3.1) For monitors of the PM filter subject to the malfunction criteria of section (e)(8.2.1)(B), the Executive Officer may not consider the PM filter monitor noncompliant with the malfunction threshold of section (e)(8.2.1)(B) unless a representative sample indicates emissions exceed 2.0 times the malfunction criteria (e.g., PM emission level of 0.06 g/bhp-hr if the malfunction criterion is 0.03 g/bhp-hr) without MIL illumination on either of the applicable standards (i.e., FTP or SET).

(3.2) For all engine ratings subject to section (d)(7.2.3) for extrapolated OBD in 2013 through 2015, the Executive Officer may not consider an OBD system noncompliant unless a representative sample indicates emissions exceed 2.0 times the malfunction criteria (e.g., 4.0 times the standard if the malfunction criterion is 2.0 times the standard) without MIL illumination on either of the applicable standards (i.e., FTP or SET),

(4) For 2010 and subsequent model year engines, the Executive Officer may not consider an OBD system noncompliant solely due to a failure or deterioration mode of a monitored component or system that could not have been reasonably foreseen to occur by the manufacturer.

¹ Unless otherwise noted, all section references refer to section 1971.1 of title 13, CCR.

NOTE: Authority cited: Sections 39600, 39601, 43000.5, 43013, 43018, 43100, 43101, 43104, 43105, 43105.5 and 43106, Health and Safety Code. Reference: Sections 39002, 39003, 39010–39060, 39515, 39600–39601, 43000, 43000.5, 43004, 43006, 43013, 43016, 43018, 43100, 43101, 43102, 43104, 43105, 43105.5, 43106, 43150–43156, 43204, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 2–15–2006; operative 3–17–2006 (Register 2006, No. 7).

§ 1975. Standards and Test Procedures for Crankcase Emissions.

Standards for crankcase emissions are those set forth in 40 Code of Federal Regulations, Part 85, Subparts A, C, and H, as it existed on June 20, 1973. These standards are enforced in California pursuant to Section 43008 of the Health and Safety Code.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43008, 43013, 43600 and 43651, Health and Safety Code.

§ 1976. Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions.

(a) Fuel evaporative emissions from 1970 through 1977 model passenger cars and light-duty trucks are set forth in Title 40, Code of Federal Regulations, Part 86, Subparts A and C, as it existed on June 20, 1973. These standards are enforced in California pursuant to section 43008 of the Health and Safety Code.

(b)(1) Evaporative emissions for 1978 and subsequent model gasoline-fueled, 1983 and subsequent model liquified petroleum gas-fueled, and 1993 and subsequent model alcohol-fueled motor vehicles and hybrid electric vehicles subject to exhaust emission standards under this article, except petroleum-fueled diesel vehicles, compressed natural gas-fueled vehicles, hybrid electric vehicles that have sealed fuel systems which can be demonstrated to have no evaporative emissions, and motorcycles, shall not exceed the following standards.

(A) For vehicles identified below, tested in accordance with the test procedure based on the Sealed Housing for Evaporative Determination as set forth in Title 40, Code of Federal Regulations, sections 86.130–78 through 86.143–90 as they existed July 1, 1989, the evaporative emission standards are:

Vehicle Type	Model Year	Hydrocarbons ¹ Diurnal + Hot Soak (grams/test) 50K miles
Passenger cars	1978 and 1979	6.0
Light-duty trucks		6.0
Medium-duty vehicles		6.0
Heavy-duty vehicles		6.0
Passenger cars	1980–1994 ²	2.0
Light-duty trucks		2.0
Medium-duty vehicles		2.0
Heavy-duty vehicles		2.0

¹ Organic Material Hydrocarbon Equivalent, for alcohol-fueled vehicles.

² Other than hybrid electric vehicles.

(B) For the vehicles identified below, tested in accordance with the test procedure which includes the running loss test, the hot soak test, and the 72 hour diurnal test, the evaporative emission standards are:

[The next page is 236.21.]

Vehicle Type	Model Year	Hydrocarbons ¹	
		Three-Day Diurnal + Hot Soak (grams/test) Useful Life ²	Running Loss (grams/mile) Useful Life ²
Passenger cars	1995 through 2005 ³	2.0	0.05
Light-duty trucks		2.0	0.05
Medium-duty vehicles (6,001–8,500 lbs. GVWR)			
with fuel tanks < 30 gallons		2.0	0.05
with fuel tanks ≥ 30 gallons		2.5	0.05
(8,501–14,000 lbs. GVWR) ⁴		3.0	0.05
Heavy-duty vehicles (over 14,000 lbs. GVWR)		2.0	0.05
Hybrid electric passenger cars	1993 through 2005 ⁵	2.0	0.05
Hybrid electric light-duty trucks		2.0	0.05
Hybrid electric medium-duty vehicles		2.0	0.05

¹ Organic Material Hydrocarbon Equivalent, for alcohol-fueled vehicles.

² For purposes of this paragraph, “useful life” shall have the same meaning as provided in section 2112, Title 13, California Code of Regulations. Approval of vehicles which are not exhaust emission tested using a chassis dynamometer pursuant to section 1960.1 or 1961, Title 13, California Code of Regulations shall be based on an engineering evaluation of the system and data submitted by the applicant.

³ The running loss and useful life three-day diurnal plus hot soak evaporative emission standards (hereinafter “running loss and useful life standards”) shall be phased in beginning with the 1995 model year. Each manufacturer, except ultra-small volume and small volume manufacturers, shall certify the specified percent (a) of passenger cars and (b) of light-duty trucks, medium-duty vehicles and heavy-duty vehicles to the running loss and useful life standards according to the following schedule:

Model Year	Minimum Percentage of Vehicles Certified to Running Loss and Useful Life Standards*
1995	10 percent
1996	30 percent
1997	50 percent

*The minimum percentage of motor vehicles of each vehicle type required to be certified to the running loss and useful life standards shall be based on the manufacturer's projected California model-year sales (a) of passenger cars and (b) of light-duty trucks, medium-duty vehicles and heavy-duty vehicles. Optionally, the percentage of motor vehicles can also be based on the manufacturer's projected California model-year sales (a) of passenger cars and light-duty trucks and (b) of medium-duty vehicles and heavy-duty vehicles.

Beginning with the 1998 model year, all motor vehicles subject to the running loss and useful life standards, except those produced by ultra-small volume manufacturers, shall be certified to the specified standards. In the 1999 through 2005 model years, all motor vehicles subject to the running loss and useful life standards, including those produced by ultra-small volume manufacturers, shall be certified to the specified standards.

All 1995 through 1998 model-year motor vehicles which are not subject to running loss and useful life standards pursuant to the phase-in schedule shall comply with the 50,000-mile standards in effect for 1980 through 1994 model-year vehicles.

⁴ For the 1995 model year only, the evaporative emission standards for complete vehicles in this weight range shall be 2.0 grams/test and compliance with the evaporative emission standards shall be based on the SHED conducted in accordance with the procedures set forth in Title 40, Code of Federal Regulations, sections 86.130–78 through 86.143–90 as they existed July 1, 1989. For the 1995 through 2005 model years, the evaporative emission standards for incomplete vehicles in this weight range shall be 2.0 grams/test and compliance with the evaporative emission standards shall be based on the test procedures specified in paragraph 4.g. of the “California Evaporative Emission Standards and Test Procedures for 1978 and Subsequent Model Motor Vehicles.”

⁵ The running loss and useful life standards for all hybrid electric vehicles shall be effective beginning in the 1993 model year.

(C) For vehicles identified below, tested in accordance with the test procedure which includes the hot soak test and the 48 hour diurnal test, the evaporative emission standards are:

Vehicle Type	Model Year	Hydrocarbons ¹	
		Two-Day Diurnal + Hot Soak (grams/test) Useful Life ²	
Passenger cars	1996 through 2005 ³	2.5	
Light-duty trucks		2.5	
Medium-duty vehicles (6,001 – 8,500 lbs. GVWR)			
with fuel tanks < 30 gallons		2.5	
with fuel tanks ≥ 30 gallons		3.0	
(8,501 – 14,000 lbs. GVWR)		3.5	
Heavy-duty vehicles (over 14,000 lbs. GVWR)		4.5	
Hybrid electric passenger cars	1996 through 2005 ³	2.5	
Hybrid electric light-duty trucks		2.5	
Hybrid electric medium-duty vehicles		2.5	

¹ Organic Material Hydrocarbon Equivalent for alcohol-fueled vehicles.

² For purposes of this paragraph, “useful life” shall have the same meaning as provided in section 2112, Title 13, California Code of Regulations. Approval of vehicles which are not exhaust emission tested using a chassis dynamometer pursuant to section 1960.1 or 1961, Title 13, California Code of Regulations shall be based on an engineering evaluation of the system and data submitted by the applicant.

³ The two-day diurnal plus hot soak evaporative emission standards (hereinafter “supplemental standards”) shall be phased-in beginning with the 1996 model year. Those vehicles certified under the running loss and useful life standards for the 1996 through 2005 model years must also be certified under the supplemental standards.

(D) Zero-emission vehicles shall produce zero fuel evaporative emissions under any and all possible operational modes and conditions.

(E) The optional zero-fuel evaporative emission standards for the three-day and two-day diurnal-plus-hot-soak tests are 0.35 grams per test for passenger cars, 0.50 grams per test for light-duty trucks 6,000 lbs. GVWR and under, and 0.75 grams per test for light-duty trucks from 6,001 to 8,500 lbs. GVWR, to account for vehicle non-fuel evaporative emissions (resulting from paints, upholstery, tires, and other vehicle sources). Vehicles demonstrating compliance with these evaporative emission standards shall also have zero (0.0) grams of fuel evaporative emissions per test for the three-day and two-day diurnal-plus-hot-soak tests. The “useful life” shall be 15 years or 150,000 miles, whichever occurs first. In lieu of demonstrating compliance with the zero (0.0) grams of fuel evaporative emissions per test over the three-day and two-day diurnal-plus-hot-soak tests, the manufacturer may submit for advance Executive Officer approval a test plan to demonstrate that the vehicle has zero (0.0) grams of fuel evaporative emissions throughout its useful life.

Additionally, in the case of a SULEV vehicle for which a manufacturer is seeking a partial ZEV credit, the manufacturer may prior to certification elect to have measured fuel evaporative emissions reduced by a specified value in all certification and in-use testing of the vehicle as long as measured mass exhaust emissions of NMOG for the vehicle are increased in all certification and in-use testing. The measured fuel evaporative emissions shall be reduced in increments of 0.1 gram per test, and the measured mass exhaust emissions of NMOG from the vehicle shall be increased by a gram per mile factor, to be determined by the Executive Officer, for every 0.1 gram per test by which the measured fuel evaporative emissions are reduced. For the purpose of this calculation, the evaporative emissions shall be measured, in grams per test, to a minimum of three significant figures.

(F) For the 2004 and subsequent model motor vehicles identified below, tested in accordance with the test procedures described in Title 40, Code of Federal Regulations, sections 86.130–78 through 86.143–90 as they existed July 1, 1989 and as modified by the “California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles” incorporated by reference in section 1976(c), the evaporative emission standards are:

Vehicle Type	Running Loss (grams per mile)	Hydrocarbon ¹ Standards ^{2,3,4}	
		Three Day Diurnal + Hot Soak (grams per test)	Two-Day Diurnal + Hot Soak (grams per test)
Passenger cars	0.05	0.50	0.65
Light-duty trucks (under 8,501 lbs. GVWR)			
6,000 lbs. GVWR and under	0.05	0.65	0.85
6,001 – 8,500 lbs. GVWR	0.05	0.90	1.15
Medium-duty vehicles (8,501 – 14,000 lbs. GVWR)	0.05	1.00	1.25
Heavy-duty vehicles (over 14,000 lbs. GVWR)	0.05	1.00	1.25

¹ Organic Material Hydrocarbon Equivalent for alcohol-fueled vehicles.

² For all vehicles certified to these standards, the “useful life” shall be 15 years or 150,000 miles, whichever first occurs. Approval of vehicles which are not exhaust emission tested using a chassis dynamometer pursuant to section 1960.1 or 1961, title 13, California Code of Regulations shall be based on an engineering evaluation of the system and data submitted by the applicant.

³(a) These evaporative emission standards shall be phased-in beginning with the 2004 model year. Each manufacturer, except small volume manufacturers, shall certify at a minimum the specified percentage of its vehicle fleet to the evaporative emission standards in this table or the optional zero-evaporative emission

standards in section 1976(b)(1)(E) according to the schedule set forth below. For purposes of this paragraph (a), each manufacturer’s vehicle fleet consists of the total projected California sales of the manufacturer’s gasoline-fueled, liquefied petroleum-fueled and alcohol-fueled passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles.

Model Year	Minimum Percentage of Vehicles Certified to the Standards in §§1976(b)(1)(F) and (b)(1)(E)
2004	40
2005	80
2006 and subsequent	100

A small volume manufacturer shall certify 100 percent of its 2006 and subsequent model vehicle fleet to the evaporative emission standards in the table or the optional zero-evaporative emission standards in section 1976(b)(1)(E).

All 2004 through 2005 model-year motor vehicles which are not subject to these standards or the standards in section 1976(b)(1)(E) pursuant to the phase-in schedule shall comply with the requirements of sections 1976(b)(1)(B) and (C).

(b) A manufacturer may use an “Alternative or Equivalent Phase-in Schedule” to comply with the phase-in requirements. An “Alternative Phase-in” is one that achieves at least equivalent emission reductions by the end of the last model year of the scheduled phase-in. Model-year emission reductions shall be calculated by multiplying the percent of vehicles (based on the manufacturer’s projected California sales volume of the applicable vehicle fleet) meeting the new requirements per model year by the number of model years implemented prior to and including the last model year of the scheduled phase-in. The “cumulative total” is the summation of the model-year emission reductions (e.g., the three model-year 40/80/100 percent phase-in schedule would be calculated as: (40%*3 years) + (80%*2 years) + (100%*1 year) = 380). The required cumulative total for the phase-in of these standards is 380 emission reductions. Any alternative phase-in that results in an equal or larger cumulative total than the required cumulative total by the end of the last model year of the scheduled phase-in shall be considered acceptable by the Executive Officer only if all vehicles subject to the phase-in comply with the respective requirements in the last model year of the required phase-in schedule. A manufacturer shall be allowed to include vehicles introduced before the first model year of the scheduled phase-in (e.g., in the previous example, 10 percent introduced one year before the scheduled phase-in begins would be calculated as: (10%*4 years)=40) and added to the cumulative total.

(c) These evaporative emission standards do not apply to zero-emission vehicles.

⁴ In-use compliance whole vehicle testing shall not begin until the motor vehicle is at least one year from the production date and has accumulated a minimum of 10,000 miles. For vehicles introduced prior to the 2007 model year, in-use compliance standards of 1.75 times the “Three-Day Diurnal + Hot-Soak” and “Two-Day Diurnal + Hot-Soak” gram per test standards shall apply for only the first three model years of an evaporative family certified to a new standard.

(b)(2) Evaporative emissions for gasoline-fueled motorcycles subject to exhaust emission standards under this article shall not exceed:

Motorcycle Class	Model Year	Hydrocarbons (grams per test)
Class I and II (50–279cc)	1983 and 1984	6.0
	1985 and subsequent	2.0
Class III (280cc and larger)	1984 and 1985	6.0
	1986 and subsequent	2.0
Class III (280cc and larger) (Optional Standard for Small- Volume Motorcycle Manufacturers)	1986–1988	6.0

(c) The test procedures for determining compliance with the standards in subsection (b) above applicable to 1978 through 2000 model year vehicles are set forth in “California Evaporative Emission Standards and Test Procedures for 1978–2000 Model Motor Vehicles,” adopted by the state board on April 16, 1975, as last amended August 5, 1999, which is incorporated herein by reference. The test procedures for determining compliance with standards applicable to 2001 and subsequent model year vehicles are set forth in the “California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles,” adopted by the state board on August 5, 1999, and as last amended October 17, 2007, which is incorporated herein by reference.

(d) Motorcycle engine families certified to 0.2 grams per test or more below the applicable standards shall be exempted from the state board's "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks" pursuant to section 2235, Title 13, California Code of Regulations.

(e) Small volume motorcycle manufacturers electing to certify 1986, 1987, or 1988 model-year Class III motorcycles in accordance with the optional 6.0 grams per test evaporative emission standard shall submit, with the certification application, a list of the motorcycle models for which it intends to seek California certification and estimated sales data for such models. In addition, each such manufacturer shall, on or before July 1 of each year in which it certifies motorcycles under the optional standard, submit a report describing its efforts and progress toward meeting the more stringent evaporative emission standards. The report shall also contain a description of the manufacturer's current hydrocarbon evaporative emission control development status, along with supporting test data, and shall summarize future planned development work.

(f)(1) For purposes of this section, "small volume motorcycle manufacturer" means a manufacturer which sells less than 5,000 new motorcycles per year in California.

(2) For the purposes of this section, "ultra-small volume manufacturer" means any vehicle manufacturer with California sales less than or equal to 300 new vehicles per model year based on the average number of vehicles sold by the manufacturer in the previous three consecutive model years, and "small volume manufacturer" means, for 1978 through 2000 model years, any vehicle manufacturer with California sales less than or equal to 3000 new vehicles per model year based on the average number of vehicles sold by the manufacturer in the previous three consecutive model years. For 2001 and subsequent model motor vehicles, "small volume manufacturer" has the meaning set forth in section 1900(a).

NOTE: Authority cited: Sections 39500, 39600, 39601, 39667, 43013, 43018, 43101, 43104, 43105, 43106 and 43107, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43204 and 43205, Health and Safety Code.

HISTORY

1. Amendment filed 4-20-83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 17).
2. Amendment filed 12-16-85; effective upon filing pursuant to Government Code section 11346.2(d) (Register 85, No. 51).
3. Amendment of subsections (b) and (c) filed 3-3-88; operative 4-2-88 (Register 88, No. 12).
4. Amendment filed 2-21-90; operative 3-23-90 (Register 90, No. 8).
5. Amendment of subsection (c) filed 6-14-90; effective 7-14-90 (Register 90, No. 33).
6. Amendment filed 12-17-91; operative 1-16-92 (Register 92, No. 12).
7. Amendment of subsection (b)(1) and table, and new subsection (b)(5) filed 11-8-93; operative 12-8-93 (Register 93, No. 46).
8. Editorial correction of printing errors in table and designation of subsections (Register 93, No. 46).
9. Amendment filed 12-15-94; operative 12-15-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
10. Change without regulatory effect amending subsections (b)(1)(B)(4) and (b)(1)(C) filed 3-21-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 12).
11. Amendment of subsection (c) filed 6-19-96; operative 6-19-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 25).
12. New subsection (b)(1)(D) filed 1-3-97; operative 1-3-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 1).
13. Editorial correction restoring inadvertently omitted subsections (b)(1)(D)-(e) (Register 97, No. 7).
14. Editorial correction of subsection (b)(1)(B) note (3) and (b)(1)(C) Table (Register 97, No. 38).
15. Amendment filed 9-16-97; operative 10-16-97 (Register 97, No. 38).
16. Amendment of subsections (b)(1)(B), (b)(1)(C), (c) and (f)(2) and new subsections (b)(1)(E)-(F) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
17. Amendment of incorporated document *California Evaporative Emission Standards and Test Procedures for 1978-2000 Model Motor Vehicles* and amend-

ment of subsection (c) filed 1-18-2007; operative 2-17-2007 (Register 2007, No. 3).

18. Amendment of subsection (c) and amendment of NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 1977. Certification and Service Documents—1993 and Subsequent Model Motor Vehicles.

(a) In addition to all other requirements, all documents required by California certification procedures including emission-related vehicles and engine service procedures shall conform to the emission related nomenclature and abbreviations provided in the Society of Automotive Engineers' procedure J1930, "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations and Acronyms", September 1991, which is incorporated herein by reference.

(b) Subsection (a) shall apply to all new documents printed or updated by a manufacturer starting with the 1993 model year.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 43100, 43101, 43102, 43104, 43107, and 43200, Health and Safety Code.

HISTORY

1. New section filed 11-26-90; operative 12-26-90 (Register 91, No. 3).
2. Amendment of subsection (a) filed 9-3-92; operative 10-5-92 (Register 92, No. 36).

§ 1978. Standards and Test Procedures for Vehicle Refueling Emissions.

(a)(1) Vehicle refueling emissions for 1998 and subsequent model gasoline-fueled, alcohol-fueled, diesel-fueled, liquefied petroleum gas-fueled, fuel-flexible, and hybrid electric passenger cars, light-duty trucks, and medium-duty vehicles with a gross vehicle weight rating less than 8501 pounds, shall not exceed the following standards. Natural gas-fueled vehicles are exempt from meeting these refueling standards, but the refueling receptacles on natural gas-fueled vehicles must comply with the receptacle provisions of the American National Standards Institute/American Gas Association Standard for Compressed Natural Gas Vehicle Fueling Connection Devices, ANSI/AGA NGV1 standard-1994, which is incorporated herein by reference. The standards apply equally to certification and in-use vehicles.

Hydrocarbons (for gasoline-fueled, diesel-fueled, and hybrid electric vehicles): 0.20 grams per gallon of fuel dispensed.

Organic Material Hydrocarbon Equivalent (for alcohol-fueled, fuel-flexible, and hybrid electric vehicles): 0.20 grams per gallon of fuel dispensed.

Hydrocarbons (for liquefied petroleum gas-fueled vehicles): 0.15 gram per gallon of fuel dispensed.

(2) Vehicles powered by diesel fuel are not required to conduct testing to demonstrate compliance with the refueling emission standards set forth above, provided that all of the following provisions are met:

(A) The manufacturer can attest to the following evaluation: "Due to the low vapor pressure of diesel fuel and the vehicle tank temperatures, hydrocarbon vapor concentrations are low and the vehicle meets the 0.20 grams/gallon refueling emission standard without a control system."

(B) The certification requirement described in paragraph (A) is provided in writing and applies for the full useful life of the vehicle, as defined in section 2112.

In addition to the above provisions, the ARB reserves the authority to require testing to enforce compliance and to prevent noncompliance with the refueling emission standard.

Vehicles certified to the refueling emission standard under this provision shall not be counted in the phase-in sales percentage compliance determinations.

(3) The manufacturer shall adhere to the following phase-in schedule, as determined by projected vehicle sales throughout the United States, with the exception of small volume manufacturers.

ORVR Model Year Phase-In Schedule

Class of Vehicle	40% Fleet	80% Fleet	100% Fleet
Passenger Cars	1998	1999	2000
Light-Duty Trucks 0-6,000 lbs. GVWR	2001	2002	2003
Light-Duty Trucks/ Medium-Duty Vehicles (6,001-8,500 lbs. GVWR)	2004	2005	2006

(A) Prior to the 2001 model year, small volume manufacturers are defined for purposes of this section as any vehicle manufacturer with California actual sales less than or equal to 3000 new vehicles per model year based on the average number of vehicles sold by the manufacturer in the previous three consecutive years.

(B) Small volume manufacturers of passenger cars, as defined in subsection (a)(3)(A), are exempt from the implementation schedule in subsection (a)(3) for model year 1998 and 1999. For small volume manufacturers of passenger cars, the standards of subsection (a)(1), and the associated test procedures, shall not apply until model year 2000, when 100 percent compliance with the standards of this section is required. Small volume manufacturers of light-duty trucks and medium-duty vehicles are not exempt from the implementation schedule in subsection (a)(3).

(b) The test procedures for determining compliance with standards applicable to 1998 through 2000 gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty trucks, and medium-duty vehicles are set forth in the "California Refueling Emission Standards and Test Procedures for 1998-2000 Model Year Motor Vehicles," as amended August 5, 1999, which is incorporated herein by reference. The test procedures for determining compliance with standards applicable to 2001 and subsequent gasoline, alcohol, diesel, and hybrid electric passenger cars, light-duty trucks, and medium-duty vehicles are set forth in the "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, and last amended October 17, 2007, which is incorporated herein by reference.

NOTE: Authority cited: Sections 39500, 39600, 39601, 39667, 43013, 43101, 43104, 43105, 43106 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204 and 43205, Health and Safety Code.

HISTORY

1. New section filed 6-19-96; operative 6-19-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 25).
2. Change without regulatory effect restoring inadvertently omitted subsections (a)(3)(A) and (a)(3)(B) filed 4-28-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 18).
3. Amendment of subsections (a)(2)(B), (a)(3)-(a)(3)(B) and (b) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
4. Amendment of subsections (a)(1) and (b) 11-4-2003; operative 12-4-2003 (Register 2003, No. 45).
5. Amendment of incorporated document *California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles* and amendment of subsection (b) filed 1-18-2007; operative 2-17-2007 (Register 2007, No. 3).
6. Amendment of subsection (b) and amendment of NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

Article 2.5. California Clean Air Act Annual Certification Fees

§ 1990. Applicability.

The Executive Officer shall collect annual fees from each manufacturer or modifier of motor vehicles and engines certified pursuant to Articles 2 and 7 of this subchapter, including manufacturers of federally certified vehicles which are sold in California pursuant to Health and Safety Code Section 43102. The Executive Officer shall calculate the amount of these fees as specified in Sections 1991-1993.

NOTE: Authority cited: Sections 39600, 39601 and 43019, Health and Safety Code. Reference: Section 43000.5, 43013, 43018 and 43019, Health and Safety Code.

HISTORY

1. New section filed 2-27-90; operative 2-27-90 pursuant to Government Code Section 11346.2 (d) (Register 90, No. 12).

§ 1991. Calculation of Total Revenues to be Assessed for Each Fiscal Year.

(a) Total revenues of four million five hundred thousand dollars (\$4,500,000) shall be assessed in Fiscal Year 1989-90.

(b) In subsequent fiscal years, total revenues to be assessed shall be calculated using the following equation:

$$REV_n = REV_{n-1} [1 + ANN]$$

where:

REV_n means the total revenues to be assessed for the current fiscal year

REV_{n-1} means the total revenues assessed in the previous fiscal year.

$ANN = (CPI_n - CPI_{n-1}) / CPI_{n-1}$, where CPI_n is the California Consumer Price Index in April prior to the current fiscal year, as determined pursuant to Section 2212 of the Revenue and Taxation Code, and CPI_{n-1} is the California Consumer Price Index in April of the previous year, as determined pursuant to Section 2212 of the Revenue and Taxation Code.

NOTE: Authority cited: Sections 39600, 39601 and 43019, Health and Safety Code. Reference: Sections 43000.5, 43013, 43018 and 43019, Health and Safety Code.

HISTORY

1. New section filed 2-27-90; operative 2-27-90 pursuant to Government Code Section 11346.2(d) (Register 90, No. 12).

§ 1992. Calculation of Per-Vehicle or Per-Engine Certification Fees.

(a) For fiscal year 1989-90, the Executive Officer shall calculate a per-vehicle or per-engine certification fee, using the equation in subsection (b), within 60 days of the effective date of this article.

(b) Prior to July 31 of each subsequent year, the Executive Officer shall calculate a per-vehicle or per-engine certification fee using the following equation:

$$\text{Fee per vehicle or engine} = \frac{REV_n}{\text{Total vehicles or engines}}$$

where:

REV_n means the total revenues to be collected for the current fiscal year as specified under Section 1991.

"Total vehicles or engines" means the total number of all vehicles and engines produced for California sale in the previous calendar year, as determined by totaling the vehicle and engines as reported in the manufacturers' assembly-line reports or production reports specified in Section 1993 (a)-(f) of this article.

NOTE: Authority cited: Sections 39600, 39601 and 43019, Health and Safety Code. Reference: Sections 43000.5, 43013, 43018 and 43019, Health and Safety Code.

HISTORY

1. New section filed 2-27-90; operative 2-27-90 pursuant to Government Code Section 11346.2 (d) (Register 90, No. 12).

§ 1993. Calculation of Fees to be Collected from Each Manufacturer.

The annual fees to be collected from each manufacturer subject to this article shall be calculated by multiplying the per-vehicle fee or per-engine fee, as determined by the Executive Officer pursuant to Section 1992, by the total number of vehicles or engines produced for California sale in the previous calendar year by that manufacturer. The total number of vehicles or engines produced for California sale shall be the number that each manufacturer is required to report under the following:

(a) For passenger cars, light-duty trucks and medium-duty vehicles, Section D.6.(a), "California Assembly-Line Test Procedures for 1983 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," incorporated by reference in Section 2061, Title 13, California Code of Regulations.

(b) For heavy-duty engines and vehicles, Section 86.085-37, "Production Vehicles and Engines," last amended January 12, 1983, 40 Code of Federal Regulations as incorporated by reference in "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" and "California Exhaust Emission Standard and Test Procedures for 1987 and Subsequent Model Heavy-Duty Otto-Cycle Engines and Vehicles."

(c) For motorcycles, Section 1958(b)(1)(b), Title 13, California Code of Regulations.

(d) For new modifier-certified vehicles, Section V.C.4., "California Certification and Compliance Test Procedures for New Modifier-Certified Motor Vehicles" as incorporated by reference in Section 1964, Title 13, California Code of Regulations.

(e) For used modifier-certified vehicles, Section IV.C.2.a, "Licensing Requirements for Vehicle Emission Test Laboratories" as incorporated by reference in Section 2048, Title 13, California Code of Regulations.

(f) For vehicle or engines whose production numbers for California distribution are not reported in assembly-line reports or whose production numbers in assembly-line reports do not segregate production specifically for California:

(1) For the 1989-90 fiscal year, the manufacturer shall report California production numbers for the 1988 calendar year within 30 days of the Executive Officer's request. A manufacturer may adjust production numbers to account for those vehicles or engines which are actually sold

outside of California.

(2) For subsequent fiscal years, the manufacturer shall report California production numbers for the previous calendar year not later than May 1 of the current year. A manufacturer may adjust production numbers to account for those vehicles or engines which are actually sold outside of California.

(3) For any manufacturer who fails to submit any report required under paragraphs (1) and (2) by the specified date, the processing of certification applications for that manufacturer's vehicles and engines shall be suspended until such time as the manufacturer submits the report.

NOTE: Authority cited: Sections 39600, 39601 and 43019, Health and Safety Code. Reference: Sections 43000.5, 43013, 43018 and 43019, Health and Safety Code.

HISTORY

1. New section filed 2-27-90; operative 2-27-90 pursuant to Government Code Section 11346.2 (d) (Register 90, No. 12).

§ 1994. Fee Payment and Collection.

(a) Between July 1 and July 31 of each year, the Executive Officer shall assess and notify in writing each manufacturer subject to this article of the amount to be collected for the fiscal year, except for Fiscal Year 1989-90 when each manufacturer shall be notified within 60 days of the effective date of this article.

(b) For Fiscal Year 1989-90, each manufacturer shall remit the fee to the state board within 30 days after receipt of the fee assessment notice. For subsequent fiscal years, each manufacturer shall have the option to either pay the entire fee to the state board within 30 days after receipt of the fee assessment notice, or to pay the fee in four equal quarterly installments with the first installment due within 30 days after receipt of the fee assessment notice, and subsequent installments due on or before No-

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venember 1, February 1, and May 1 of each fiscal year. Payment shall be made payable to the State Air Resources Board. The Executive Officer shall forward the revenues to the State Controller for deposit in the Air Pollution Control Fund.

(c) Certification of vehicles or engines for the following model year shall not be granted to any manufacturer who has failed to pay the fees required under this article.

NOTE: Authority cited: Sections 39600, 39601 and 43019, Health and Safety Code. Reference: Sections 43000.5, 43013, 43018 and 43109, Health and Safety Code.

HISTORY

1. New section filed 2-27-90; operative 2-27-90 pursuant to Government Code Section 11346.2 (d) (Register 90, No. 12).

Article 3. Accreditation of Motor Vehicle Pollution Control Devices (Used Motor Vehicles)

§ 2001. Requirements

No emission control device shall be accredited unless such device meets the standards set forth in this article and all other applicable criteria established in Chapter 3 of Part 5 of Division 26 of the Health and Safety Code, commencing with Section 43600, and in Subchapter 1 of this Code.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43011 and 43600, Health and Safety Code.

HISTORY

1. Amendment filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
2. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2002. Additional Criteria for Used Vehicle Devices.

No exhaust emission control or fuel system evaporative control device intended for installation on used motor vehicles shall receive accreditation from the State Board unless it meets the following criteria:

(a) Such device shall be designed so as to have no adverse effect on engine operation or vehicle performance, unless a test procedure otherwise specifies.

(b) The adequacy of methods of distribution, the financial responsibility of the applicant, and other factors affecting the economic interests of the motoring public shall be evaluated and a determination shall be made as to whether they are satisfactory to protect the motorist.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 40000, 43000, 43011, 43600, 43601 and 43610, Health and Safety Code.

HISTORY

1. Amendment filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2003. Exhaust Emission Standards and Test Procedures—Used 1955-1965 Light-Duty Vehicles.

HISTORY

1. Amendment filed 3-22-74; effective thirtieth day thereafter (Register 74, No. 12).
2. Repealer filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2004. Fuel Evaporative Emissions Standards and Test Procedures.

HISTORY

1. Repealer filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2005. Exhaust Emissions and Test Procedures—Control of Oxides of Nitrogen Emitted from 1966-1970 Light-Duty Vehicles.

The State Board finds compliance with the oxides of nitrogen control device standards set forth below to be necessary and technologically feasible for 1966 through 1970 model-year gasoline-powered motor ve-

hicles under 6,001 pounds gross vehicle weight. In accordance with this finding, the device standards for oxides of nitrogen are:

Class (a) Vehicles (50 to 140 C.I.D.)—20 percent oxides of nitrogen reduction.

Classes (b) through (f) Vehicles (greater than 140 C.I.D.)—30 percent oxides of nitrogen reduction.

However, pursuant to Section 43614 of the Health and Safety Code, "after one or more devices are initially certified pursuant to Section 43610, no device shall be accredited under that section which is less effective than the one or ones initially certified." As a result of this provision and certification of devices, as of July 18, 1973, the standard for all classes is 42%.

The test procedures for determining compliance with these standards are set forth in "California Oxides of Nitrogen Control Device Test Procedures for Used 1966 Through 1970 Model-Year Motor Vehicles Under 6,001 Pounds Gross Vehicle Weight," adopted by the State Board on November 17, 1971, as last amended July 18, 1973.

NOTE: Authority cited: Section 43600, Health and Safety Code. Reference: Sections 43610 and 43611, Health and Safety Code.

HISTORY

1. Amendment filed 7-27-7 as an emergency; effective upon filing (Register 73, No. 30).
2. Certificate of Compliance filed 9-28-73 (Register 73, No. 39).
3. Amendment filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
4. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2006. Deferral of Installation of Oxides of Nitrogen Devices upon Renewal of Registration for the Year 1973.

HISTORY

1. Repealer filed 4-30-75 as an emergency; effective upon filing (Register 75, No. 18). For prior history, see Register 74, No. 47.
2. Certificate of Compliance filed 8-14-75 (Register 75, No. 33).

§ 2007. 1955-1965 Light-Duty Exhaust Emission Control Device Installation Schedule.

NOTE: Authority cited: Section 39600, Health and Safety Code. Reference: Section 43655, Health and Safety Code.

HISTORY

1. Amendment of section and NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12). For prior history, see Register 73, No. 16.
2. Repealer filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2007.5. Termination of the 1955 Through 1965 Model Year Light-Duty Motor Vehicle Exhaust Emission Control Device Requirements.

Commencing January 1, 1981, the requirement for new installations of 1955 through 1965 model year light-duty exhaust retrofit devices is terminated. All 1955 through 1965 model year light-duty motor vehicles with exhaust retrofit devices which were installed prior to the January 1, 1981 termination date shall continue to be so equipped.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43600, 43650 and 43659, Health and Safety Code.

HISTORY

1. New section filed 11-28-80; designated effective 1-1-81 (Register 80, No. 48).
2. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2008. 1966-1970 Light Duty NOx Exhaust Emission Control Device Installation Requirements.

(a) Emission control devices, accredited pursuant to Sections 43610 and 43614 of the Health and Safety Code for 1966 through 1970 model-year vehicles under 6,001 pounds gross vehicle weight, shall be installed commencing October 1, 1973 upon initial registration and upon transfer of ownership and registration, pursuant to Section 4000.1 of the Vehicle Code, and upon registration of a vehicle previously registered outside this state, pursuant to Section 4000.2 of the Vehicle Code, in the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma, Los Angeles, Orange, Riverside,

San Bernardino, Santa Barbara, Ventura and San Diego. Commencing April 1, 1974, installation under this subdivision shall be statewide.

(b) Certificates of compliance shall be issued and affixed by motor vehicle pollution control device installation and inspection stations licensed by the Bureau of Automotive Repair at the time of any installation made pursuant to subdivision (a) above to indicate that an accredited device has been installed, or that the vehicle is exempt from mandatory installation.

(c) A window sticker, designed and sold by the Bureau of Automotive Repair and approved by the California Highway Patrol and the State Board, shall be issued and affixed by the motor vehicle pollution control device installation and inspection stations with the certificate of compliance.

(d) Whenever a vehicle is declared by a motor vehicle pollution control device installation and inspection station to be exempt from installation pursuant to the exemption list adopted by the State Board, a window sticker, designed by the Bureau of Automotive Repair and approved by the California Highway Patrol and the State Board, indicating such exemption shall be issued and affixed by such station.

(e) Pursuant to the provisions of Section 4000.1(b) of the Vehicle Code, and other provisions of law, it is unlawful for the operator or owner of any vehicle which has had a window sticker affixed pursuant to subdivisions (c) and (d) above, to remove or deface said window sticker or to request, cause or permit such removal or defacement.

If any such window sticker has been removed, defaced or lost, the owner or operator of the vehicle shall immediately obtain a replacement window sticker from a motor vehicle pollution control device installation and inspection station.

(f) Vehicles with accredited or exempt devices installed pursuant to the installation schedule established in former subdivision (b) of this section on July 19, 1974 (statewide license plate installation schedule) or pursuant to the installation schedule established in former subdivision (b) of this section on September 13, 1974 (license plate installation schedule applicable to six counties in whole or in part in the South Coast Air Basin) may be removed or rendered inoperative without penalty so long as the emission control devices and other emission-related parameters of the subject vehicle are restored to manufacturer's specifications. This subdivision shall not be applicable to any vehicle for which an accredited or exempt device has been or will be installed pursuant to any change of ownership or initial registration requirement.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 40000, 43000, 43600, 43650 and 43654, Health and Safety Code.

HISTORY

1. Amendment filed 4-30-75 as an emergency; effective upon filing (Register 75, No. 18). For prior history, see Register 74, No. 47.
2. Certificate of Compliance filed 8-14-75 (Register 75, No. 33).
3. Amendment of subsection (a) and NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
4. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2009. Auxiliary Gasoline Fuel Tank Criteria and Test Procedures.

In order for an auxiliary gasoline fuel tank to be certified by the State Board, the fuel evaporative emission control system for the auxiliary tank fuel system shall provide substantially the same degree of control as the originally approved or certified evaporative emission control system provides for the original fuel system, and the fill pipe and opening shall be compatible with vapor control systems.

The test procedures for determining compliance with this standard are set forth in "California Criteria and Test Procedures for Accrediting Auxiliary Gasoline Fuel Tanks," dated December 19, 1973, as last amended July 27, 1976.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 40000, 43000, 43820 and 43834, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12). For prior history, see Register 76, No. 33.
2. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2010. Exhaust Emission Standards and Test Procedures—Non-Mandatory Devices for Used 1955 and Subsequent Model-Year Vehicles.

To accredit an exhaust emission control device whose installation costs exceed the statutory limits for mandatory devices it must be shown that such a device can reduce the emissions of each of at least two of the three pollutants, hydrocarbons, carbon monoxide, and oxides of nitrogen, without increasing the third pollutant, by a minimum of twenty percent below the emission levels obtained with the mandatory accredited or approved device. The State Board may permit the installation of a device in lieu of an approved, certified, or accredited device.

The test procedures for determining compliance with these standards are set forth in "California Exhaust Emission Criteria and Test Procedures for Accrediting Emission Control Devices Sold on a Non-Mandatory Basis," dated February 13, 1974.

NOTE: Authority cited: Sections 39600, 39601 and 39607, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 40000, 43000, 43602 and 43630, Health and Safety Code.

HISTORY

1. New section filed 3-6-74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Repealer and new section filed 1-14-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 2011. Software Upgrade for 1993 through 1998 Model Year Heavy-Duty Trucks.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43701, Health and Safety Code. Reference: Sections 39001, 39003, 43000, 43013, 43016 and 43018, Health and Safety Code.

HISTORY

1. New section filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
2. Change without regulatory effect repealing section filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

Article 4. Diesel Particulate Matter Control Measures

§ 2020. Purpose and Definitions of Diesel Particulate Matter Control Measures.

(a) Purpose. Diesel particulate matter was identified in 1998 as a toxic air contaminant. According to California law, an airborne toxic control measure using the best available control technology shall, therefore, be employed to reduce the public's exposure to diesel particulate matter.

(b) Definitions. For the purposes of the rules specified in article 4, the following definitions apply:

"Alternative fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric buses only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuels.

"Commercially available" means available for purchase and installation at a reasonable cost.

"Heavy-duty pilot ignition engine" means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on an energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

"Level" means one of three categories of Air Resources Board-verified diesel emission control strategies: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate

matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour.

“Municipality” means a city, county, city and county, special district, or a public agency of the United States of America or the State of California, and any department, division, public corporation, or public agency of this State or of the United States, or two or more entities acting jointly, or the duly constituted body of an Indian reservation or rancheria.

“Owner” means the same as in title 13, California Code of Regulations, section 2180.1(a)(21).

“Transit agency” means a public entity responsible for administering and managing transit services. Public transit agencies can directly operate transit service or contract out for all or part of the total transit service provided.

“Terminal” means any place or places where a vehicle is regularly garaged or maintained, or from which it is operated or dispatched, which may include a private business or residence.

“Verified” means that a diesel emission control strategy or system has received approval from the Executive Officer according to the “Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, California Code of Regulations, commencing with section 2700, and incorporated by reference.

“Warranty Period” means the same as in title 13, California Code of Regulations, section 2707.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39650–39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New article 4 (sections 2020–2021.2) and section filed 7–20–2004; operative 7–20–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 30). For prior history of article 4, see Register 83, No. 3).
2. Amendment of subsection (b) (repealer of definition of “Retirement” or “Retire” and new definition of “Transit agency”) filed 1–31–2006; operative 1–31–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 2021. Solid Waste Collection Vehicles.

(a) Scope and Applicability. Sections 2021 and 2021.1 shall apply to municipalities that have a contract with owners for residential and commercial solid waste collection service. Sections 2021 and 2021.2 shall apply to solid waste collection vehicle owners, both private and government entities. These regulations mandate the reduction of diesel particulate matter emissions from 1960 to 2006 model year engines in on-road diesel-fueled heavy-duty residential and commercial solid waste collection vehicles with a manufacturer’s gross vehicle weight rating greater than 14,000 pounds.

(b) Definitions. The definitions in Section 2020 shall apply to sections 2021, 2021.1, and 2021.2. In addition, the following definitions apply only to sections 2021, 2021.1, and 2021.2.

“Active fleet” means the total, by terminal, of an owner’s collection vehicles, excluding backup vehicles.

“Backup vehicle” means a collection vehicle that is driven fewer than 1000 miles annually.

“Contract” means an agreement between an owner and a municipality to perform residential or commercial solid waste collection services, in which the contractor’s compensation for providing services, or a formula for determining compensation, is specified.

“Contractor” means an owner with a contract as defined in this section.

“Residential and commercial solid waste” means all putrescible and nonputrescible solid, and semisolid wastes, including garbage, trash, refuse, rubbish, ashes, yard waste, recyclable materials, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes originating from single-family or multiple family dwellings, stores, offices, and other commercial sources, and construction and de-

molation projects in residential and commercial zones, not including hazardous, radioactive, or medical waste.

“Retirement” or “Retire” means an engine or vehicle will be withdrawn from an active fleet in California. The engine may be sold outside of California, scrapped, or used in a backup vehicle.

“Roll off vehicle” means any heavy-duty vehicle used for transporting waste containers such as open boxes or compactors that may be removed from the tractor.

“Solid waste collection vehicle or collection vehicle” means an on-road heavy-duty vehicle with a manufacturer’s gross vehicle weight rating of greater than 14,000 pounds used for the purpose of collecting residential and commercial solid waste for a fee, including roll off vehicles.

“Total Fleet” means the total of an owner’s collection vehicles, excluding backup vehicles.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39650–39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New section filed 7–20–2004; operative 7–20–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 30).
2. Amendment of subsection (b) (new definition of “Retirement” or “Retire”) filed 1–31–2006; operative 1–31–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 2021.1. Methods for Determining Compliance for a Municipality That Contracts with Owners for Solid Waste Collection.

(a) Compliance Requirement. A municipality shall include language requiring the contractor be in compliance with all applicable air pollution control laws in any new contract that has an effective date of December 31, 2004 or later.

(b) Reporting Requirement. A municipality shall submit an annual report to the Executive Officer by January 31, 2005, and by each January 31 through 2013, as described below:

(1) A listing of its contractor(s) as of January 1 of each applicable year, and including the following information:

(A) Municipality name, address, telephone number, fax number, contact name and electronic mail address;

(B) For each contract, the contractor name, owner name, contact name, if different from owner name, business address, business telephone number, business fax number, contact electronic mail address, and the address of each terminal in the jurisdiction that houses collection vehicles, serving the municipality.

(c) Non-Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39650–39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New section filed 7–20–2004; operative 7–20–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 30).

§ 2021.2. Methods for Determining Compliance for an Owner of Solid Waste Collection Vehicles.

(a) Compliance Requirements. Beginning with the applicable effective dates, an owner who operates an active fleet of one or more collection vehicles is required to comply with this diesel particulate matter control measure. Compliance requires all of the following:

(1) Use of a best available control technology for each collection vehicle in the active fleet as specified in subsection (b),

(2) Implementation for collection vehicles in the active fleet as specified in subsection (c), and

(3) If a compliance deadline extension is granted by the Executive Officer per subsection (d), the owner shall be deemed to be in compliance as specified by the Executive Officer’s authorization; and

(4) Special circumstances that may apply when a diesel emission control strategy is used as a best available control technology as specified in subsection (e); and

(5) Records must be kept as specified in subsection (f).

(6) Continuous Compliance. An owner is required to keep his collection vehicle in compliance with this regulation, once it is in compliance, so long as the owner is operating the collection vehicle in California.

(b) Best Available Control Technology. Each owner shall use one of the following best available control technologies on each engine or collection vehicle in his fleet as required by the implementation schedule in subsection (c):

(1) An engine or power system certified to the optional 0.01 g/bhp-hr particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a)(2), or the 0.01 g/bhp-hr particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a), when effective; or

(2) An engine or power system certified to the 0.1 g/bhp-hr particulate emission standard, as specified in title 13, California Code of Regulations, section 1956.8, used in conjunction with the highest level diesel emission control strategy as defined in subsection (b)(4) applied by the implementation schedule in subsection (c); or

(3) An alternative fuel or heavy-duty pilot ignition engine; model year 2004–2006 alternative fuel engines must be certified to the optional, reduced emission standards as specified in title 13, California Code of Regulations, section 1956.8(a)(2)(A); or

(4) The highest level diesel emission control strategy per title 13, California Code of Regulations, section 2702(f), Table 1, that is verified

[The next page is 236.26(g).]

for a specific engine to reduce diesel particulate matter and which the diesel emission control strategy manufacturer or authorized dealer agrees can be used on a specific engine and collection vehicle combination, without jeopardizing the original engine warranty in effect at the time of application.

(c) **Implementation Schedule.** The owner shall comply with the schedule in Table 1 — Implementation Schedule for Solid Waste Collection Vehicles, Model Years 1960 to 2006, for the specified percentage of collection vehicles by each applicable compliance deadline.

Table 1 — Implementation Schedule for Solid Waste Collection Vehicles, Model Years 1960 to 2006.

Group	Engine Model Years	Percentage of Group to Use Best Available Control Technology	Compliance Deadline
1	1988–2002	10	December 31, 2004
		25	December 31, 2005
		50	December 31, 2006
		100	December 31, 2007
2a ^a	1960–1987 (Total fleet ≥ 15 collection vehicles)	15	December 31, 2005
		40	December 31, 2006
		60	December 31, 2007
		80	December 31, 2008
		100	December 31, 2009
2b	1960–1987 (Total fleet < 15 collection vehicles)	25	December 31, 2007
		50	December 31, 2008
		75	December 31, 2009
		100	December 31, 2010
3	2003–2006 (Includes dual-fuel and bi-fuel engines)	50	December 31, 2009
		100	December 31, 2010

^aGroup 2a: An owner may not use Level 1 technology as best available control technology on Group 2a engines or collection vehicles.

(1) **Calculating Number of Collection Vehicles Required for Implementation based on Active Fleet Size.** The owner shall calculate the size of his active fleet as of January 1 of each year (#SWCV) based on the model year of each engine (#Engines) plus the number of engines removed from the model year group by retirement in prior years (TotRetire) and determine the number of collection vehicles required for implementation as follows:

$$\#SWCV = \#Engines + TotRetire$$

(A) The owner shall determine the total number of collection vehicles required to be in compliance by the compliance deadline in Table 1 (TotVeh) by multiplying “Percentage of Group to Use Best Available Control Technology” (Group%BACT) for that year by the sum of the number of collection vehicles in an engine model year group (#SWCV) as in this following expression:

$$TotVeh = (Group\%BACT) \times (\#SWCV)$$

(B) After the first compliance deadline for each group, the owner shall determine the additional number of collection vehicles to be brought into compliance each subsequent year (TotAddComp) by subtracting the number of engines or collection vehicles brought into compliance the previous years using the method listed in subsection (b)(4) (TotRetrofit) or by retirement (TotRetire) from the total number of collection vehicles required to be in compliance (TotVeh), as in the following expression:

$$TotAddComp = TotVeh - TotRetrofit - TotRetire$$

(C) Notwithstanding subsection (B) above, in the 100 percent compliance deadline year for each engine model year group the owner shall bring the remaining engines and collection vehicles into compliance.

(D) If the TotVeh or TotAddComp is not equal to a whole number of collection vehicles, the owner shall round up to the nearest collection vehicle when the fractional part of TotAddComp is greater than or equal to one-half of a collection vehicle, and round down to the nearest collection vehicle when the fractional part of TotAddComp is less than one-half of a collection vehicle.

(d) **Compliance Extensions.** An owner may be granted an extension to a compliance deadline specified in subsection (c) for one of the following reasons:

(1) **Compliance Extension based on Early Implementation.** An owner will be granted an extension based on compliance with one or more of the following early implementation schedules, provided the Executive Offi-

cer has received a letter by the applicable early compliance deadline stating the owner's intent to comply with one of the following conditions:

(A) If an owner has implemented best available control technology on fifty percent or more of his Group 1 total fleet of collection vehicles, at least fifty percent of which are the owner's oldest collection vehicles in Group 1, by July 1, 2005, then the owner may delay the final compliance deadline for Group 1 to December 31, 2009.

(B) If an owner has implemented best available control technology on fifty percent or more of his Group 2a total fleet of collection vehicles by December 31, 2005, then the owner may delay the intermediate and final compliance deadlines for Group 2a to December 31, 2010.

(C) If an owner has implemented best available control technology on fifty percent or more of his Group 2b total fleet of collection vehicles by December 31, 2006, then the owner may delay the intermediate and final compliance deadlines for Group 2b to December 31, 2011.

(2) **Compliance Extension based on No Verified Diesel Emission Control Strategy.** If the Executive Officer has not verified a diesel emission control strategy, or one is not commercially available, for a particular engine and vehicle combination, an annual extension in compliance may be granted by the Executive Officer under one of the conditions specified below:

(A) **Executive Officer Compliance Extension.** The Executive Officer shall grant a blanket one-year compliance extension if a diesel emission control strategy is not verified for an engine ten months prior to each compliance deadline specified in subsection (c).

(i) For a Group 1 collection vehicle engines, the Executive Officer shall grant an annual extension through 2007, after which the owner shall comply with subsection (b) by December 31, 2008.

(ii) For a Group 2a collection vehicle engine, the Executive Officer shall grant an annual extension through 2008, after which the owner shall comply with subsection (b) by December 31, 2009.

(iii) For a Group 2b or 3 collection vehicle engines, the Executive Officer shall grant an annual extension through 2010, after which the owner shall comply with subsection (b) by December 31, 2011.

(B) **Owner Application Compliance Extension.** An owner may apply to the Executive Officer for a compliance extension for an engine six months prior to each compliance deadline specified in subsection (c). The owner must first apply best available control technology to all applicable engines as required before requesting an extension. The owner shall meet the following application conditions and documentation requirements by providing the following to the Executive Officer:

(i) Identification of each engine, by vehicle identification number; engine manufacturer, model year, family, and series; and type of collection vehicle, for which no diesel emission control strategy has been verified, or

(ii) Identification of each engine, by vehicle identification number; engine manufacturer, model year, family, and series; and type of collection vehicle, for which a specific diesel emission control strategy would jeopardize the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be jeopardized, or

(iii) Identification of each engine and vehicle combination, by vehicle identification number; engine manufacturer, model year, family, and series; and type of collection vehicle, for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted with their responses to a request to purchase, and

(iv) A description of the reason for the request for a compliance extension for each engine or engine and collection vehicle combination, and

(v) A copy of the statement of compliance as required in subsection (f)(1)(H) for all applicable collection vehicles, and

(vi) Submission of the application for compliance extension to the Executive Officer no later than July 31 annually beginning 2004. For a Group 1 collection vehicle engine, the Executive Officer will accept an annual compliance extension application until July 31, 2007, after which the owner shall comply with subsection (b) by December 31, 2008. For

a Group 2a collection vehicle engine, the Executive Officer will accept an annual compliance extension application until July 31, 2008, after which the owner shall comply with subsection (b) by December 31, 2009. For a Groups 2b or 3 collection vehicle engine, the Executive Officer will accept an annual compliance extension application until July 31, 2010, after which the owner shall comply with subsection (b) by December 31, 2011. The Executive Officer will grant a compliance extension for only one year for an engine in Group 2a or 2b.

(3) Compliance Extension for an Owner with a Total Fleet of Fewer than Four Solid Waste Collection Vehicles. An owner with three or fewer collection vehicles in his total fleet may delay the intermediate compliance deadline of any engine to its applicable final compliance deadline.

(4) Compliance Extension for an Owner of a Dual-Fuel or Bi-Fuel Engine. An owner may delay implementation of a Group 1 dual-fuel or bi-fuel engine to the Group 3 compliance deadlines.

(5) Compliance Extension for an Engine near Retirement. If an owner has applied best available control technology to all applicable engines as required, and the next applicable engine is scheduled to be retired from the active fleet within one year of the applicable compliance deadline, then the owner is exempt from applying the best available control technology as defined in subsection (b) to that engine for a maximum of one year, provided documentation of expected retirement date is kept in records as specified in subparagraph (f) and the engine is retired as of the stated expected date.

(6) Use of Experimental Diesel Particulate Matter Emission Control Strategies. An owner may use an experimental diesel particulate matter emission control strategy provided by or operated by the manufacturer in no more than 20 collection vehicles, or ten percent, of his total fleet, whichever is less, for testing and evaluation purposes. The owner shall keep documentation of this use in records as specified in subsection (f). Each collection vehicle will be considered to be in compliance for the duration of the experiment, or a maximum of two years. The owner must bring the collection vehicle into compliance within six months of the end of the testing and evaluation period. No experimental diesel particulate matter emission control strategy may be used on a collection vehicle after December 31, 2010.

(e) Diesel Emission Control Strategy Special Circumstances. An owner shall maintain the original level of best available control technology on each engine once that engine is in compliance, and is not required to upgrade to a higher level of best available control technology, except under specified special circumstances, as follows:

(1) Diesel Emission Control Strategy Failure or Damage. In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) Failure or Damage during the Warranty Period. If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it can not be repaired, the owner shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another best available control technology as defined in subsection (b).

(B) Failure or Damage Outside of Warranty Period. If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the owner shall apply the best available control technology at the time of replacement, as defined in subsection (b).

(2) Discontinuation of Fuel Verified as a Diesel Emission Control Strategy. If an owner discontinues use of a fuel verified as a diesel emission control strategy, the owner shall apply best available control technology within 30 days of the date of discontinuation or submit a compliance plan to the Executive Officer no later than 30 days after discontinuation that demonstrates how the owner will bring his collection vehicles into compliance within six months of the date of discontinuation.

(3) Limited Use of Level 1 Diesel Emission Control Strategy. If a Level 1 diesel emission control strategy is identified as the best available con-

trol technology pursuant to subsection (b), an owner is subject to the following limitations:

(A) Group 1. An owner may use a Level 1 diesel emission control strategy in a Group 1 engine for up to ten years, after which the owner shall replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b), except that a Level 1 diesel emission control strategy cannot be installed.

(B) Group 2a. An owner with 15 or more collection vehicles in his total fleet may not use a Level 1 diesel emission control strategy on any Group 2a engine.

(C) Group 2b. An owner with fewer than 15 collection vehicles in his total fleet may use a Level 1 diesel emission control strategy in a Group 2b engine for up to ten years, after which the owner shall replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b), except that a Level 1 diesel emission control strategy cannot be installed.

(D) Group 3. An owner may use a Level 1 diesel emission control strategy in a Group 3 engine for up to five years, after which the owner shall replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b), except that a Level 1 diesel emission control strategy cannot be installed.

(f) Record Keeping Requirement. Beginning December 31, 2004, an owner shall maintain the following records. The owner shall provide the following records to an agent or employee of the Air Resources Board upon request for all collection vehicles in his total fleet subject to compliance with this regulation.

(1) Records Accessible at Terminal. The owner shall keep the following records accessible either in hard copy format or computer records at the terminal where a collection vehicle normally resides:

(A) A list by vehicle identification number of collection vehicles identifying each vehicle type; engine manufacturer, model year, family, and series; and status as active fleet or back-up vehicle, and

(B) Correlated to each collection vehicle, the installed diesel emission control strategy, its serial number, manufacturer, model, level, installation date, and if using a Level 1 or Level 2 verified diesel emission control strategy, the reason for the choice, and

(C) Records of maintenance for each installed diesel emission control strategy, and

(D) For fuel or fuel additives used as a diesel emission control strategy, the most recent two years worth of records of purchase that demonstrate usage, and

(E) For each backup vehicle, its mileage as of January 1 of each year beginning January 1, 2005 correlated to the information in paragraph (1)(A) above, and

(F) For each engine for which an owner is claiming an exemption pursuant to paragraph (d)(5), the retirement date correlated to the information in paragraph (1)(A) above, and

(G) For each engine for which an owner is claiming an extension pursuant to paragraph (d)(6), the records of the test plan, including start and end dates of the experiment; diesel particulate matter emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment, correlated to the information in paragraph (1)(A) above, and

(H) A statement of compliance, prepared beginning January 1, 2005, and renewed each January 1 thereafter until January 1, 2013, certifying that the owner's engines are in compliance as required, including the following:

(i) "The solid waste collection vehicles at terminal (insert terminal identification number) are in compliance with title 13, California Code of Regulations, section 2021.2;" and

(ii) The owner's name, business address, business telephone; and

(iii) The signature of the owner or owner's agent and date signed.

(2) Records Kept in the Solid Waste Collection Vehicle. For each collection vehicle, the owner shall keep the following information affixed to the driver's side door jamb, or another readily accessible location known by the driver of each collection vehicle, in the form of a legible and durable label:

(A) For a collection vehicle operated under contract to a municipality, the name of the municipality or municipalities, and

(B) For each installed diesel emission control strategy, label information as specified in title 13, California Code of Regulations, section 2706 (g), and the installation date, or

(C) Engine model year and planned compliance date, or

(D) Designation as a backup vehicle and its mileage as of January 1 of each year beginning January 1, 2005, or

(E) Engine model year and retirement date for an engine for which an owner is claiming an exemption pursuant to paragraph (d)(5), or

(F) Engine model year and beginning and ending date of the test plan for an engine for which an owner is claiming an extension pursuant to paragraph (d)(6).

(3) Each owner shall maintain these records for each collection vehicle until it is sold outside of the State of California or is no longer used as a collection vehicle for the purpose of residential or commercial solid waste collection in the State of California. If ownership is transferred, the seller shall convey the records to the buyer.

(g) Non-Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674.

NOTE: Authority cited: Sections 39600, 39601 and 39658, Health and Safety Code. Reference: Sections 39002, 39003, 39650-39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New section filed 7-20-2004; operative 7-20-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 30).

§ 2022. Diesel Particulate Matter Control Measure for Municipality or Utility On-Road Heavy-Duty Diesel-Fueled Vehicles.

(a) Scope and Applicability. Sections 2022 and 2022.1 apply to any municipality or utility that owns, leases, or operates an on-road diesel-fueled heavy-duty vehicle with a 1960 to 2006 model-year medium heavy-duty or heavy heavy-duty engine and manufacturer's gross vehicle weight rating greater than 14,000 pounds. These sections do not apply to a vehicle subject to the solid waste collection vehicle rule commencing with title 13, California Code of Regulations, section 2021 or to the fleet rule for transit agencies commencing with section 2023, or to a school bus as defined in Vehicle Code section 545, or to a military tactical support vehicle, as described in title 13, California Code of Regulations, section 1905, or to an emergency vehicle as described in California Vehicle Code, section 27156.2, or to an off-road vehicle as described in title 13, California Code of Regulations, sections 2401, 2421, 2411 and 2432.

(b) Definitions. The definitions in section 2020 shall apply to sections 2022 and 2022.1. In addition, the following definitions apply only to sections 2022 and 2022.1.

(1) "Dedicated Snow Removal Vehicle" means a vehicle that has permanently affixed snow removal equipment such as a snow blower or auger and is operated exclusively to perform snow removal operations.

(2) "Low-Population County" means a county with a population of less than 125,000, based upon the California Department of Finance estimates as of July 1, 2005, and as listed in Table 2 of title 13, California Code of Regulations section 2022.1.

(3) "Low Usage Vehicle" means a vehicle that is operated for fewer than 1000 miles or 50 hours per year, based on a 5 year rolling mileage or engine-hour average. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low usage vehicle.

(4) "Low-Population County Low Usage Vehicle" means a vehicle that is owned or operated by a municipality or utility located in a low-

population county and is operated, based on a 5 year rolling mileage or engine hour average for fewer than 3000 miles or 150 hours, excluding mileage or engine hours used during snow removal operations. A vehicle that does not have a properly functioning odometer, tachograph, or other reliable device to measure usage may not qualify as a low-population county low usage vehicle.

(5) "Retirement" or "Retire" means the withdrawal of an engine or vehicle subject to this rule from a municipality or utility fleet in California; the engine may be sold outside of California, scrapped, converted for use in a low usage vehicle or low-population county low usage vehicle. "Retirement" or "retire" also means the transfer of an engine or vehicle, which is subject to this rule and has been brought into compliance with title 13, California Code of Regulations, section 2022.1(b), from a municipality or utility fleet in California to another person or entity in California.

(6) "Total Fleet" means the total of a municipality's or utility's on-road heavy-duty vehicles with a 1960 to 2006 model-year medium heavy-duty or heavy heavy-duty engine and a manufacturer's gross vehicle weight rating greater than 14,000 pounds, excluding (A) low usage vehicles, (B) low-population county, low usage vehicles, (C) dedicated snow-removal vehicles, and (D) gasoline fueled vehicles.¹

(7) "Utility" means a privately-owned company that provides the same or similar services for water, natural gas, and electricity as a public utility operated by a municipality.

(8) "Vehicle Type" means one of the following categories: "Compliant" for those vehicles that meet the requirements of section 2022.1(b); "Future Compliant" for those vehicles for which the municipality or utility has a planned compliance date; "Retired" for those vehicles that will meet the definition of "retirement" at a planned retirement date; "Low Usage or Low-Population County Low Usage" for those vehicles that meet the applicable definitions in this section; and "Experimental" for those vehicles that are part of an experimental program and comply with the provisions of section 2022.1(d)(5).

¹ Gasoline vehicles that do not meet the best available control technology (BACT) requirements specified in title 13, California Code of Regulations, section 2022.1(b)(3) are excluded from the total fleet calculation.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39665, 39667, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New section filed 12-6-2006; operative 1-5-2007 (Register 2006, No. 49).

§ 2022.1. Determining Compliance for a Municipality or Utility.

(a) Compliance Requirements. Beginning with the applicable effective dates, a municipality or utility is required to comply with this diesel particulate matter control measure for each vehicle in its total fleet. Compliance requires all of the following:

(1) Use of a best available control technology (BACT) for each vehicle in the total fleet as specified in subsection (b);

(2) Implementation for each vehicle in the total fleet as specified in subsection (c);

(3) If a compliance deadline extension is granted by the Executive Officer per subsection (d), the municipality or utility shall be deemed to be in compliance as specified by the Executive Officer's authorization;

(4) Special circumstances must be followed as specified in subsection (e);

(5) Records must be kept as specified in subsection (f); and

(6) Continuous compliance: municipality or utility is required to keep each vehicle in compliance with this regulation, once it is in compliance, so long as the municipality or utility is operating the vehicle in California.

(b) Best Available Control Technology. Each municipality or utility shall use one of the following best available control technologies on each applicable vehicle in its total fleet as required by the implementation schedule in subsection (c):

(1) An engine or power system certified to the optional 0.01 grams per brake horsepower-hour (g/bhp-hr) particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a)(2), or the 0.01 g/bhp-hr particulate emission standard as specified in title 13, California Code of Regulations, section 1956.8(a), as appropriate for the engine's model-year; or

(2) An engine or power system certified to the 0.10 g/bhp-hr particulate emission standard, as specified in title 13, California Code of Regulations, section 1956.8, used in conjunction with the highest level diesel emission control strategy as defined in subsection (b)(4) applied by the implementation schedule in subsection (c); or

(3) An alternative fuel engine, heavy-duty pilot ignition engine, or gasoline engine. Model-year 2004–2006 alternative fuel engines must be certified to the optional, reduced emission standards as specified in title 13, California Code of Regulations, section 1956.8(a)(2)(A). Gasoline engines must be certified to the emission standards as specified in title 13, California Code of Regulations, for heavy-duty Otto-cycle engines used in heavy-duty vehicles over 14,000 pounds gross vehicle weight, sections 1956.8(c)(1)(B) and 1976(b)(1)(F); or

(4) The highest level diesel emission control strategy per title 13, California Code of Regulations, section 2702(f), Table 1, that is verified for a specific engine to reduce diesel particulate matter and which the diesel-emission-control strategy manufacturer or authorized dealer agrees can be used on a specific engine and fleet-vehicle combination, without jeopardizing the original engine warranty in effect at the time of application.

(c) Implementation Schedule.

(1) A municipality or utility shall comply with the schedule in Table 1 — Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 to 2006 Model-Year Engines for the specified percentage of vehicles by each applicable compliance deadline.

Table 1 — Implementation Schedule for a Municipal and Utility Total Fleet Vehicle, 1960 to 2006 Model-Year Engines.

Group	Engine Model-Years	Percentage of Group to Use Best Available Control Technology	Compliance Deadline, As of December 31
1 ^a	1960–1987	20	2007
		60	2009
		100	2011
2	1988–2002	20	2007
		60	2009
		100	2011
3	2003–2006 (Includes dual-fuel and bi-fuel engines)	50	2009
		100	2010

^a An owner may not use Level 1 technology, as classified pursuant to title 13, California Code of Regulations section 2020, as best available control technology on a Group 1 engine or vehicle.

(2) Municipality or Utility Located in a Low-Population County. A municipality or utility that is headquartered in a county in Table 2 may elect to follow the option in Table 3 below in lieu of the implementation schedule in Table 1.

Table 2 — Low-Population Counties

COUNTY	Population as of July 1, 2005
ALPINE	1,300
AMADOR	37,600
CALAVERAS	47,800
COLUSA	24,200
DEL NORTE	31,500
GLENN	31,800
INYO	18,800
LAKE	69,200
LASSEN	39,800
MARIPOSA	19,600
MENDOCINO	95,500
MODOC	10,100
MONO	14,200
NEVADA	106,300

COUNTY	Population as of July 1, 2005
PLUMAS	21,900
SAN BENITO	63,600
SIERRA	3,700
SISKIYOU	47,200
SUTTER	90,400
TEHAMA	63,400
TRINITY	13,800
TUOLUMNE	62,200
YUBA	66,000

Table 3 — Implementation Schedule for a Municipality or Utility Located in a Low-Population County or Granted Low-Population County Status

Group	Engine Model-Years	Percentage of Group to Use Best Available Control Technology	Compliance Deadline, As of December 31
1	1960–1987	20	2009
		40	2011
		60	2013
		80	2015
		100	2017
2	1988–2002	20	2008
		40	2010
		60	2012
		80	2014
		100	2016
3	2003–2006 (Includes dual-fuel and bi-fuel engines)	20	2011
		40	2012
		60	2013
		80	2014
		100	2015

(3) Accelerated Turnover Option for Municipality or Utility Located in a Low-Population County or Granted Low-Population County Status. A municipality or utility headquartered in a county listed in Table 2 or granted low-population county status may elect to follow the option in Table 4 below in lieu of the implementation schedules in Table 1 or 3.

Table 4 — Accelerated Turnover Option for a Municipality or Utility Located in a Low-Population County or Granted Low-Population County Status

Engine Model-Year	Fleet Percent to Repower with a 1994 or newer engine	Compliance Date as of Dec 31	Percent of Fleet to use BACT	Compliance Date as of Dec 31
1960–1993	100%	2020	100%	2025
1994–2006	N/A	N/A	100%	2025

(4) A municipality or utility not specifically listed in Table 2 may apply to the Executive Officer for consideration as a fleet located in a designated “low-population county.” The Executive Officer shall issue that designation provided that all of the following criteria are met:

(A) The total fleet is located in a “nonurbanized area,” a “rural and small urban area,” or any area outside of an urbanized area, as designated by the U.S. Bureau of the Census. An urbanized area consists of a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census or extended by state and local officials; or

(B) The fleet is located in a county that, as of July 1, 2005, has a population of less than 325,000 and meets the definition of a low-population county when the population of one or more cities that have their own municipal vehicle fleet are subtracted from the county population, and the fleet does not operate within those cities’ boundaries; and

(C) The fleet revenue is not based on special district assessments or fees.

(5) Calculating Number of Total Fleet Vehicles Required for Implementation.

(A) As of January 1 of each year where a compliance deadline is applicable, a municipality or utility shall calculate, for each engine model-year group, the number of vehicles in its total fleet for which compliance

will be required. This fleet size by engine model-year group ($\#MUV_{by\ group}$)² must be calculated using the following equation:

$$\#MUV_{by\ group} = \#Vehicles_{by\ group} + TotRetire_{by\ group}$$

Where:

$\#Vehicles_{by\ group}$ = the number of vehicles in an engine model-year group subject to the rule, and

$TotRetire_{by\ group}$ = the number of vehicles removed from the model-year group by retirement in prior years, beginning with January 1 of the initial applicable compliance deadline year for each group.

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $\#MUV_{by\ group}$.

(B) The municipality or utility shall use the following equation to determine the total number of vehicles in an engine model-year group that are required to be in compliance by the deadline in Table 1 ($TotVeh_{by\ group}$):

$$TotVeh_{by\ group} = Group\%BACT_{by\ group} \times \#MUV_{by\ group}$$

Where:

$Group\%BACT_{by\ group}$ = the percentage of vehicles in an engine model-year group that must meet BACT requirements for a given year as specified in subsection (c), and

$\#MUV_{by\ group}$ = the total fleet size by engine model-year group as defined in paragraph (5)(A) above

(C) After the first compliance deadline for each group, the municipality or utility shall determine the number of additional vehicles in each model-year group to be brought into compliance each year that a compliance deadline is applicable ($TotAddComp_{by\ group}$). The following equation must be used to calculate $TotAddComp_{by\ group}$:

$$TotAddComp_{by\ group} = TotVeh_{by\ group} - TotBACT_{by\ group} - TotRetire_{by\ group}$$

Where:

$TotVeh_{by\ group}$ = the total number of vehicles in an engine model-year group required to be in compliance, as defined in paragraph (5)(B) above,

$TotBact_{by\ group}$ = the number of vehicles in an engine model-year group that have been brought into compliance since the earliest compliance deadline using the method listed in subsection (b), and

$TotRetire_{by\ group}$ = the number of vehicles retired in prior years as defined in paragraph (5)(A) above

If a vehicle has left the total fleet for reasons other than retirement, it must not be included in the calculation of $TotAddComp_{by\ group}$.

(D) Notwithstanding subsection (C) above, in the 100 percent compliance deadline year for each engine model-year group, the municipality or utility shall bring the remaining vehicles into compliance.

(E) If the $TotVeh_{by\ group}$ or $TotAddComp_{by\ group}$ is not equal to a whole number, the municipality or utility shall round up a whole number when the fractional part of $TotAddComp_{by\ group}$ is equal to or greater than 0.5, and round down if less than 0.5.

(d) Compliance Extensions. A municipality or utility may be granted an extension to a compliance deadline specified in subsection (c) for one of the following reasons:

(1) Compliance Extension Based on Early Implementation. A municipality or utility may be granted an extension based on compliance with one or more of the following early implementation schedules, provided the Executive Officer has received a letter by the applicable early compliance deadline stating the municipality's or utility's intent to comply with one of the following conditions and the municipality or utility meets the requirements set forth in paragraphs (A), (B), (C) or (D).

(A) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 1 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the in-

termediate and final compliance deadlines for the remaining Group 1 vehicles to July 1, 2012.

(B) If a municipality or utility has implemented best available control technology on fifty percent or more of its Group 2 vehicles in its total fleet by December 31, 2007, then the municipality or utility may delay the intermediate and final compliance deadlines for the remaining Group 2 vehicles to July 1, 2012.

(C) If a municipality or utility has implemented BACT on 100 percent of its Group 1 and Group 2 engines by December 31, 2008, then the municipality or utility may follow the alternate implementation schedule for its Group 3 engines of 20 percent BACT by December 31, 2009, 60 percent BACT by December 31, 2011 and 100 percent BACT by December 31, 2012.

(D) If a municipality or utility employs significant quantities of advanced technology vehicles (for example, hybrid electric vehicles) to meet BACT requirements, then the municipality or utility may apply to the Executive Officer for approval of a longer implementation schedule for its Group 2 and Group 3 vehicles, or approval of credits to be used towards BACT compliance. The longer implementation schedule must be proportionate to the additional emissions benefits from the use of the advanced technology vehicles, and BACT credits cannot exceed the additional emissions benefits. The advanced technology vehicles must meet or exceed model-year 2007 and later emissions standards and significantly reduce greenhouse gas emissions and petroleum use.

(2) Compliance Extension Based on No Verified Diesel Emission Control Strategy. If the Executive Officer has not verified a diesel emission control strategy, or one is not commercially available, for a particular engine and vehicle combination, an annual extension in compliance may be granted by the Executive Officer under one of the conditions specified below:

(A) Executive Officer Compliance Extension. The Executive Officer shall grant a blanket one-year compliance extension if a diesel emission control strategy is not verified for an engine ten months prior to each compliance deadline specified in subsection (c).

1. For a Group 1 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2018 for a municipality or utility located in a low-population county, or granted low-population county status), after which the municipality or utility shall comply with subsection (b).

2. For a Group 2 engine for which there is no verified diesel emission control strategy, the Executive Officer shall grant a one-year extension, after which the municipality or utility shall comply with subsection (b). If no diesel emission control strategy for the engine is verified during the extension period, the Executive Officer shall grant an additional one-year extension. The Executive Officer may grant one-year extensions until December 31, 2012, (or December 31, 2017 for a municipality or utility located in a low-population county or granted low-population county status), after which the municipality or utility shall comply with subsection (b).

(B) Municipality or Utility Application for Compliance Extension. A municipality or utility may apply to the Executive Officer for a compliance extension pursuant to subsection (d)(2) for an engine no later than July 31 prior to each compliance deadline specified in subsection (c). Before requesting this extension, the municipality or utility shall demonstrate compliance or intent to comply with applicable deadlines for the remaining vehicles in the fleet. The municipality or utility shall meet the following application conditions and documentation requirements by providing the following to the Executive Officer:

1. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which no diesel emission control strategy has been verified; or

2. Identification of each engine, by vehicle identification number; engine manufacturer, model-year, family, and series; and type of vehicle for which a specific diesel emission control strategy would void the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be voided; or

3. Identification of each engine and vehicle combination, by vehicle identification number; engine manufacturer, modelyear, family, and series; and type of vehicle for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted, with the manufacturers' responses to a request to purchase; and

4. A description of the reason for the request for a compliance extension for each engine or engine and fleet-vehicle combination; and

5. A copy of the statement of compliance as required in subsection (f)(1)(K); and

6. The application for compliance extension to be submitted to the Executive Officer no later than July 31 annually beginning 2007.

a. A municipality or utility. For a Group 1 engine, the Executive Officer will accept an annual compliance-extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2011, after which the municipality or utility shall comply with subsection (b) by December 31, 2012.

b. A municipality or utility either located in a low-population county, or granted low-population county status. For a Group 1 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2017, after which the municipality or utility shall comply with subsection (b) by December 31, 2018. The Executive Officer will only grant one compliance extension for an engine in Group 1. For a Group 2 engine, the Executive Officer will accept an annual compliance extension application until July 31, 2016, after which the municipality or utility shall comply with subsection (b) by December 31, 2017.

(3) Compliance Extension for a Municipality or Utility that Operates a Dual-Fuel or Bi-Fuel Engine. A municipality or utility may delay implementation of a Group 1 or 2 dual-fuel or bi-fuel engine to the Group 3 compliance deadlines.

(4) Compliance Extension for an Engine Near Retirement. If a municipality or utility has applied best available control technology to all engines as required, and the next engine subject to implementation under subsection (c) is scheduled to be retired from the total fleet within one year of the applicable compliance deadline, then the municipality or utility shall be exempted from applying the best available control technology as defined in subsection (b) to that engine for a maximum of one year, provided documentation of the expected retirement date is kept in records as specified in subsection (f) and the engine is retired by the stated anticipated date.

(5) Use of Experimental Diesel Emission Control Strategy. A municipality or utility may use an experimental diesel emission control strategy provided by, or operated by, the manufacturer in no more than 20 vehicles, or ten percent of its total fleet, whichever is less, for testing and evaluation purposes. The municipality or utility shall keep documentation of this use in records as specified in subsection (f). Each vehicle will be considered to be in compliance for the duration of the experiment to a maximum of two years. The municipality or utility must bring the vehicle into compliance within six months of the end of the testing and evaluation period. No experimental diesel emission control strategy may be used on a vehicle after December 31, 2012.

(6) Accelerated Turnover Option. A municipality or utility either located in a low-population county or granted low-population county status may follow the accelerated turnover option provided in subsection (c)(3), provided the Executive Officer has received a letter by July 31, 2008, stating the municipality's or utility's intent to comply with this option.

(e) Diesel Emission Control Strategy Special Circumstances. A municipality or utility shall maintain the original level of best available con-

trol technology on each engine once that engine is in compliance, and will not be required to upgrade to a higher level of best available control technology, except under specified special circumstances, as follows:

(1) Fuel Strategy Diesel Emission Control Strategy.

(A) If a municipality or utility determines that the highest level diesel emission control strategy for a small percentage of its fleet would be a Level 2 fuel-based strategy, and implementation of this diesel emission control strategy would require installation of a dedicated storage tank, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy; or

(B) If a municipality or utility elects to use a fuel-based diesel emission control strategy across its fleet, and some vehicles can use a Level 3 hardware diesel emission control strategy, then the municipality or utility shall request prior approval from the Executive Officer to allow use of a lower level diesel emission control strategy. This provision is only available if a minimum Level 2 diesel emission control strategy is used.

(2) Diesel Emission Control Strategy Failure or Damage. In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) Failure or Damage During the Warranty Period. If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the municipality or utility shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another best available control technology as defined in subsection (b).

(B) Failure or Damage Outside of Warranty Period. If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the municipality or utility shall apply the best available control technology at the time of replacement, as defined in subsection (b).

(3) Discontinuation of Fuel Verified as a Diesel Emission Control Strategy. If a municipality or utility discontinues use of a fuel verified as a diesel emission control strategy, the municipality or utility shall apply best available control technology within 30 days of the date of discontinuation or submit a compliance plan to the Executive Officer no later than 30 days after discontinuation that demonstrates how the municipality or utility will bring the vehicles into compliance within six months of the date of discontinuation.

(4) Limited Use of Level 1 Diesel Emission Control Strategy. If a Level 1 diesel emission control strategy is identified as the best available control technology pursuant to subsection (b), a municipality or utility is subject to the following limitations:

(A) Group 1

1. A municipality or utility may not use a Level 1 diesel emission control strategy on any Group 1 engine.

2. Exception for low-population counties. The limitation in (A)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2), or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(B) Group 2

1. Ten year limit. A municipality or utility may use a Level 1 diesel emission control strategy in a Group 2 engine for up to ten years. The municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. Exception for low-population counties. The limitation in (B)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low-population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low-population county status.

(C) Group 3

1. Five year limit. A municipality or utility may use a Level 1 diesel emission control strategy in a Group 3 engine for up to five years. The

municipality or utility shall then replace the Level 1 diesel emission control strategy with the best available control technology from subsection (b). The replacement cannot be a Level 1 diesel emission control strategy.

2. Exception for low–population counties. The limitation in (C)1. does not apply to a vehicle owned or operated by a municipality or utility located in a low–population county (Table 2) or to a vehicle owned or operated by a municipality or utility that has been granted low–population county status.

(f) Record Keeping Requirement. A municipality or utility shall maintain the following records. The municipality or utility shall provide the following records upon request to an agent or employee of the Air Resources Board for all vehicles in its total fleet subject to compliance with this regulation.

(1) Records to be Kept For Inspection. Beginning December 31, 2007, the municipality or utility shall keep the following records either in hard-copy format or as computer records:

(A) A list by vehicle identification number of vehicles, identifying each vehicle type; engine manufacturer, model–year, family, and series; and status as a total fleet or low usage vehicle; and

(B) Correlated to each vehicle, the installed diesel emission control strategy family name, its serial number, manufacturer, installation date, and if using a Level 1 or Level 2 verified diesel emission control strategy, the reason for the choice; and

(C) Records of maintenance for each installed diesel emission control strategy; and

(D) For fuel or fuel additives used as a diesel emission control strategy, the most recent two years' worth of records of purchase that demonstrate usage; and

(E) For each low usage vehicle, or low–population county low usage vehicle, its mileage or engine hours as of December 31 of each year beginning 2007, and records to document its five–year mileage or engine hours, as of December 31 of each year beginning 2007, correlated to the vehicle identification information in paragraph (1)(A) above; and

(F) If a municipality or utility is located in a low–population county or has been granted low–population county status, documentation affirming that the vehicle is not operated at any time in a metropolitan statistical area as defined by the U.S. Census Bureau; and

(G) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4), the retirement date correlated to the vehicle identification information in paragraph (1)(A) above; and

(H) For each engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5), the records of the test plan, including start and end dates of the experiment; diesel emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment and correlated to the vehicle identification information in paragraph (1)(A) above; and

(I) For each engine for which a municipality or utility located in a low–population county is following the accelerated turnover path in Table 3, the date of each engine repower correlated to the vehicle identification information in paragraph (1)(A) above; and

(J) Records to document the retirement of a vehicle. For each vehicle or engine to be retired, list the vehicle identification number, engine manufacturer, model–year, family, and series. For each vehicle that will be transferred to another fleet in California, include also the information required by sections 2022.1(f)(1)(B) and a statement of compliance that the vehicle meets the provisions of section 2022.1(b). For each vehicle or engine to be retired, provide the date of retirement, and written confirmation from the recipient of the retired vehicle or engine that the destination of the vehicle or its engine meets the requirements of the definition of “retirement” or “retire” in section 2022(b).

(K) A statement of compliance, prepared beginning December 31, 2007, and renewed each December 31, thereafter until December 31,

2012, with low–population counties continuing until December 31, 2018, certifying that the municipality's or utility's engines are in compliance as required, including the following:

1. “The [insert name of municipality or utility] vehicles at terminal [insert terminal identification number or address] are in compliance with title 13, California Code of Regulations, section 2022.1”; and

2. The municipality's or utility's name, address, and business telephone; and the signature of the municipality's or utility's agent and the date signed.

(2) Inspection of Records at the Terminal. Beginning December 31, 2007, the municipality or utility shall provide to any ARB representative any records required to be maintained by the municipality or utility pursuant to subsection (f)(1), by appointment, at the terminal where a vehicle normally resides.

(3) Records Kept in the Vehicle. For each vehicle, beginning December 31, 2007, the municipality or utility shall keep the following information in the form of a legible and durable label affixed to the driver's side door jamb, or another readily accessible location known to the driver of each vehicle:

(A) For each installed diesel emission control strategy, the diesel emission control strategy family name as specified in title 13, California Code of Regulations, section 2706(g)(2), and the installation date; or

(B) Engine model–year and planned compliance date, and a statement that the vehicle is following the accelerated turnover option, if applicable; or

(C) Designation as a low usage vehicle or low–population county low usage vehicle (as applicable) and the vehicle's mileage or hours as of December 31 of each year beginning December 31, 2007; or

(D) Engine model–year and terminal where the vehicle is permanently housed if the municipality or utility is located in a low–population county or has been granted low–population county status; or

(E) Engine model–year and retirement date for an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(4); or

(F) Engine model–year and the beginning and the ending dates for the test plan of an engine for which a municipality or utility is claiming an extension pursuant to paragraph (d)(5).

(4) Each municipality or utility shall maintain these records for each vehicle until it is sold outside of the State of California or is no longer owned or operated by the municipality or utility. If ownership is transferred, the seller shall convey these records to the buyer, or a third–party sales representative.

(g) Contractor Compliance Requirement. In any contract for services that a municipality or utility enters that has an effective date of December 31, 2007, or later, the municipality or utility shall include language requiring the contractor to be in compliance with all federal, state, and local air pollution control laws and regulations applicable to the contractor.

(h) Non–Compliance. Any violations of this section may carry civil penalties as specified in state law and regulations, including, but not limited to, Health and Safety Code Section 39674.

(1) A municipality or utility that fails to maintain the required records in paragraph (f)(1) may be subject to civil penalties of not less than \$100 per day for every day past the required recordkeeping date.

(2) A municipality or utility that fails to maintain the required records in the vehicle as specified in paragraph (f)(3) may be subject to civil penalties of not less than \$100 per day per vehicle for every day past the required recordkeeping date.

² “by group” means all vehicles in an engine model–year group as described in Table 1 under (c)(1).

NOTE: Authority cited: Sections 39600, 39601 and 39658, Health and Safety Code. Reference: Sections 39002, 39003, 39655, 39656, 39657, 39658, 39659, 39660, 39661, 39662, 39665, 39667, 39674, 39675, 43000, 43013, 43018, 43101, 43102, 43104, 43105 and 43700, Health and Safety Code.

HISTORY

1. New section filed 12–6–2006; operative 1–5–2007 (Register 2006, No. 49).

§ 2023. Fleet Rule for Transit Agencies.

(a) The definitions in section 2020 shall apply to sections 2023, 2023.1, 2023.2, 2023.3 and 2023.4. In addition, the following definitions apply only to sections 2023, 2023.1, 2023.2, 2023.3 and 2023.4.

(1) “Active fleet” means the total number of urban buses operated by a transit agency or under contract to a transit agency, including spare buses, but not emergency contingency vehicles or non-revenue producing vehicles.

(2) “Commuter Service Bus” means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine or of a type normally powered by a heavy heavy-duty diesel engine that is not otherwise an urban bus and which operates on a fixed route primarily during peak commute hours and that has no more than ten scheduled stops per day, excluding park-and-ride lots. A commuter service bus is a transit fleet vehicle.

(3) “Diesel PM emission total,” for the purposes of sections 2023.1 and 2023.2, means the sum of the particulate matter (PM) value, based on the engine certification standard, of each diesel fuel, dual-fuel, bi-fuel (except for heavy-duty pilot ignition engines), and diesel hybrid-electric engine in a transit agency’s active fleet or transit fleet vehicle fleet in g/bhp-hr. For 1987 and earlier engines, the PM exhaust emission value shall be presumed to be 1.0 g/bhp-hr.

(4) “Emergency contingency vehicle” means an urban bus placed in an inactive contingency fleet for energy or other local emergencies, after the urban bus has reached the end of its normal minimum useful life.

(5) “Hybrid-electric bus” (HEB) means an urban bus equipped with at least two sources of energy on board; this energy is converted to motive power using electric drive motors and an auxiliary power unit, which converts consumable fuel energy into mechanical or electrical energy. The electric drive motors must be used partially or fully to drive the vehicle’s wheels.

(6) “Low Usage Vehicle” means a non-revenue-generating transit fleet vehicle that operates for no more than 1000 miles per year.

(7) “New Transit Agency” means

(A) for the purposes of section 2023.1, a transit agency formed after January 1, 2002;

(B) for the purposes of section 2023.2, a transit agency formed after January 1, 2005.

(8) “NOx Fleet Average” for the purposes of sections 2023.1 and 2023.2 means the average of the oxides of nitrogen (NOx) emissions for all transit fleet vehicles or urban buses, owned, operated, or leased by a transit agency, based on the engine certification standard of each engine. The NOx fleet average is calculated by summing the NOx engine certification standards in g/bhp-hr, of each engine in an active fleet or transit fleet vehicle fleet, and dividing by the total number of vehicles in that fleet.

(9) “Retirement” or “Retire” means an engine will be withdrawn from a transit vehicle fleet in California. The engine may be sold outside of California, scrapped or used in an emergency contingency vehicle or low usage vehicle.

(10) “Spare bus” means an urban bus that is used to accommodate routine maintenance and repair operations, and to replace a bus in scheduled service that breaks down or is involved in an accident.

(11) “Transit Fleet” means a transit agency’s urban buses and transit fleet vehicles, excluding emergency contingency vehicles and low usage vehicles.

(12) “Transit Fleet Vehicle” means an on-road vehicle greater than 8,500 pounds gross vehicle weight rating (GVWR) powered by a heavy-duty engine fueled by diesel or alternative fuel, owned or operated by a transit agency, and which is not an urban bus.

(13) “Urban bus” means a passenger-carrying vehicle powered by a heavy heavy-duty diesel engine, or of a type normally powered by a heavy heavy-duty diesel engine, with a load capacity of fifteen (15) or more passengers and intended primarily for intra-city operation, i.e., within the confines of a city or greater metropolitan area. Urban bus operation is characterized by short rides and frequent stops. To facilitate this type of operation, more than one set of quick-operating entrance and exit doors would normally be installed. Since fares are usually paid in cash or token, rather than purchased in advance in the form of tickets, urban buses would normally have equipment installed for the collection of fares. Urban buses are also typically characterized by the absence of equipment and facilities for long distance travel, e.g., restrooms, large luggage compartments, and facilities for stowing carry-on luggage.

(b) A new transit agency shall:

(1) notify the Executive Officer in writing of its existence and submit reports to the Executive Officer as required in section 2023.4(j);

(2) choose a compliance path for its active fleet and notify the Executive Officer within 120 days of formation of its intent to follow either the diesel path or alternative path, as described in section 2023.1(a), except that a new transit agency that is a successor to an existing transit agency shall follow the compliance path of the transit agency out of which it has been formed;

(3) meet the NOx fleet average and the diesel PM total of the urban buses or transit fleet vehicles

(A) used in the transit operations of the existing transit agency out of which the new transit agency is formed or,

(B) if not formed from an existing transit agency, meet the requirements set forth in 2023.1(d)(4), 2023.1(e)(5) for urban buses and 2023.2(a)(1)(B), 2023.2(a)(2)(B) 2023.2(b)(3) for transit fleet vehicles; and,

(4) comply with all applicable requirements of section 2023, section 2023.1, 2023.2 and 2023.4.

(c) A transit agency that installs a diesel emission control strategy to reduce diesel PM shall use a diesel emission control strategy that is verified by the Executive Officer in accordance with section 2700 et seq., title 13, CCR, or an urban bus retrofit device that has been exempted under Vehicle Code section 27156 as an engine rebuild kit and that reduces PM to 0.10 g/bhp-hr when used on an engine model 6V92TA DDEC for the model years specified for that engine.

(d) A transit agency that installs a diesel emission control strategy on an engine shall use the following percentage reductions from the engine certification standard value when calculating its total diesel PM emissions: 25 percent for a Level 1, 50 percent for a Level 2, and 85 percent for a Level 3 diesel emission control strategy.

(e) A transit agency with fewer than 30 buses in its transit fleet may apply for an extension to comply with the provisions of section 2023.1 and section 2023.2 by submitting documentation of financial hardship to the Executive Officer, in writing, at least thirty (30) days before the requirement becomes applicable for approval by the Executive Officer. Documentation of financial hardship shall include, but is not limited to, an analysis of the cost of compliance, the sources of available funds, and the shortfall between funds available and the cost of compliance. The transit agency must also specify the date and means by which compliance will be achieved in the request for a delay.

(f) A transit agency that is unable to comply with an implementation deadline specified in section 2023.1 paragraph (e)(1), (2), (3), or (4) or section 2023.2(b)(1) or (2) because of the unavailability of technology may apply in writing to the Executive Officer for an extension of the compliance deadline. The application to the Executive Officer must be made in writing and at least ninety (90) days before the applicable implementation deadline. The Executive Officer may grant an extension of up to one year, provided that the applicant:

(1) demonstrates that the technology is unavailable;

(2) explains why the transit agency cannot comply by retiring older buses; and

(3) provides a schedule for compliance.

(g) A transit agency that owns, operates, or leases fewer than 20 diesel-fueled, dual-fuel, bi-fuel, or diesel hybrid-electric buses in its transit fleet and that operates in a federal one-hour ozone attainment area may delay implementation of the intermediate total diesel PM emission reduction requirements provided the transit agency complies with the im-

plementation deadlines set forth in Section 2023.1 paragraphs (e)(3)(A) or (e)(4) and section 2023.2 paragraph (b)(2).

(h) Non-Compliance. Any violations of sections 2023, 2023.1, 2023.2, 2023.3, or 2023.4 may be subject to civil penalties as specified in state law and regulations.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43701(b), Health and Safety Code. Reference: Sections 39002, 39003, 39017, 39500, 39650, 39667, 40000, 43000, 43000.5, 43013, 43018, 43701(b), 43801 and 43806, Health and Safety Code; and Sections 233 and 28114, Vehicle Code.

HISTORY

1. Renumbering and amendment of portions of former section 1956.2 to new section 2023 filed 1–31–2006; operative 1–31–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 2023.1. Fleet Rule for Transit Agencies — Urban Bus Requirements.

(a) To encourage transit agencies that operate urban bus fleets to purchase or lease lower emission alternative-fuel buses, while also providing flexibility to such fleet operators to determine their optimal fleet mix in consideration of such factors as air quality benefits, service availability, cost, efficiency, safety, and convenience, two paths to compliance with this fleet rule are available: the alternative-fuel path and the diesel path.

(1) Transit agencies must choose their compliance path, and shall notify ARB of their intent to follow either the diesel or the alternative-fuel path, by January 31, 2001. Reporting requirements for that notification are set forth in subdivisions (a) and (b) of section 2023.4, title 13, CCR.

(2) A transit agency within the jurisdiction of the South Coast Air Quality Management District may elect to change its compliance path from the diesel path to the alternative-fuel path, provided that the transit agency notifies the Executive Officer of the change by January 31, 2004, and provided that the transit agency is in compliance with all requirements of section 2023.1, including specific requirements of the diesel path, on or before January 1, 2004. Reporting requirements for this notification are set forth in paragraph (b)(3) of section 2023.4, title 13, CCR.

(3) A new transit agency that is a successor to an existing transit agency or that has been created from a merger of two or more transit agencies or parts of two or more transit agencies must have the same compliance path as the transit agency or agencies out of which it is formed.

(4) A transit agency within the jurisdiction of the South Coast Air Quality Management District shall follow the alternative-fuel path. If the transit agency had previously stated its intent to follow the diesel path, the change to the alternative-fuel path shall be effective on October 7, 2006.

(5) Transit agencies on the diesel path with more than 30 buses in their fleets purchasing model year 2007 through 2009 urban buses that are not certified at or below 0.2 g/bhp-hr NOx emission level shall:

(A) Mitigate the increased NOx emissions for each urban bus purchased by retrofitting an existing urban bus or transit fleet vehicle within the fleet with a level 3 particulate matter (PM) verified diesel emission control strategy with an oxides of nitrogen (NOx) reduction efficiency of at least 40 percent, if available, otherwise, with a NOx reduction efficiency of at least 25 percent. This retrofit requirement applies on a one-to-one basis until all diesel urban buses and transit fleet vehicles within the transit agency's fleet are either retrofitted or are determined to be unable to be retrofitted as specified in (B) below.

(B) Obtain Executive Officer approval for purchasing a 2007 through 2009 model year urban bus not subject to (A) above by submitting to the Executive Officer a report 90 days prior to the delivery of the urban bus. The report shall provide information that demonstrates that all vehicles in the transit agency's fleet have been retrofitted or are determined to be unable to be retrofitted including when the inability to retrofit occurs for reasons other than a device not verified for the specific urban bus or transit fleet vehicle engine family.

(C) Submit annual reports that meet the requirements in section 2023.4(b)(4).

(b) Transit agencies on the alternative-fuel path shall meet the following requirements:

(1) Upon approval of the regulation, and through Model Year 2015, at least 85 percent of all urban buses purchased or leased each year must be alternative-fuel buses or buses with engines purchased under paragraph (b)(9).

(2) NOx fleet average requirements as set forth in subdivision (d), below.

(3) Beginning October 1, 2002, only engines certified to an optional PM standard of 0.03 g/bhp-hr or lower shall be purchased when making new bus purchases.

(4) Total diesel PM emission reduction requirements and use of low-sulfur or other allowed fuel as set forth in subdivision (e), below.

(5) Transit agencies on the alternative-fuel path shall not purchase any diesel-fueled, dual-fuel, or bi-fuel buses with 2004–2006 model year engines certified to emissions levels in excess of those specified in paragraph (a)(11) of section 1956.1, title 13, CCR, except as provided in paragraph (b)(8) or (b)(9) of this section.

(6) Zero-emission bus purchase requirements beginning in model year 2012, in accordance with the requirements set forth in subdivision (c) of section 2023.3, title 13, CCR.

(7) Reporting requirements as set forth in section 2023.4, title 13, CCR.

(8) The Executive Officer may exempt transit agencies on the alternative-fuel path from the requirements of paragraph (b)(5) of section 2023.1, title 13, CCR, provided that:

(A) A transit agency applies to the Executive Officer for such exemption by June 30, 2001;

(B) A transit agency demonstrates to the Executive Officer that it will achieve NOx emissions benefits through 2015 greater than what would have been achieved through compliance with paragraph (b)(5); and

(C) The Executive Officer finds that transit agencies, after consulting with the Engine Manufacturers Association, have demonstrated, or are contractually committed to demonstrate, advanced NOx aftertreatment technology.

(9) A transit agency on the alternative-fuel path may purchase a bus operated with a heavy-duty pilot ignition engine provided the engine meets the standards set forth in subdivision (b) of section 1956.1, title 13, CCR.

(c) Transit agencies on the diesel path shall meet the following requirements:

(1) NOx fleet average requirements as set forth in subdivision (d), below.

(2) Total diesel PM emission reduction requirements and use of low-sulfur or other allowed fuel as set forth in subdivision (e), below.

(3) Zero-emission bus demonstration as required in subdivision (b) of section 2023.3, title 13, CCR.

(4) Transit agencies on the diesel path shall not purchase any diesel-fueled, dual-fuel, or bi-fuel buses with 2004–2006 model year engines certified to emissions levels in excess of those specified in paragraph (a)(11) of section 1956.1, title 13, CCR, except as provided in paragraph (c)(7) or (c)(8) of this section. Beginning July 1, 2003, a transit agency may not purchase alternative fuel buses certified to a PM emission level in excess of the optional standard of 0.03 g/bhp-hr when making new bus purchases.

(5) Zero-emission bus purchase requirements beginning in model year 2011, in accordance with the requirements set forth in subdivision (c) of section 2023.3, title 13, CCR.

(6) Reporting requirements as set forth in section 2023.4, title 13, CCR.

(7) The Executive Officer may exempt transit agencies on the diesel path from the requirements of paragraph (c)(4) of section 2023.1, title 13, CCR, provided that:

(A) A transit agency applies to the Executive Officer for such exemption by June 30, 2001;

(B) A transit agency demonstrates to the Executive Officer that it will achieve NOx emissions benefits through 2015 greater than what would have been achieved through compliance with paragraph (c)(4); and

(C) The Executive Officer finds that transit agencies, after consulting with the Engine Manufacturers Association, have demonstrated, or are contractually committed to demonstrate, advanced NOx aftertreatment technology.

(8) A transit agency on the diesel–fuel path may purchase a bus operated with a heavy–duty pilot ignition engine provided the engine meets the standards set forth in subdivision (b) of section 1956.1.

(9) The Executive Officer shall authorize, in writing, a transit agency on the diesel path to purchase one or more diesel–fueled hybrid–electric bus certified under title 13, CCR, section 1956.1(a)(11)(B) provided that:

(A) The transit agency shall submit a mitigation plan and letter requesting approval by January 31, 2005, to the Executive Officer that demonstrates that the transit agency will provide surplus emission reductions from urban buses in its fleet that will offset the NOx emission difference between the certified NOx emission standard of the hybrid–electric bus and 0.5 g/bhp–hr. The transit agency may not use NOx emission reductions that are otherwise required by any statute, regulation, or order or the emission reductions that will accrue from the retirement of an urban bus to be replaced by a hybrid–electric bus for the offset;

(B) The transit agency shall complete implementation of all mitigation measures set forth in the approved plan to offset NOx emissions prior to the receipt of the last diesel–fueled hybrid–electric bus; and

(C) The transit agency shall submit the reports required by section 2023.4(g).

(d) Beginning October 1, 2002, no transit agency shall own, operate, or lease an active fleet of urban buses with average NOx emissions in excess of 4.8 g/bhp–hr, based on the engine certification standards of the engines in the active fleet.

(1) This active fleet average requirement shall be based on urban buses owned, operated, or leased by the transit agency, including diesel buses, alternative–fuel buses, all heavy–duty zero–emission buses, electric trolley buses, and articulated buses, in each transit agency’s active fleet. The Executive Officer may allow zero–emission buses that do not meet the definition of an urban bus to be included in the calculation of the fleet average standard upon written request to the ARB by January 31, 2002, and upon approval by the Executive Officer. The request shall include a description of the zero–emission buses, the zero–emission technology utilized, and the number of zero–emission buses to be used in calculating the NOx fleet average standard. Zero–emission buses not meeting the definition of an urban bus may not be used to satisfy the requirements of the Zero–emission Bus Demonstration Project set forth in subdivision (b) of section 2023.3, title 13, CCR.

(2) Transit agencies may use ARB–certified NOx retrofit systems to comply with the fleet average requirement (in addition to bus purchases, repowerings, and retirements).

(3) Transit agencies have the option of retiring all 1987 and earlier model year diesel urban buses by October 1, 2002, to comply with the fleet average standard requirement.

(4) A transit agency established after January 1, 2005, shall not operate an active fleet of urban buses with an average NOx emission in excess of:

(A) 4.0 g/bhp–hr, or

(B) the NOx average of the active fleet of the transit agency from which it was formed, whichever is lower, or

(C) in the case of a merger of two or more transit agencies or parts of two or more transit agencies, the average of the NOx fleet averages, whichever is lower.

(e) To reduce public exposure to diesel particulate matter, each transit agency shall reduce the diesel PM emissions total of the diesel buses in its active fleet relative to its diesel PM emission total as of January 1, 2002, according to the schedule below, and shall operate its diesel buses on diesel fuel with a maximum sulfur content of 15 parts per million by weight. Documentation of compliance with these requirements must be

provided in accordance with the provisions of subdivision (d) of section 2023.4, title 13, CCR.

(1) No later than January 1, 2004:

(A) The diesel PM emission total for a transit agency on the diesel path shall be no more than 60 percent of its diesel PM emission total on January 1, 2002.

(B) The diesel PM emission total for a transit agency on the alternative fuel path shall be no more than 80 percent of its diesel PM emission total on January 1, 2002.

(2) No later than January 1, 2005:

(A) The diesel PM emission total for a transit agency on the diesel path shall be no more than 40 percent of its diesel PM emission total on January 1, 2002.

(B) The diesel PM emission total for a transit agency on the alternative fuel path shall be no more than 60 percent of its diesel PM emission total on January 1, 2002.

(3) No later than January 1, 2007:

(A) The diesel PM emission total for a transit agency on the diesel path shall be no more than 15 percent of its diesel PM emission total on January 1, 2002 or equal to 0.01 g/bhp–hr times the total number of current diesel–fueled active fleet buses, whichever is greater.

(B) The diesel PM emission total for a transit agency on the alternative fuel path shall be no more than 40 percent of its diesel PM fleet average on January 1, 2002.

(4) No later than January 1, 2009, the diesel PM emission total for a transit agency on the alternative fuel path shall be no more than 15 percent of its diesel PM emission total on January 1, 2002 or equal to 0.01 g/bhp–hr times the total number of current diesel–fueled active fleet buses, whichever is greater.

(5) Beginning on January 1, 2005, a new transit agency may not have a diesel PM emission total exceeding the following values:

(A) As of January 1, 2005 through December 31, 2009, 0.05 g/bhp–hr (exhaust emission value) times the total number of diesel–fueled buses in the active fleet;

(B) As of January 1, 2010, 0.01 g/bhp–hr (exhaust emission value) times the total number of diesel–fueled buses in the active fleet.

(6) Beginning July 1, 2002, a transit agency shall not operate its diesel urban buses on diesel fuel with a sulfur content in excess of 15 parts per million by weight, except that a transit agency may operate its diesel buses on a fuel that is verified by the Executive Officer as a diesel emission control strategy that reduces PM in accordance with section 2700 et seq., title 13, CCR. A transit agency with fewer than 20 buses in its active fleet, and that operates in a federal one–hour ozone attainment area, is not subject to this low–sulfur fuel requirement until July 1, 2006. In areas redesignated as one–hour ozone non–attainment areas prior to July 1, 2006, a transit agency initially exempt from the low–sulfur fuel requirement shall submit a plan to the Executive Officer within 30 days of redesignation for achieving compliance with this requirement.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43701(b), Health and Safety Code. Reference: Sections 39002, 39003, 39017, 39500, 39650, 39667, 40000, 43000, 43003, 43013, 43018, 43701(b), 43801 and 43806, Health and Safety Code; and Sections 233 and 28114, Vehicle Code.

HISTORY

1. Renumbering and amendment of portions of former section 1956.2 to new section 2023.1 filed 1–31–2006; operative 1–31–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

2. New subsections (a)(4)–(a)(5)(C) filed 9–7–2006; operative 10–7–2006 (Register 2006, No. 36).

3. Amendment of subsections (b)(6) and (c)(5) filed 10–15–2007; operative 11–14–2007 (Register 2007, No. 42).

§ 2023.2. Fleet Rule for Transit Agencies — Transit Fleet Vehicle Requirements.

(a) A transit agency shall not operate transit fleet vehicles with a NOx fleet average exceeding the following values as of the specified dates. A transit agency shall provide documentation of compliance with the requirements in accordance with the provisions of subdivision (e)(2) of section 2023.4, title 13, CCR.

(1) Beginning December 31, 2007 through December 30, 2010, 3.2 g/bhp-hr;

(A) A transit agency may retire all 1997 and earlier model year engines in transit fleet vehicles by December 31, 2007, to comply with the NOx fleet average requirement.

(B) For a new transit agency established after December 31, 2007 and through December 31, 2009, either 3.2 g/bhp-hr or no higher than the NOx average of the transit fleet vehicles of the transit agency from which the new transit agency has been formed, whichever is lower.

(2) Beginning December 31, 2010, 2.4 g/bhp-hr;

(A) A transit agency may retire all 2001 and earlier model year engines in transit fleet vehicles by December 31, 2010, to comply with the NOx fleet average requirement.

(B) For a new transit agency established after December 31, 2010, either 2.4 g/bhp-hr or no higher than the NOx average of the transit fleet vehicles of the transit agency from which the new transit agency has been formed, whichever is lower.

(3) Zero-emission buses used to satisfy the requirements set forth in subdivision (d) of section 2023.1 may not be used to meet the requirements of this subdivision.

(4) A transit agency may claim NOx reductions by application of a system that has been verified by the Executive Officer in accordance with section 2700 et seq., title 13, CCR to comply with the fleet average requirement, in addition to transit fleet vehicle purchases, retirements, or engine Repowering.

(b) A transit agency shall reduce the total diesel particulate matter (PM) emissions of its diesel transit fleet vehicles relative to its total diesel PM emissions from diesel transit fleet vehicles as of January 1, 2005, according to the schedule below. "Diesel PM emission total" and how it is calculated are defined in 2023(a)(3). A transit agency shall provide documentation of compliance with these requirements in accordance with the provisions of subdivision (e)(3) of section 2023.4, title 13, CCR.

(1) No later than December 31, 2007, the diesel PM emission total for a transit agency's transit fleet vehicle fleet shall be no more than 60 percent of its diesel PM emission total on January 1, 2005.

(2) No later than December 31, 2010, the diesel PM emission total for a transit agency's transit fleet vehicle fleet shall be no more than 20 percent of its diesel PM emission total on January 1, 2005, or equal to 0.01 g/bhp-hr times the total number of transit fleet vehicles in the current fleet, whichever is greater.

(3) A new transit agency established after January 1, 2005, may not have a diesel PM emission total exceeding the following values:

(A) For a new transit agency established January 1, 2005 through December 31, 2006, 0.1 g/bhp/hr (exhaust emission value) times the number of diesel-fueled transit fleet vehicles in its fleet. This value will serve as the transit agency's PM baseline. The transit agency must meet the requirements set forth in section 2023.2(b)(1) and (2).

(B) For a new transit agency established January 1, 2007 through December 31, 2009, 0.1 g/bhp/hr (exhaust emission value) times the number of diesel-fueled transit fleet vehicles in its fleet. This value will serve as the transit agency's PM baseline and shall be reduced by 50 percent of its PM baseline value by December 31, 2010, and 80 percent by December 31, 2012.

(C) For a new transit agency established January 1, 2010 or later, 0.01 g/bhp-hr (exhaust emission value) times the total number of diesel transit fleet vehicles in its fleet.

(c) A transit agency may apply to the Executive Officer for a delay in meeting the provisions of section 2023.2(a) and 2023.2(b) for up to one year to allow for the termination of a vehicle lease, maintenance/lease, turnkey or vehicle/service contract as defined by the Federal Transit Administration (FTA). The transit agency shall apply to the Executive Officer no later than 90 days prior to the applicable deadlines and shall include a description of the reason the delay is required, the reason the contractor cannot provide a newer vehicle to replace an existing vehicle within the terms of the contract, and provide a schedule for compliance by the end of the compliance extension.

NOTE: Authority cited: Sections 39600, 39601, 39659, 39667 and 43018, Health and Safety Code. Reference: Sections 39667, 39700, 39701, 43000, 43000.5, 43013, 43018, 43801 and 43806, Health and Safety Code.

HISTORY

1. New section filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

§ 2023.3. Zero-Emission Bus Requirements.

(a) "Zero-emission bus" means an Executive Officer certified urban bus that produces zero exhaust emissions of any criteria pollutant (or precursor pollutant) under any and all possible operational modes and conditions.

(1) A hydrogen-fuel cell bus shall qualify as a zero-emission bus.

(2) An electric trolley bus with overhead twin-wire power supply shall qualify as a zero-emission bus.

(3) A battery electric bus shall qualify as a zero-emission bus.

(4) Incorporation of a fuel-fired heater shall not preclude an urban bus from being certified as a zero-emission bus, provided the fuel-fired heater cannot be operated at ambient temperatures above 40°F and the heater is demonstrated to have zero evaporative emissions under any and all possible operational modes and conditions.

(b) *Zero-Emission Bus Demonstration Projects.*

(1) *Initial Demonstration Project.*

(A) Except as provided in (D) below, the owner or operator of an urban bus fleet on the diesel path in accordance with the provisions of section 2023.1, with more than 200 urban transit buses in its active fleet on January 31, 2001, shall implement an Initial Demonstration Project in accordance with this subsection (b)(1). The owner or operator shall evaluate the operation of zero-emission buses in revenue service, and prepare and submit a report on the demonstration project to the Executive Officer for inclusion in a future review of zero-emission technology.

(B) This Initial Demonstration Project shall meet all of the following specifications and requirements:

1. utilize a minimum of three zero-emission buses,
2. include any necessary site improvements,
3. locate fueling infrastructure onsite,
4. provide appropriate maintenance and storage facilities,
5. train bus operators and maintenance personnel,
6. place the buses in revenue service for a minimum duration of 12 calendar months,
7. retain operation and maintenance records, and
8. report on the demonstration program as set forth in subdivision (f) of section 2023.4, title 13, CCR.

(C) When planning and implementing the Initial Demonstration Project, the operator or owner shall meet the following milestones:

1. no later than January 1, 2002, prepare and solicit bid proposals for materials and services necessary to implement the demonstration project, including but not limited to the zero-emission buses and the associated infrastructure;
2. no later than February 28, 2006, place at least three zero-emission buses in operation;
3. no later than July 31, 2005, submit a preliminary report on the demonstration project to the Executive Officer, in accordance with paragraph (f)(3) of section 2023.4, title 13, CCR;
4. no later than July 31, 2007, submit a report on the demonstration project to the Executive Officer, in accordance with paragraph (f)(4) of section 2023.4, title 13, CCR;
5. no later than January 31, 2003, initial documentation shall be submitted in accordance with paragraph (f)(1) of section 2023.4, title 13, CCR; and
6. no later than January 31, 2003, a financial plan shall be submitted in accordance with paragraph (f)(2) of section 2023.4, title 13, CCR.

(D) Multiple transit agencies within the same air basin may, on a case-by-case basis, petition the Executive Officer to implement a joint zero-emission bus demonstration project. Electric trolley buses shall not qualify as zero-emission buses for purposes of this joint demonstration project. No more than three transit agencies can participate in any one

joint project. Transit agencies that are participating in a joint demonstration project shall:

1. designate the agency hosting the onsite demonstration,
2. jointly fund the demonstration project, and
3. place a minimum of three zero-emission buses per demonstration project in revenue service.

(2) *Advanced Demonstration Project.*

(A) Except as provided in (E) below, the owner or operator of an urban bus fleet on the diesel path in accordance with the provisions of section 2023.1, with more than 200 urban transit buses in its active fleet on January 1, 2007, for transit agencies on the diesel path shall implement an Advanced Demonstration Project. The owner or operator shall evaluate the operation of zero-emission buses in revenue service and prepare and submit a report on the demonstration project to the Executive Officer.

(B) Diesel fuel path transit agencies may choose to follow the single or joint path demonstration as described in 2023.3(b)(2)(D) or 2023.3(b)(2)(E).

(C) When planning and implementing the Advanced Demonstration Project for transit agencies on the diesel path, the operator or owner shall meet the following milestones:

1. No later than January 1, 2009, place all required zero-emission buses in operation,
2. No later than May 1, 2009, submit a preliminary report on the demonstration project to the Executive Officer, in accordance with paragraph (f)(3) of section 2023.4, title 13, CCR, and
3. No later than May 1, 2010, submit a final report on the demonstration project to the Executive Officer, in accordance with paragraph (f)(4) of section 2023.4, title 13, CCR.

(D) Transit agencies choosing to participate in a single transit agency Advanced Demonstration Project shall meet all of the following specifications and requirements:

1. Utilize a minimum of six zero-emission buses,
2. Provide appropriate maintenance and storage facilities,
3. Train bus operators and maintenance personnel,
4. Place the buses in revenue service for a minimum duration of 12 calendar months after delivery of all demonstration buses,
5. Retain operation and maintenance records, and
6. Report on the demonstration program as set forth in subdivision (f) of section 2023.4, title 13, CCR.

(E) Multiple transit agencies may, on a case-by-case basis, petition the Executive Officer to implement a joint zero-emission bus demonstration project. Transit agencies that are participating in a joint demonstration project shall:

1. Jointly fund the demonstration project.
2. Utilize a minimum of 12 zero-emission buses in revenue service.
3. Operate the demonstration at a transit agency affected by the zero-emission bus regulation.
4. Purchase and put in revenue service a minimum of three zero-emission buses per transit agency.
5. Place the buses in revenue service for a minimum duration of 12 calendar months after delivery of all demonstration buses.
6. Provide appropriate maintenance and storage facilities.
7. Train bus operators and maintenance personnel from each participating transit agency.

(F) Zero-emission buses placed in service to meet the zero-emission bus initial demonstration projects as specified in subdivision (b)(1) are not permitted to count towards the advanced demonstration requirements, unless upgraded with technology advancements to make the bus comparable to vehicles available for the advanced demonstration. One credit shall be earned for each bus.

(c) *Purchase Requirement for Zero-Emission Buses.* The number of urban buses in each transit agency's active urban bus fleet shall be reviewed annually, as described in sections 2023.4(a)(3) and (b)(2). The owner or operator of a transit agency with more than 200 urban buses in active service on January 1, 2007, for transit agencies on the diesel path, and January 1, 2009, for transit agencies on the alternative-fuel path,

shall purchase and/or lease zero-emission buses, in accordance with the following paragraphs. In addition, the owner or operator of diesel path transit agencies whose active urban bus fleet initially exceeds 200 urban buses after January 1, 2007 shall have three years to comply with the Zero-Emission Bus Purchase Requirement starting January 1, of the year they exceed 200 urban buses through 2026. The owner or operator of alternative fuel path transit agencies whose active urban bus fleet initially exceeds 200 urban buses after January 1, 2009, shall have three years to comply with the Zero-Emission Bus Purchase Requirement starting January 1, of the year they exceed 200 urban buses through 2026.

(1) For transit agencies on the diesel path, in accordance with the requirements in section 2023.1, a minimum 15 percent of purchase and lease agreements, when aggregated annually, for model year 2011, or from the start model year of Zero-Emission Bus purchases, through model year 2026 urban buses shall be zero-emission buses.

(2) For transit agencies on the alternative-fuel path, in accordance with the requirements in section 2023.1, a minimum 15 percent of purchase and lease agreements, when aggregated annually, for model year 2012, or from the start model year of Zero-Emission Bus purchases, through model year 2026 urban buses shall be zero-emission buses.

(3) The provisions of paragraphs (1) and (2) shall not apply if the operator's urban bus fleet is composed of 15 percent or more zero-emission buses on January 1, 2008, for transit agencies on the diesel path, and on January 1, 2010, for transit agencies on the alternative-fuel path, or at any time thereafter.

(4) *Earning Credits.*

(A) Transit agencies on either the diesel path or alternative-fuel path may earn credits for use in meeting the purchase requirements for zero-emission buses specified in paragraphs (c)(1) and (c)(2) by placing zero-emission buses in service prior to the dates specified in paragraphs (c)(1) and (c)(2). For each zero-emission bus placed into early service and above what is required by section 2023.3 in paragraphs (b)(2), (c)(1) and (c)(2), credits shall be accrued according to the following table. Each earned credit is equivalent to one zero-emission bus.

Credits per Year Placed

Path	2007	2008	2009	2010	2011
Diesel	2.5	2	1.5	1.5	—
Alternative-fuel	2.5	2	2	1.5	1.5

(B) Zero-emission buses placed in service to meet the zero-emission bus initial demonstration projects as specified in subdivision (b)(1) are not permitted to accrue credits towards the zero-emission bus purchase requirements, unless upgraded with technology advancements to make them comparable to vehicles available for the advanced demonstration. One credit shall be earned for each bus.

(C) Zero-emission buses placed in service to meet the advanced demonstration projects as specified in subdivision (b)(2) can accrue purchase credit towards the zero-emission purchase requirements. For each zero-emission bus required by the advanced demonstration, credit shall be accrued according to the following table. Each earned credit is equivalent to one zero-emission bus.

Path	<i>Credits per Year Placed for Advanced Demonstration Zero-Emission Buses</i>		
	2007	2008	2009
Diesel	2	1.5	1

(d) The Air Resources Board shall review zero-emission bus technology and the feasibility of implementing the requirements of subdivision (c) above no later than July 2009. Based on that assessment, the Board shall decide whether to proceed with the implementation of subdivision (c) or adjust the requirements.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43100, 43101, 43104 and 43806, Health and Safety Code. Reference: Sections 39002, 39003, 39017, 39018, 39500, 40000, 43000, 43000.5, 43009, 43013, 43018, 43102, 43801 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. Renumbering of former section 1956.3 to section 2023.3, including amendment of section and NOTE filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).

2. Amendment filed 10–15–2007; operative 11–14–2007 (Register 2007, No. 42).

§ 2023.4. Reporting Requirements for Transit Agencies.

(a) The following reports on new urban bus purchases and/or leases by transit agencies on the alternative–fuel path shall be submitted as described below:

(1) The initial report shall be submitted by January 31, 2001, and shall state the transit agency's intent to follow the alternative–fuel path.

(2) Any requests for deviation from the requirement that 85 percent of buses purchased per year must be alternative–fuel buses must be submitted in writing and approved by the Executive Officer of the Air Resources Board 90 days prior to purchase. The written request must include the reason for requesting the deviation from the 85 percent annual purchase requirement and the transit agency's future planned alternative–fuel bus purchases.

(3) Each transit agency shall submit an annual report containing: the number, manufacturer, make, and model year of engines, and fuel used for each urban bus it currently owns or operates, urban bus purchases and/or leases beginning January 1, 2000, and annual average percentage of total urban bus purchases and/or leases that were alternative–fuel buses. The first report shall be submitted by January 31, 2001. Subsequent reports shall be submitted annually by January 31 through the year 2016. For transit agencies operating 150 or more urban buses, reports shall be submitted annually by January 31 through the year 2027.

(b) The following reports on new urban bus purchases and/or leases by transit agencies on the diesel path shall be submitted as described below:

(1) The initial report shall be submitted by January 31, 2001, and shall state the transit agency's intent to follow the diesel path.

(2) Each transit agency shall submit an annual report containing the number, manufacturer, make, and model year of engines, and fuel used for each urban bus it currently owns or operates, and urban bus purchases and/or leases beginning January 1, 2000. The first report shall be submitted by January 31, 2001. Subsequent reports shall be submitted annually by January 31 through the year 2016. For transit agencies operating 150 or more urban buses, reports shall be submitted annually by January 31 through the year 2027.

(3) A transit agency within the jurisdiction of the South Coast Air Quality Management District that chooses to change from the diesel path to the alternative fuel path in accordance with paragraph (a)(2) of section 2023.1, title 13, CCR, must submit to the Executive Officer a letter of intent to follow the alternative fuel path no later than January 31, 2004. The letter of intent shall contain a statement certifying that the transit agency is in compliance with all provisions of the fleet rule for transit agencies on or before January 1, 2004.

(4) As set forth in section 2023.1(a)(5), transit agencies with more than 30 buses in their fleet that purchase model–years 2007 through 2009 urban buses not certified at or below 0.2 g/bhp–hr NOx emissions shall submit the following information for each urban bus purchased: the manufacturer, make, model year of the engine of the urban bus or transit fleet vehicle retrofitted and for each diesel emission control strategy applied, the date of installation, the device's product serial number, and its Diesel Emission Control Strategy Family Name in accordance with the requirements of section 2706(g)(2), title 13, CCR. The first report shall be submitted by January 31, 2007. Subsequent reports shall be submitted annually by January 31 through the year 2016.

(c) Each transit agency shall submit the following reports on the urban bus NOx fleet average requirement:

(1) Initial documentation shall be submitted by January 31, 2001, and contain, at a minimum, the active urban bus fleet NOx emission average, and if that number exceeds the average required in subdivision (d), section 2023.1, title 13, CCR, a schedule of actions planned to achieve that average by October 1, 2002, including numbers and model years of bus purchases, retirements, retrofits, and/or repowerings, or shall indicate the intent of the transit agency to retire all model year 1987 and earlier buses in its active fleet by October 1, 2002.

(2) A final report shall be submitted by January 31, 2003, detailing the active urban bus fleet NOx emission average as of October 1, 2002, and actions, if any were needed, taken to achieve that standard, including numbers and model years of bus purchases, retirements, retrofits, and/or repowerings, or documenting the retirement of all model year 1987 and earlier buses.

(d) Each transit agency shall submit the following reports on the total diesel PM emission reduction requirements for urban buses:

(1) An initial annual report shall be submitted by January 31, 2003, and shall contain, at a minimum, the following information:

(A) number, manufacturer, make, and model year of diesel–fueled, dual–fuel, bi–fuel (except for heavy–duty pilot ignition engines), and diesel hybrid–electric engines in urban buses in the active fleet; the PM engine certification value of each of those bus engines; the diesel PM emission total for the diesel buses in the active fleet; and the diesel PM emission total for the baseline date of January 1, 2002.

(B) For each urban bus for which a diesel emission control strategy has been applied, the device's product serial number; its Diesel Emission Control Strategy Family Name in accordance with the requirements of section 2706(g)(2), title 13, CCR; and the date of installation.

(2) Annual reports shall be submitted each year beginning January 31, 2004 and each January 31 thereafter, through 2009, and shall contain the information required in paragraphs (d)(1)(A) and (B) above plus the total percentage reduction of PM achieved from the baseline diesel PM emission total as of January 1 of each applicable year.

(e) Each transit agency shall submit the following reports for its transit fleet vehicles:

(1) An annual report of the number, manufacturer, make, and model year of engines and fuel used for each transit fleet vehicle it currently owns, leases, or operates as of January 1st of each year, beginning in 2006. The first report shall be submitted by January 31, 2006, and subsequent reports shall be submitted annually by January 31st through the year 2016.

(2) For the NOx fleet average reduction requirements set forth in section 2023.2(a):

(A) A report submitted by January 31, 2006, must contain at a minimum, the transit vehicle fleet NOx emission average. If that number exceeds the average required in section 2023.2(a)(1), the report must include a schedule of actions planned to achieve compliance by December 31, 2007.

1. If a change to the compliance schedule occurs that results in non-compliance, the transit agency must notify the Executive Officer within 30 days.

2. Notification to the Executive Officer must include a revised schedule showing how the agency will be in compliance within 90 days of the schedule change that caused noncompliance.

(B) A report submitted by January 31, 2008, must contain, details of the transit fleet vehicle fleet NOx emission average as of December 31, 2007, or must document the retirement of all model year 1997 and earlier transit fleet vehicle engines by December 31, 2007.

(C) A report submitted by January 31, 2009, must contain at a minimum, the transit vehicle fleet NOx emission average. If that number exceeds the average required in section 2023.2(a)(1), the report must include a schedule of actions planned to achieve compliance by December 31, 2010.

1. If a change to the compliance schedule occurs that results in non-compliance, the transit agency must notify the Executive Officer within 30 days.

2. Notification to the Executive Officer must include a revised schedule showing how the agency will be in compliance within 90 days of the schedule change that caused noncompliance.

(D) A final report submitted by January 31, 2011 must contain details the transit fleet vehicle fleet NOx emission average as of December 31, 2010, or must document the retirement of all model year 2001 and earlier transit fleet vehicle engines by December 31, 2010.

(3) For the total diesel PM reduction requirements set forth in section 2023.2(b):

(A) An initial report submitted by January 31, 2006, must contain the PM engine certification value of each transit fleet vehicle engine and the transit fleet vehicle diesel PM total as of January 1, 2005.

(B) A report submitted by January 31, 2008, must contain the transit fleet vehicle diesel PM total as of December 31, 2007, and the percentage diesel PM reduced, documenting compliance with the requirement in section 2023.2(b)(1).

(C) A final report submitted by January 31, 2011, of the transit fleet vehicle diesel PM total as of December 31, 2010, and the percentage diesel PM reduced, documenting compliance with the requirement in section 2023.2(b)(2).

(D) For each transit fleet vehicle for which a diesel emission control strategy has been applied, each report specified above must include the strategy's product serial number; its Diesel Emission Control Strategy Family Name in accordance with the requirements of section 2705(g)(2), title 13, CCR; and the date of installation correlated to a specific transit fleet vehicle engine.

(f) The following reports on the zero-emission bus demonstration program shall be submitted by those transit agencies required to conduct such demonstrations, as described below:

(1) Initial documentation shall contain, at a minimum, the bus order and delivery schedule, fuel type, type of refueling station, any planned facility modifications, and a revenue service demonstration plan;

(2) A financial plan shall contain, at a minimum, projected expenditures for capital costs for purchasing and/or leasing buses, refueling stations, any facility modifications, and projected annual operating costs;

(3) A preliminary report shall contain, at a minimum, the following information:

(A) a brief description of the zero-emission technology utilized, identification of the bus manufacturer, and the product specifications;

(B) a comparison with conventional buses on the following parameters: miles driven per bus in revenue and non-revenue service, miles between propulsion related road calls, miles between road calls, availability of bus for pull out, fuel economy, fueling costs, infrastructure costs, initial cost of bus, maintenance costs of propulsion related components, warranty of fuel cell and propulsion related components, safety incidents, and maintenance (both scheduled and unscheduled);

(C) qualitative transit personnel and passenger experience; and

(D) a financial summary of the capital costs of bus purchases and/or leases and fueling infrastructure.

(4) A final report shall contain, at a minimum, the following information:

(A) a brief description of the zero-emission technology utilized, identification of bus manufacturer and product specifications,

(B) a comparison with conventional buses on the following parameters: miles driven per bus in revenue service, miles between propulsion related road calls, miles between road calls, availability of bus for pull out, fuel economy, fueling costs, infrastructure costs, initial cost of bus, maintenance costs of propulsion related components, warranty of fuel cell and propulsion related components, bus down time (scheduled and unscheduled), safety incidents, driver and mechanic training conducted, and maintenance (both scheduled and unscheduled),

(C) qualitative transit personnel and passenger experience, and

(D) a financial summary of capital costs of demonstration program, including bus purchases and/or leases, fueling infrastructure, any new facilities or modifications, and annual operating costs.

(5) Beginning 1 month after the start of a demonstration and monthly thereafter, an update on the demonstration shall be provided to Air Resources Board staff. These updates shall provide staff with zero-emission bus qualitative data on the following parameters: brief description of each bus's operation, number of days in operation (in-service and testing), bus down time (scheduled and unscheduled), reason for bus down time, outreach events, and requests for future participation in outreach events.

(6) Beginning 2 months after the delivery of the first bus and quarterly thereafter, an update on the demonstration shall be provided to Air Resources

Board staff. These updates shall provide staff with zero-emission and conventional bus quantitative data on the following parameters: reliability (defined as miles between propulsion related road calls), operating and maintenance costs, maintenance conducted, warranty issues, availability of bus for pull out, fuel economy, technology performance, bus downtime (scheduled and unscheduled), safety incidents, issues with fueling equipment, outreach efforts, and driver and mechanic training conducted.

(g) The following reports on new zero-emission bus purchases and/or leases shall be submitted by transit agencies required to purchase zero-emission buses as described below:

(1) The initial report shall contain, at a minimum, the following information:

(A) a brief description of the zero-emission technology to be utilized and a plan for the implementation of the requirement,

(B) for an exemption from the purchase requirement, documentation that 15 percent or more of the transit agency's active urban bus fleet is composed of zero-emission buses.

(2) Any requests for deviation from the requirement that 15 percent of buses purchased per year must be zero-emission buses must be submitted in writing and approved by the Executive Officer of the Air Resources Board 90 days prior to a transit agency submitting a purchase order(s) reflecting the purchase deviation. The written request shall include the reason for requesting the deviation and the transit agency's future planned zero-emission bus purchases.

(3) Transit agencies on the diesel path shall include in the annual reports required in paragraph (b)(2): zero-emission bus purchases and/or leases beginning with model year 2008 and through model year 2026, and the annual average percentage of total bus purchases and/or leases that were zero-emission buses.

(4) Transit agencies on the alternative-fuel path shall include in the annual reports required in paragraph (a)(3): zero-emission bus purchases and/or leases beginning with model year 2008 and through model year 2026, and the annual average percentage of total bus purchases and/or leases that were zero-emission buses.

(h) Transit agencies exempted from the requirements of paragraphs (b)(5) and (c)(4), section 2023.1, title 13, CCR, shall submit annual reports demonstrating that they are achieving NOx emission benefits required in paragraphs (b)(8)(B) and (c)(7)(B), section 2023.1, title 13, CCR. The first report shall be submitted by January 31, 2005. Subsequent reports shall be submitted annually by January 31 through the year 2016.

(i) A transit agency requesting approval for the purchase of diesel-fueled hybrid-electric buses pursuant to paragraph (c)(9), section 2023.1, title 13, CCR, shall:

(1) submit an application for approval that meets the requirements of paragraphs (c)(9)(A) and (c)(9)(B), section 2023.1, title 13, CCR;

(2) include in the application all of the following: the number, manufacturer, make and model year of diesel-fueled hybrid-electric buses to be purchased; the schedule for the purchase and delivery of the buses; a detailed description of all measures that will be used to offset the excess NOx emissions including identification of the specific buses to which the measures will be applied, and the schedule for implementing those measures; and

(3) submit a final report to the Executive Officer within 30 days of receipt of the last diesel-fueled hybrid-electric bus that documents the schedule of delivery of the diesel-fueled hybrid-electric buses, timing, and completion of all measures to achieve the NOx offset.

(j) A new transit agency shall submit the following information to the Executive Officer:

(1) within 60 days of formation, the name of the new transit agency, its mailing address, name of a contact person and that person's e-mail address and phone number; a description of the service area and proposed routes; and the planned number of urban buses and transit fleet vehicles, including model years of engines;

(2) within 120 days of formation, its NOx fleet average for its active fleet and, separately, its transit fleet vehicles, and its diesel PM emission total for its active fleet and, separately, its diesel PM emission total for its transit fleet vehicles.

(k) *Failure to submit complete reports.*

(1) A transit agency that fails to submit a complete report in accordance with this section is subject to civil penalties of not less than \$100 per day for every day past January 31 of each reporting year through 2016. For transit agencies with more than 150 urban buses civil penalties of not less than \$100 per day for every day past January 31 shall continue for each reporting year through 2027.

(2) A new transit agency that fails to submit its report or required information in accordance with this section is subject to civil penalties of not less than \$100 per day for every day past the required reporting dates in section 2023.4(j).

(3) A report that does not contain all required information will not be considered complete. A report will be considered to be complete as of the date that all required information is submitted.

NOTE: Authority cited: Sections 39600, 39601, 39659 and 39667, Health and Safety Code. Reference: Sections 39667, 39700, 43000, 43000.5, 43013, 43018, 43801 and 43806, Health and Safety Code.

HISTORY

1. Renumbering of former section 1956.4 to section 2023.4, including amendment of section heading, section and NOTE, filed 1-31-2006; operative 1-31-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 5).
2. Change without regulatory effect amending subsection (e)(2)(c) filed 6-16-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 24).
3. New subsection (b)(4) filed 9-7-2006; operative 10-7-2006 (Register 2006, No. 36).
4. Amendment filed 10-15-2007; operative 11-14-2007 (Register 2007, No. 42).

Article 5. Approval of Systems Designed to Convert Motor Vehicles to Use Fuels Other Than the Original Certification Fuel or to Convert Motor Vehicles for Emission Reduction Credit

§ 2030. Liquefied Petroleum Gas or Natural Gas Retrofit Systems.

(a) Applicable Standards and Test Procedures.

The standards and test procedures for approval of systems designed to convert 1993 and earlier model year motor vehicles to use liquefied petroleum gas or natural gas fuels are contained in "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Liquefied Petroleum Gas or Natural Gas Fuels" adopted by the state board on April 16, 1975, as amended November 21, 1995. The standards and test procedures for approval of systems designed to convert 1994 and subsequent model year motor vehicles to use liquefied petroleum gas or natural gas fuels are contained in "California Certification and Installation Procedures for Alternative Fuel Retrofit Systems for Motor Vehicles Certified for 1994 and Subsequent Model Years and for all Model Year Motor Vehicle Retrofit Systems Certified for Emission Reduction Credit," adopted by the State Board March 11, 1993, as amended September 25, 1997. At the option of the retrofit system manufacturer, the standards and test procedures for approval of systems designed to convert 1994 and subsequent model year vehicles to use liquefied petroleum gas or natural gas fuels may be used for approval of systems designed to convert 1993

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and earlier model year motor vehicles to use liquefied petroleum gas or natural gas fuels in lieu of the "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Liquefied Petroleum Gas or Natural Gas Fuels."

(b) Implementation Phase-In Schedule.

Notwithstanding subsection (a), a retrofit system manufacturer may apply "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Liquefied Petroleum Gas or Natural Gas Fuels" to certify retrofit systems for 1994 and 1995 model-year vehicles in accordance with the following implementation phase-in schedule. Each manufacturer may certify a maximum of 85 percent of its total 1994 model-year engine family retrofit systems, 45 percent of its total 1995 model-year systems, and 45 percent of its total 1996 model-year systems, according to the requirements of these test procedures and "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Alcohol or Alcohol/Gasoline Fuels", adopted by the State Board on April 28, 1983, as amended November 21, 1995. The remaining percentage of each manufacturer's certified 1994, 1995, and 1996 model-year engine family retrofit systems and all of 1997 and subsequent model-year engine family retrofit systems shall be certified according to "California Certification and Installation Procedures for Alternative Fuel Retrofit Systems For Motor Vehicles Certified For 1994 and Subsequent Model Years and for all Model Year Motor Vehicle Retrofit Systems Certified for Emission Reduction Credit." The percentages shall be determined from the total number of retrofit systems certified and shall be met prior to the end of the next respective calendar year. "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Liquefied Petroleum Gas or Natural Gas Fuels" shall not be applied to certify a retrofit system for installation on a transitional low-emission vehicle ("TLEV"), low-emission vehicle ("LEV"), or ultra-low-emission vehicle ("ULEV") or to certify a retrofit system designed to convert a vehicle to TLEV, LEV, or ULEV emission standards (as defined in Section 1960.1, Title 13, California Code of Regulations), or to certify a retrofit system for emission reduction credits.

NOTE: Authority cited: Sections 39515, 39600, 39601 and 43006, Health and Safety Code. Reference: Sections 43000, 43004, 43006, 43008.6, 43013 and 43108, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. Amendment filed 4-28-75; effective thirtieth day thereafter (Register 75, No. 18).
2. Amendment filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment filed 5-21-81; effective thirtieth day thereafter (Register 81, No. 21).
4. Amendment of Article 5 and Section 2030 headings filed 6-2-83; effective thirtieth day thereafter (Register 83, No. 23).
5. Amendment filed 10-18-84; effective thirtieth day thereafter (Register 84, No. 42).
6. Amendment of section heading, text and NOTE filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
7. Amendment of subsection (a) filed 6-8-95; operative 6-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
8. Amendment of article 5 heading and subsections (a) and (b) filed 2-5-96; operative 3-6-96 (Register 96, No. 6).
9. Amendment of subsection (a) filed 9-25-97; operative 9-25-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 39).

§ 2031. Alcohol or Alcohol/Gasoline Fuels Retrofit Systems.

(a) Applicable Standards and Test Procedures.

The standards and test procedures for approval of systems designed to convert 1993 and earlier model year motor vehicles to use alcohol or alcohol/gasoline fuels in lieu of the original certification fuel system are contained in "California Exhaust Emission Standards and Test Proce-

dures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Alcohol or Alcohol/Gasoline Fuels," adopted by the State Board April 28, 1983 as amended November 21, 1995. The standards and test procedures for approval of systems designed to convert 1994 and subsequent model year motor vehicles to use alcohol or alcohol/gasoline fuels are contained in "California Certification and Installation Procedures for Alternative Fuel Retrofit Systems for Motor Vehicles Certified for 1994 and Subsequent Model Years and for all Model Year Motor Vehicle Retrofit Systems Certified for Emission Reduction Credit," adopted by the State Board March 11, 1993, as amended September 25, 1997. At the option of the retrofit system manufacturer, the standards and test procedures for approval of systems designed to convert 1994 and subsequent model year motor vehicles to use alcohol or alcohol/gasoline fuels may be used for approval of systems designed to convert 1993 and earlier model year motor vehicles to use alcohol or alcohol/gasoline fuels in lieu of the "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Alcohol or Alcohol/Gasoline Fuels."

(b) Implementation Phase-In Schedule.

Notwithstanding subsection (a), a retrofit system manufacturer may apply "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Alcohol or Alcohol/Gasoline Fuels" to certify retrofit systems for 1994 and 1995 model-year vehicles in accordance with the following implementation phase-in schedule. Each manufacturer may certify a maximum of 85 percent of its total 1994 model-year engine family retrofit systems, 45 percent of its total 1995 model-year systems, and 45 percent of its total 1996 model-year systems, according to the requirements of these test procedures and the "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Liquefied Petroleum Gas or Natural Gas Fuels," adopted by the State Board on April 16, 1975, as amended November 21, 1995. The remaining percentage of each manufacturer's certified 1994, 1995, and 1996 model-year engine family retrofit systems and all of 1997 and subsequent model-year engine family retrofit systems shall be certified according to "California Certification and Installation Procedures for Alternative Fuel Retrofit Systems For Motor Vehicles Certified For 1994 and Subsequent Model Years and for all Model Year Motor Vehicle Retrofit Systems Certified for Emission Reduction Credit." The percentages shall be determined from the total number of retrofit systems certified and shall be met prior to the end of the next respective calendar year. "California Exhaust Emission Standards and Test Procedures for Systems Designed to Convert Motor Vehicles Certified for 1993 and Earlier Model Years to Use Alcohol or Alcohol/Gasoline Fuels" shall not be applied to certify a retrofit system for installation on a transitional low-emission vehicle ("TLEV"), low-emission vehicle ("LEV"), or ultra-low-emission vehicle ("ULEV") or to certify a retrofit system designed to convert a vehicle to TLEV, LEV, or ULEV emission standards (as defined in Section 1960.1, Title 13, California Code of Regulations), or to certify a retrofit system for emission reduction credits.

NOTE: Authority cited: Sections 39515, 39600, 39601 and 43006, Health and Safety Code. Reference: Sections 43000, 43004, 43006, 43008.6, 43013 and 43108, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 6-2-83; effective thirtieth day thereafter (Register 83, No. 23).
2. Amendment of section heading, text and NOTE filed 5-7-93; operative 6-7-93 (Register 93, No. 19).
3. Amendment of subsection (a) filed 6-8-95; operative 6-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
4. Amendments of subsections (a) and (b) filed 2-5-96; operative 3-6-96 (Register 96, No. 6).
5. Amendment of subsection (a) filed 9-25-97; operative 9-25-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 39).

Article 6. Emission Control System Warranty

§ 2035. Purpose, Applicability, and Definitions.

(a) Purpose.

The purpose of this article is to interpret and make specific the statutory emissions warranty set forth in Health and Safety Code sections 43205, and 43205.5 by clarifying the rights and responsibilities of individual motor vehicle and motor vehicle engine owners, motor vehicle and motor vehicle engine manufacturers, and the service industry.

(b) Applicability.

This article shall apply to:

(1) California-certified 1979 and subsequent model motorcycles, passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles, registered in California, regardless of their original point of registration; and

(2) California certified motor vehicle engines used in such vehicles.

(c) Definitions.

For the purposes of this article, the following definitions shall apply:

(1) “*Warrantable condition*” means any condition of a vehicle or engine which triggers the responsibility of the manufacturer to take corrective action pursuant to sections 2036, 2037, or 2038.

(2) “*Warranted Part*” means:

(A) in the case of 1979 through 1989 model year passenger cars, light-duty trucks, and medium-duty vehicles, 1979 and later model year motorcycles and heavy-duty vehicles, and 1990 and subsequent model year passenger cars, light-duty trucks, and medium duty vehicles produced before January 24, 1991, any emission-related part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which is included on the “Emissions Warranty Parts List” required by section 2036(f) and approved for the vehicle or engine by the Executive Officer; and

(B) in the case of 1990 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles other than those identified in subparagraph (A) of this definition, any part installed on a motor vehicle or motor vehicle engine by the vehicle or engine manufacturer, or installed in a warranty repair, which affects any regulated emission from a motor vehicle or engine which is subject to California emission standards.

(3) “*Warranty period*” means the period of time and mileage that the vehicle, engine, or part are covered by the warranty provisions.

(4) “*Warranty station*” means a service facility authorized by the vehicle or engine manufacturer to perform warranty repairs. This shall include all of the manufacturer’s dealerships which are franchised to service the subject vehicles or engines.

(5) “*Vehicle or engine manufacturer*” means the manufacturer granted certification for a motor vehicle or motor vehicle engine. In the case of motor vehicles for which certification of the exhaust and evaporative emissions control systems is granted to different manufacturers, the warranty responsibility shall be assigned accordingly.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment of subsection (c) filed 12-27-83; effective thirtieth day thereafter (Register 83, No. 53).
3. Amendment filed 3-26-85; effective thirtieth day thereafter (Register 85, No. 13).
4. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).
5. Redesignation of former subsection (b)(a) as subsection (b)(1), redesignation and amendment of subsections (c)(2)(a)-(b) as subsections (c)(2)(A)-(B) and amendment of NOTE filed 11-9-2007; operative 11-9-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§ 2036. Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles.

(a) Applicability.

This section shall apply to 1979 through 1989 model passenger cars, light-duty trucks, and medium-duty vehicles; 1979 and subsequent model motorcycles and heavy-duty vehicles; and motor vehicle engines used in such vehicles. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a “demonstrator” or “company” car prior to delivery, on the date it is first placed in service.

(b) General Emissions Warranty Coverage.

The manufacturer of each motor vehicle or motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine is:

(1) Designed, built, and equipped so as to conform, at the time of sale, with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to that part as described in the vehicle or engine manufacturer’s application for certification.

(c) Warranty Period.

The warranty period applicable to this section shall be:

(1) In the case of Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) In the case of Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) In the case of Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever first occurs.

(4) In the case of diesel-powered heavy-duty vehicles (except medium-duty vehicles), and motor vehicle engines used in such vehicles, a period of use of five years, 100,000 miles, or 3000 hours of operations, whichever first occurs. However, in no case may this period be less than the basic mechanical warranty that the manufacturer provides (with or without additional charge) to the purchaser of the engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. In cases where responsibility for an extended warranty is shared between the owner and the manufacturer, the emissions warranty shall also be shared in the same manner as specified in the warranty agreement.

(5) In the case of passenger cars, light-duty trucks, and medium-duty vehicles certified under the optional 100,000-mile certification procedure, and motor vehicle engines used in such vehicles, a period of use of ten years or 100,000 miles, whichever first occurs, except as otherwise provided in this paragraph. In the case of diesel particulate control system components on the 1985 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles certified under the optional 100,000-mile certification procedure, the warranty period means five years or 50,000 miles, whichever first occurs, for failures of such components which do not result in the failure of any other warranted part to perform as designed during the warranty period of the vehicle, and ten years or 100,000 miles, whichever first occurs, for all other failures.

(6) In the case of vehicles certified to the optional emission standards pursuant to Health and Safety Code section 43101.5(a), which are sold on or after January 1, 1983, for fuel metering and ignition components contained in the state board’s “Emissions Warranty Parts List”, dated December 14, 1978, as amended February 22, 1985, a period of use of two

years or 24,000 miles, whichever first occurs, and for all other warranted parts, a period of use of five years or 50,000 miles, whichever first occurs.

(7) In the case of all other passenger cars, light-duty trucks, and medium-duty vehicles, a period of use of five years or 50,000 miles, whichever first occurs.

(8) In the case of heavy-duty vehicles and motor vehicle engines used in such vehicles, (except for diesel-powered heavy-duty vehicles or all medium-duty vehicles, and motor vehicle engines used in such vehicles,) a period of use of five years or 50,000 miles, whichever first occurs. However, in no case may this period be less than the basic mechanical warranty period that the manufacturer provides (with or without additional charge) to the purchaser of the engine. Extended warranties on select parts do not extend the emissions warranty requirements for the entire engine but only for those parts. In cases where responsibility for an extended warranty is shared between the owner and the manufacturer, the emissions warranty shall also be shared in the same manner as specified in the warranty agreement.

(d) Subject to the conditions and exclusions of subsection (j), the warranty on emissions-related parts shall function as follows:

(1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (c). If any such part fails during the warranty period, it shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.

(2) Any warranted part which is scheduled only for regular inspection in the written instructions required by subsection (e) shall be warranted for the warranty period defined in subsection (c). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.

(3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required by subsection (e) shall be warranted for the period of time or mileage, whichever first occurs, prior to the first scheduled replacement point for that part. If the part fails before the first scheduled replacement point, the part shall be repaired or replaced by the vehicle or engine manufacturer according to subsection (4) below. Any such part repaired or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner, at a warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. Heavy-duty vehicle and engine manufacturers shall establish reasonable emergency repair procedures which may differ from those specified in this subsection. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive compensation for warranted repairs reimbursable due to an emergency, provided the manufacturer's written instructions advise the owner of his obligation.

(5) Notwithstanding the provisions of subsection (4), warranty services or repairs shall be provided at all of a manufacturer's dealership which are franchised to service the subject vehicles or engines.

(6) The vehicle or engine owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is in fact defec-

tive, provided that such diagnostic work is performed at a warranty station.

(7) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty any warranted part.

(8) Throughout the vehicle or engine's warranty period defined in subsection (b), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of subsection (4).

(9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under subsection (7)).

(10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of an add-on or modified part.

(11) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe that manufacturer's warranty procedures or policies.

(e) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle or engine written instructions for the maintenance and use of the vehicle or engine by the owner, which instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.

(f) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle or engine a list of the warranted parts installed on that vehicle or engine. The list shall include those parts included on the Air Resources Board "Emissions Warranty Parts List," dated December 14, 1978, as amended on February 22, 1985, and incorporated herein by reference.

(g) Except for 1980 and 1981 model motorcycles, each manufacturer shall submit the documents required by sections (e) and (f), with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the manufacturer's list of warranted parts to ensure that each such list is of proper scope and also may reject or require modification of any of the documents required by subsection (e). Approval by the Executive Officer of the documents required by subsections (e) and (f), shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (e) and (f), within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

(h) Notwithstanding subsection (f), the Executive Officer may delete any part from a manufacturer's list of warranted parts provided in the manufacturer demonstrates to the Executive Officer's satisfaction that:

(1) Failure of such part will not increase the emissions of any vehicle or engine on which it is installed, and

(2) Any deterioration of driveability or performance which results from failure of the part could not be corrected by adjustments or modifications to other vehicle components.

(i) Vehicle Inspection Program.

This subsection shall apply to passenger cars, light-duty trucks, medium-duty and heavy-duty vehicles and motorcycles required to be inspected pursuant to any California statutorily authorized motor vehicle emissions inspection and maintenance program. The provisions of this section shall be contained in the warranty statement required pursuant to section 2039.

(1) The owner of a vehicle which fails the inspection during its warranty period may choose to have the vehicle repaired at a warranty station.

(A) If the warranty station identifies that the inspection failure was caused by the failure or malfunction of a warranted part, than the vehicle manufacturer shall be liable for expenses involved in detecting and correcting the part failure or malfunction, unless the warranty station demonstrates that the part failure or malfunction was caused by abuse, neglect, or improper maintenance as specified in subsection (j)(1), or was caused by an adjustment not covered by warranty as specified in subsection (j)(2).

(B) If the warranty station demonstrates that the inspection failure was caused by one or more conditions executed from warranty coverage pursuant to subsection (j), the vehicle owner shall be liable for all diagnostic and repair expenses. Such expenses shall not exceed the maximum repair costs permissible under the inspection program.

(C) If the warranty station identifies that the inspection failure was caused by one or more defects covered under warranty pursuant to these regulations and in combination with one or more conditions excluded from warranty coverage pursuant to subsection (j), than the vehicle owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.

(2) In the alternative, the owner of a vehicle which fails an inspection may choose to have the vehicle repaired at other than a warranty station. If a warrantable defect is found, the vehicle owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The vehicle manufacturer shall not be liable for any expenses incurred at a service establishment not authorized to perform warranty repairs, except in the case of an emergency as specified in subsection (d)(4). If the vehicle owner chooses to have the warrantable defect repaired at other than a warranty station, the upper cost limit pursuant to Health and Safety Code section 44017 shall not apply to the repair.

(j) Exclusions.

(1) The repair or replacement of any warranted part otherwise eligible for warranty coverage under subsection (d) or (i), shall be excluded for such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

(2) The following adjustments to warranted parts are excluded from warranty coverage under subsection (d) or (i): the idle air/fuel mixture ratio (for 1979 model passenger cars, and 1979 and 1980 model light-duty trucks and medium-duty vehicles), curb or high idle speed, ignition timing, valve lash, injection timing for diesel-powered vehicles, or any combination thereof.

(3) Except as provided in subsection (1) above, any adjustment of a component which as a factory installed, and properly operating, adjustment limiting device (such as an idle limiter cap) is eligible for warranty coverage under subsection (d) or (i).

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205.5, 44004, 44010, 44011, 44012, 44015, and 44017, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment of subsection (c) filed 12-27-83; effective thirtieth day thereafter (Register 83, No. 53).
3. Amendment of subsection (c) filed 3-26-85; effective thirtieth day thereafter (Register 85, No. 13).
4. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).
5. Amendment of subsections (c)(4) and (c)(7) and new subsection (c)(8) filed 4-15-99; operative 5-15-99 (Register 99, No. 16).

§ 2037. Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

(a) *Applicability.*

This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, medium-duty vehicles, and motor vehicle engines used in such vehicles. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a "demonstrator" or "company" car prior to delivery, on the date it is first placed in service.

(b) *General Emissions Warranty Coverage.*

The manufacturer of each motor vehicle or motor vehicle engine shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine is:

(1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to the part as described in the vehicle or engine manufacturer's application for certification, including any defect in materials or workmanship which would cause the vehicle's on-board diagnostic malfunction indicator light to illuminate, for a period of three years or 50,000 miles, whichever first occurs; and

(3) Free from defects in materials and workmanship which cause the failure of a warranted part described in section (c) below for seven years or 70,000 miles, whichever first occurs.

(c) *"High-Priced" Warranted Parts.*

(1) Each manufacturer shall identify in its application for certification the "high-priced" warranted parts which are:

(A) For 1990 through 2007 model year vehicles: [i] included on the Board's "Emissions Warranty Parts List" as last amended February 22, 1985, incorporated herein by reference, and; [ii] have an individual replacement cost at the time of certification exceeding the cost limit defined in section (c)(3);

(B) For 2008 and subsequent model year vehicles: [i] subject to coverage as a warranted part in section (b)(2) above, and; [ii] have an individual replacement cost at the time of certification exceeding the cost limit defined in section (c)(3).

(2) The replacement cost shall be the retail cost to a vehicle owner and include the cost of the part, labor, and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.

(3) The cost limit shall be calculated using the following equation:

$$\text{Cost limit}_n = \$300 \times (\text{CPI}_{n-2} / 118.3)$$

where:

Cost limit_n is the cost limit for the applicable model year of the vehicle rounded to the nearest ten dollars.

n is the model year of the new vehicles.

n-2 is the calendar year two years prior to the model year of the new vehicles.

CPI is the annual average nationwide urban consumer price index published by the United States Bureau of Labor Statistics.

(4) The cost limit shall be revised annually by the Executive Officer. The highest-cost metropolitan area in California shall be identified by the Executive Officer for use in this section. If a manufacturer seeks certification of a vehicle before the applicable annual average CPI is available, the cost limit shall be calculated using the average of the monthly nationwide urban CPI figures for the most recent twelve month period for which figures have been published by the United States Bureau of Labor Statistics.

(5) Each manufacturer shall submit to the Executive Officer the documentation used to identify the "high-priced" warranted parts required in this section. The documentation shall include the estimated retail parts costs, labor rates in dollars per hour, and the labor hours necessary to

diagnose and replace the parts. The documentation is not required for vehicles certified before January 24, 1991.

(6) The Executive Officer may reject or require modification of the manufacturer's list of "high-priced" warranted parts to ensure that such list includes all emission-related parts whose replacement cost exceeds the cost limit defined in section (c)(3).

(d) Subject to the conditions and exclusions of section (i), the warranty on emission-related parts shall be interpreted as follows:

(1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by section (e) shall be warranted for the applicable warranty period defined in section (b)(2) or (3). If any such part fails during the period of warranty coverage, it shall be repaired or replaced by the vehicle or engine manufacturer according to section (d)(4) below. Any such part repaired or replaced under the warranty shall be warranted for the remaining warranty period.

(2) Any warranted part which is scheduled only for regular inspection in the written instructions required by section (e) shall be warranted for the applicable warranty period defined in section (b)(2) or (3). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part required or replaced under warranty shall be warranted for the remaining warranty period.

(3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required by section (e) shall be warranted for the period of time or mileage, whichever first occurs, prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part shall be repaired or replaced by the vehicle or engine manufacturer according to section (d)(4) below. Any such part required or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner at a warranty station, except in the case of an emergency when a warranted part or a warranty station is not reasonably available to the vehicle or engine owner. In an emergency, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such emergency repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive compensation for warranted repairs reimbursable due to an emergency, provided the manufacturer's written instructions required by section (e) advise the owner of this obligation.

(5) Notwithstanding the provisions of subsection (d)(4) above, warranty services or repairs shall be provided at all of a manufacturer's dealerships which are franchised to service the subject vehicles or engines.

(6) The vehicle or engine owner shall not be charged for diagnostic labor which leads to the determination that a warranted part is defective, provided that such diagnostic work is performed at a warranty station.

(7) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the vehicle or engine's warranty period defined in section (b)(2) and (b)(3), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an emergency for purposes of section (d)(4) above.

(9) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a manufacturer

may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under section (d)(7) above).

(10) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.

(11) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe the manufacturer's warranty procedures or policies.

(e) Each manufacturer shall furnish with each new vehicle or engine, written instructions for the maintenance and use of the vehicle or engine by the owner, and the instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.

(f) Each manufacturer shall furnish with each new vehicle or engine a list of the "high-priced" warranted parts established by section (c).

(g) Prior to the 2001 model year, each manufacturer shall submit the documents required by sections (c)(5), (e), and (f) with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. For 2001 and subsequent model years, each manufacturer shall submit the documents required by section (c)(5), (e), and (f) with the Part 2 Application for Certification pursuant to the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," incorporated by reference in title 13, CCR section 1961(d). The Executive Officer may reject or require modification of any of the documents required by sections (c), (e), and (f) for, among other reasons, incompleteness and lack of clarity. Approval by the Executive Officer of the documents required by sections (c), (e), and (f) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by sections (c), (e), and (f) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons thereof. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

(h) *Vehicle Inspection Program.*

(1) This section applies to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles which fail to pass a smog check inspection pursuant to Health and Safety Code section 44012 after the warranty period of three years or 50,000 miles, whichever occurs first, has expired, but before the warranty period of seven years or 70,000 miles, whichever occurs first, has expired. The provisions of this section shall be contained in the warranty statement required pursuant to title 13, CCR section 2039.

(2) The owner of a vehicle which fails an inspection during the period described in section (h)(1) may choose to have the vehicle repaired at a warranty station.

(A) If the warranty station identifies that the inspection failure was caused by the failure or malfunction of a "high-priced" part defined in section (c), then the vehicle manufacturer shall be liable for expenses involved in detecting and correcting the part failure or malfunction, unless the warranty station demonstrates that the part failure or malfunction was caused by abuse, neglect, or improper maintenance as specified in section (i).

(B) If the warranty station demonstrates that the inspection failure was caused by one or more conditions excluded from warranty coverage pursuant to section (i), the vehicle owner shall be liable for all diagnostic and repair expenses. Such expenses shall not exceed the maximum repair costs permissible under the inspection program.

(C) If the warranty station determines that the inspection failure was caused by one or more defects covered under warranty pursuant to these regulations and in combination with one or more conditions excluded from warranty coverage pursuant to section (i), then the vehicle owner shall not be charged for the diagnostic and repair costs related to detecting and repairing the warrantable defects.

(3) In the alternative, the owner of a vehicle which fails the inspection may choose to have the vehicle repaired at other than a warranty station. If a warrantable defect is found, the vehicle owner may deliver the vehicle to a warranty station and have the defect corrected free of charge. The vehicle manufacturer shall not be liable for any expenses incurred at a service establishment not authorized to perform warranty repairs, except in the case of an emergency as defined in section (d)(4). If the vehicle owner chooses to have a warrantable defect repaired at other than a warranty station, the upper cost limit pursuant to Health and Safety Code section 44017 shall not apply to the repair.

(i) *Exclusions.*

The repair or replacement of any warranted part otherwise eligible for warranty coverage under sections (d) and (h) shall be excluded from such warranty coverage if the vehicle or engine manufacturer demonstrates that the vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44015, and 44017, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).
3. Amendment of section heading, subsection (g) and NOTE filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
4. Amendment filed 11-9-2007; operative 11-9-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§ 2038. Performance Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles.

(a) *Applicability.*

This section shall apply to 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles, and motor vehicle engines used in such vehicles required to be inspected under any California statutorily authorized motor vehicle emissions inspection and maintenance program. The warranty period shall begin on the date the vehicle is delivered to an ultimate purchaser, or if the vehicle is first placed in service as a "demonstrator" or "company" car prior to delivery, on the date it is first placed in service.

(b) *General Emissions Warranty Coverage.*

The manufacturer of each passenger car, light-duty truck, and medium-duty vehicle shall warrant to the ultimate purchaser and each subsequent purchaser that the vehicle or engine:

- (1) Is designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in chapters 1 and 2, part 5, division 26 of the Health and Safety Code; and
- (2) Will, for a period of three years or 50,000 miles, whichever first occurs, pass an inspection established under section 44012 of the Health and Safety Code ("inspection").

(c) *Written Instructions.*

(1) Each vehicle or engine manufacturer shall furnish with each new vehicle or engine, written instructions for the required maintenance and use of this vehicle or engine by the vehicle owner (written instructions), and the written instructions shall be consistent with this article and applicable regulations in article 2 of this subchapter.

(2) Prior to the 2001 model year, each vehicle or engine manufacturer shall submit the documents required by section (c)(1) with the vehicle or

engine manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer.

(3) For 2001 and subsequent model years, each vehicle or engine manufacturer shall submit the documents required by section (c)(1) with the Part 2 Application for Certification pursuant to the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," incorporated by reference in title 13, CCR section 1961(d).

(4) The Executive Officer may reject or require modification of written instructions for, among other reasons, incompleteness or lack of clarity. Approval by the Executive Officer of the written instructions shall be a condition of certification. The Executive Officer shall approve or disapprove the written instructions within 90 days of the date such documents are received from the vehicle or engine manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the engine or vehicle manufacturer may petition the Board to review the decision of the Executive Officer.

(d) *Proper Use and Maintenance.*

(1) An emission performance warranty claim may be denied if the vehicle or engine manufacturer demonstrates that the vehicle or engine's failure of the inspection was directly caused by abuse, neglect, or improper maintenance as reflected by a failure to maintain or use the vehicle or engine in accordance with the written instructions.

(2) Except as provided in section (d)(5), a vehicle or engine manufacturer may deny an emission performance warranty claim on the basis of noncompliance with the written instructions only if:

(A) An owner is not able to comply with a request by a manufacturer for evidence pursuant to section (d)(4); or

(B) Notwithstanding the evidence presented pursuant to section (d)(4), the vehicle or engine manufacturer is able to prove that the vehicle failed an inspection because the vehicle was abused, the required maintenance and use was performed in a manner resulting in a component being improperly installed or a component or related parameter being adjusted substantially outside of the vehicle or engine manufacturer's specifications, or maintenance was performed on a vehicle which resulted in the removing or rendering inoperative of any component affecting the vehicle's emissions.

(3) When determining whether an owner has complied with the written instructions, a vehicle or engine manufacturer may require a owner to submit evidence of compliance only with those written instructions for which the vehicle or engine manufacturer has an objective reason for believing:

(A) Were not performed, and;

(B) If not performed, could be the cause of the particular vehicle's failed inspection.

(4) Evidence of compliance with a maintenance instruction may consist of:

(A) A maintenance log book which has been validated at the approximate time or mileage intervals specified in the written instructions by someone who regularly engages in the business of servicing automobiles for the relevant maintenance; or

(B) A repair order, sales receipt, or similar evidence showing that the vehicle has been submitted for scheduled maintenance at the approximate time or mileage intervals specified in the written instructions to someone who regularly engages in the business of servicing automobiles for the purpose of performing the relevant maintenance; or

(C) A statement by the vehicle owner that the maintenance was performed at the approximate time or mileage interval specified in the written instructions using proper replacement parts.

(5) In no case may a vehicle or engine manufacturer deny an emission performance warranty claim on the basis of:

(A) Warranty work or predelivery service performed by any facility authorized by the vehicle or engine manufacturer to perform such work or service; or

(B) Work performed in an emergency situation to rectify an unsafe condition, including an unsafe driveability condition, attributable to the

vehicle or engine manufacturer, provided the vehicle owner has taken steps to put the vehicle back in a conforming condition in a timely manner; or

(C) Any cause attributable to the vehicle or engine manufacturer; or

(D) The use of any fuel which is commonly available in the geographical area in which the vehicle or engine is located, unless the written instructions specify that the use of that fuel would adversely affect the emission control devices and systems of the vehicle, and there is commonly available information for the vehicle owner to identify the proper fuel to be used.

(6) The vehicle owner may perform maintenance or have maintenance performed more frequently than required in the written instructions.

(7) Except as specified in section (d)(2)(B) above, failure of the vehicle or engine owner to ensure the performance of such scheduled maintenance or to keep maintenance records shall not, per se, be grounds for disallowing a warranty claim.

(e) Repair, adjustment, or replacement of any part under the warranty provisions of this article shall be performed at no charge to the vehicle or engine owner at a warranty station, except where a warranted part is not available to the vehicle or engine owner within a reasonable time (in no case more than 30 days) after the vehicle or engine is initially presented to the warranty station for repair. In case of such unavailability, repairs may be performed at any available service establishment, or by the owner, using any replacement part. The manufacturer shall reimburse the owner for his or her expenses including diagnostic charges for such repair or replacement, not to exceed the manufacturer's suggested retail price for all warranted parts replaced and labor charges based on the manufacturer's recommended time allowance for the warranty repair and the geographically appropriate hourly labor rate. A vehicle or engine owner may reasonably be required to keep receipts and failed parts in order to receive reimbursement due to such unavailability, provided the manufacturer's written instructions advise the owner of this obligation.

(f) The vehicle or engine manufacturer shall be liable for damages to other vehicle components proximately caused by a failure under warranty of any warranted part.

(g) Any replacement part may be used in the performance of any maintenance or repairs. Any replacement part designated by a vehicle or engine manufacturer may be used in warranty repairs provided without charge to the vehicle owner. Such use shall not reduce the warranty obligations of the vehicle or engine manufacturer, except that the vehicle or engine manufacturer shall not be liable under this article for repair or replacement of any replacement part which is not a warranted part (except as provided under section (d) above).

(h) Any add-on or modified part exempted by the Air Resources Board from the prohibitions of Vehicle Code section 27156 may be used on a vehicle or engine. Such use, in and of itself, shall not be grounds for disallowing a warranty claim made in accordance with this article. The vehicle or engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of such an add-on or modified part.

(i) *Warranty Claim Procedures.*

(1) A warranty claim may be submitted by bringing a vehicle to any repair facility authorized by the vehicle or engine manufacturer to service that vehicle.

(2) The manufacturer of each vehicle or engine to which the warranty is applicable shall establish procedures as to the manner in which a claim under the emission performance warranty is to be processed. The procedures shall provide for a final decision and repair of a warrantable condition by the vehicle or engine manufacturer within a reasonable time, not to exceed 30 days from the time at which the vehicle is initially presented for repair, or unless a delay:

(A) is requested by the vehicle owner, or

(B) is caused by an event not attributable to the vehicle or engine manufacturer or the warranty station.

(3) Within the time period specified in section (i)(2), the manufacturer shall provide the owner, in writing, with an explanation as to why the claim is being denied.

(4) Failure to notify a vehicle owner that a warrantable condition does not exist within the required time period of section (i)(2), for reasons other than those provided for in sections (i)(2)(A) and (B), shall result in the vehicle or engine manufacturer being responsible for repairing the vehicle free of charge to the vehicle owner.

(5) The vehicle or engine manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.

(j) Warranty services or repairs shall be provided at all of a vehicle or engine manufacturer's dealerships which are franchised to service the subject vehicles or engines.

(k) The vehicle owner shall not be charged for diagnostic labor which leads to the determination of a warrantable condition provided that such diagnostic work is performed at a warranty station.

(l) Throughout the vehicle or engine's warranty period defined in section (b), the vehicle or engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts. The lack of availability of such parts or the incompleteness of the repairs within a reasonable time period, not to exceed 30 days from the time the vehicle or engine is initially presented to the warranty station for repair, shall constitute an unavailability of parts for purposes of section (e).

(m) The Executive Officer may request and, in such case, the vehicle or engine manufacturer shall provide, any documents which describe the vehicle or engine manufacturer's warranty procedures or policies.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44014, and 44015, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).
3. Amendment of subsection (m) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
4. Amendment filed 11-9-2007; operative 11-9-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).

§ 2039. Emissions Control System Warranty Statement.

(a) Each manufacturer shall furnish a copy of the following statement with each new 1991 and subsequent model vehicle or engine produced after January 24, 1991, using those portions of the statement applicable to the vehicle or engine. This statement shall be included with and preceded the manufacturer's warranty statement required in subsection (b), unless otherwise authorized by the Executive Officer.

CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT

YOUR WARRANTY RIGHTS AND OBLIGATIONS

The California Air Resources Board (and manufacturer's name, optional) is pleased to explain the emission control system warranty on your (year) (vehicle, truck, or motorcycle). In California, new motor vehicles must be designated, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your (vehicle, truck, or motorcycle) for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your (vehicle, truck, or motorcycle).

Your emission control system may include parts such as the carburetor or fuel-injection system, the ignition system, catalytic converter, and engine computer. Also included may be hoses, belts, connectors and other emission-related assemblies. Where a warrantable condition exists, (manufacturer's name) will repair your (vehicle, truck, or motorcycle) at no cost to you including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

[For 1990 and subsequent model passenger cars, light-duty trucks, and medium-duty vehicles.]

– For 3 years or 50,000 miles (or a longer period of time or mileage, optional) (whichever first occurs);

1) If your (vehicle or truck) fails a Smog Check inspection, all necessary repairs and adjustments will be made by (manufacturer's name) to ensure that your emission control system PERFORMANCE WARRANTY.

2) If any emission-related part on your (vehicle or truck) is defective, the part will be repaired or replaced by (manufacturer's name). This is your short-term emission control system DEFECTS WARRANTY.

– For 7 years or 70,000 miles (or a longer period of time or mileage, optional) (Whichever first occurs);

1) If an emission-related part listed in this warranty booklet specially noted with coverage for 7 years or 70,000 miles is defective, the part will be repaired or replaced by (manufacturer's name). This is your long-term emission control system DEFECTS WARRANTY.

OWNER'S WARRANTY RESPONSIBILITIES:

– As the (vehicle, truck, or motorcycle) owner, you are responsible for the performance of the required maintenance listed in your owner's manual. (manufacturer's name) recommends that you retain all receipts covering maintenance on your (car, truck, or motorcycle), but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.

– You are responsible for presenting your (vehicle, truck, or motorcycle) to a (manufacturer's name) dealer as soon as a problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days.

– As the (vehicle, truck, or motorcycle) owner, you should also be aware that (manufacturer's name) may deny you warranty coverage if your (vehicle, truck, or motorcycle) or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXXX or the California Air Resource Board at 9528 Telstar Avenue, El Monte, CA 91731.

(b) Commencing with 1980 models sold on or after September 1, 1979, each manufacturer shall furnish with each new vehicle or engine a warranty statement which generally describes the obligations and rights of vehicle or engine manufacturers and owners under this article.

(c) Each manufacturer shall submit the documents required by subsections (a) and (b) with the manufacturer's preliminary application for new vehicle or engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of subsections (a) and (b). Approval by the Executive Officer of the documents required by subsections (a) and (b) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, 44004, 44010, 44011, 44012, 44014, and 44015, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment of subsection (a)(1) filed 2-21-79 as procedural and organizational; effective upon filing (Register 79, No. 8).
3. Amendment filed 12-27-83; effective thirtieth day thereafter (Register 83, No. 53).
4. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).

§ 2040. Vehicle Owner Obligations.

(a) The owner of any vehicle or engine warranted pursuant to this article shall be responsible for the performance of all required scheduled maintenance specified in the written instructions furnished to the owner

pursuant to subsections 2036 (e), 2037(e), and 2038(c)(1). Such maintenance may be performed by the owner, at a service establishment of the owner's choosing, or by a person or persons of the owner's choosing.

(b) Except as specified in subsections 2036(j)(1), 2037(i), and 2038(c), failure of the vehicle or engine owner to ensure the performance of such scheduled maintenance or to keep maintenance records shall not, per se, be grounds for disallowing a warranty claim.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, and 43205.5, Health and Safety Code.

HISTORY

1. Section 2040 renumbered to section 2045, and new section 2040 filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3). For history of former section, see Register 77, No. 12.
2. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).

§ 2041. Mediation; Finding of Warrantable Condition.

(a) This section is intended to provide a mechanism for mediating unresolved emissions warranty disputes between vehicle or engine owners and manufacturers or their agents.

(b) A vehicle or engine owner may request that the Executive Officer mediate a warranty claim.

(1) Upon receipt of such a claim the Executive Officer, or the Executive Officers's representative, may make a determination regarding whether the claim is meritorious on its face and, if meritorious, shall notify the appropriate dealer, or vehicle or engine manufacturer of the claim. The party against whom a complaint is made shall be given a reasonable time in which to respond. The Executive Officer may conduct an informal conference, and may request additional information and evidence.

(2) Upon examination of the facts submitted by the parties concerned, the Executive Officer, or the Executive Officers's representative, may find that a warranted part, or a vehicle's nonconformity with any California statutorily authorized motor vehicle emissions inspection and maintenance program, is eligible for warranty coverage pursuant to this article. If such a finding is made, the Executive Officer shall issue a Finding of Warrantable Condition.

(3) The Finding of Warrantable Condition shall include the name of the vehicle owner, vehicle manufacturer and model (including model year, make, car line and body type), vehicle identification number, engine family, odometer reading, date of inspection, identification of the defective part or other warrantable condition and the signature of the person issuing the Finding.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106, 43204, 43205, and 43205.5, Health and Safety Code.

HISTORY

1. Section 2041 renumbered to section 2046, and new section 2041 filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).
2. Amendment filed 11-26-90; operative 12-26-90 (Register 91, No. 3).

§ 2042. Severability.

Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106 and 43204, Health and Safety Code.

HISTORY

1. New section filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).

§ 2045. Catalyst Change Requirements.

NOTE: Authority cited: Section 39600 and 39601, Health and Safety Code. Reference: Sections 43106 and 43204, Health and Safety Code.

HISTORY

1. New Article 6 (§§ 2040-2041) filed 10-3-75 as an emergency; effective upon filing (Register 75, No. 40).
2. Amendment filed 10-31-75; effective thirtieth day thereafter (Register 75, No. 44).
3. Amendment of subsection (a) and NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
4. Renumbering of Section 2040 to Section 2045; effective thirtieth day thereafter (Register 79, No. 3).

5. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2046. Defective Catalyst.

Any oxidation catalyst for which service or replacement is scheduled or recommended by the vehicle manufacturer prior to the accumulation of 5 years or 50,000 miles, whichever occurs first, is defective in design, materials, and workmanship within the meaning of Health and Safety Code Sections 39156 and 39157. Any such service or replacement shall be performed free of charge to the vehicle owner.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43106 and 43204, Health and Safety Code.

HISTORY

1. Certificate of Compliance filed 10-31-75 (Register 75, No. 44).
2. Renumbering of Section 2041 to Section 2046 filed 1-16-79; effective thirtieth day thereafter (Register 79, No. 3).

Article 7. Procedures for Certifying Used Modifier-Certified Motor Vehicles and Licensing Requirements for Vehicle Emission Test Laboratories

§ 2047. Certification Procedures for Used Modifier-Certified Motor Vehicles.

The emission standards and procedures for the certification of used modifier-certified motor vehicles in California are set forth in the "California Certification Procedures for 1975 and Later Model-Year Used Modifier-Certified Motor Vehicles," adopted by the state board January 8, 1988.

NOTE: Authority cited: Sections 39600, 39601, 44203, 44205, and 44207-44209, Health and Safety Code. Reference: Sections 44200, 44201, 44203-44205, and 44207-44209, Health and Safety Code.

HISTORY

1. New section filed 2-1-88; operative 5-31-88 (Register 88, No. 7).

§ 2048. Licensing Requirements for Vehicle Emission Test Laboratories.

The licensing requirements for vehicle emission test laboratories pursuant to the provisions of Health and Safety Code Sections 44203 and 44205 are set forth in the "Licensing Requirements for Vehicle Emission Test Laboratories," amended by the state board June 2, 1989.

NOTE: Authority Cited: Sections 39600, 39601, 44203, 44205 and 44207-44209, Health and Safety Code. Reference: Sections 44200, 44201, 44203-44205 and 44207-44209, Health and Safety Code.

HISTORY

1. New section filed 2-1-88; operative 2-1-88 (Register 88, No. 7).
2. Amendment filed 9-18-89; operative 10-18-89 (Register 89, No. 39).

Chapter 2. Enforcement of Vehicle Emission Standards and Surveillance Testing

Article 1. Assembly-Line Testing

§ 2050. Assembly-Line or Pre-Delivery Test Procedures—1972 Light-Duty Vehicles.

HISTORY

1. Repealer filed 3-6-74; effective thirtieth day thereafter (Register 74, No. 10).

§ 2051. Assembly-Line or Pre-Delivery Test Procedures—1973 Light-Duty Vehicles.

HISTORY

1. Repealer filed 3-6-74; effective thirtieth day thereafter (Register 74, No. 10). For prior history, see Register 73, No. 27.

§ 2052. Assembly-Line or Pre-Delivery Test Procedures—1974 Light-Duty Vehicles.

NOTE: Authority cited: Sections 39601 and 43210, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 7-5-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 27).
2. Amendment of NOTE filed 3-16-77; effective upon filing (Register 77, No. 12).
3. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
4. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2053. Assembly-Line or Pre-Delivery Test Procedures—1975 Model-Year Gasoline-Powered Passenger Cars and Light-Duty Trucks.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 3-22-74; effective thirtieth day thereafter (Register 74, No. 12).
2. Amendment filed 8-20-74 as an emergency; effective upon filing (Register 74, No. 34).
3. Certificate of Compliance filed 9-18-74 (Register 74, No. 38).
4. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
5. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2054. Assembly-Line or Pre-Delivery Test Procedures—1976 Model-Year Gasoline-Powered Passenger Cars and Light-Duty Trucks.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 12-20-74; effective thirtieth day thereafter (Register 74, No. 51).
2. Amendment filed 5-4-76; effective thirtieth day thereafter (Register 76, No. 19).
3. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
4. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
5. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2055. Assembly-Line or Pre-Delivery Test Procedure—1977 Model-Year Gasoline-Powered Passenger Cars and Light-Duty Trucks.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 5-4-76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment filed 8-12-76; effective thirtieth day thereafter (Register 76, No. 33).
3. Amendment filed 2-9-77; effective thirtieth day thereafter (Register 77, No. 7).
4. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
5. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2056. Assembly-Line or Pre-Delivery Test Procedure—1978 Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 2-9-77; effective thirtieth day thereafter (Register 77, No. 7).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

3. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2057. Assembly-Line or Pre-Delivery Test Procedure—1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43105, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 4–3–78; effective thirtieth day thereafter (Register 78, No. 14).
2. Amendment filed 9–8–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 36).
3. Amendment filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22).
4. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
5. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2058. Assembly-Line Test Procedures—1980 Model Year.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43101, 43105, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 2–21–79; effective thirtieth day after filing (Register 79, No. 8).
2. Amendment filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22).
3. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
4. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2059. Assembly-Line Test Procedures—1981 Model Year.

NOTE: Authority cited: Sections 39600, 39601 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43101, 43105, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
2. Amendment filed 5–23–80; effective thirtieth day thereafter (Register 80, No. 21).
3. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
4. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2060. Assembly-Line Test Procedures—1982 Model Year.

NOTE: Authority cited: Sections 39515, 39600, 39601 and 43210(a), Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000(c), 43000(e), 43101, 43105, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 5–21–81; effective thirtieth day thereafter (Register 81, No. 21).
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
3. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2061. Assembly-Line Test Procedures—1983 and Subsequent Model-Years.

New 1983 through 1997 model-year passenger cars, light-duty trucks, and medium-duty vehicles, excluding zero-emission vehicles and medium-duty vehicles certified according to the optional standards and test procedures of section 1956.8, Title 13, California Code of Regulations, subject to certification and manufactured for sale in California shall be tested in accordance with the "California Assembly-Line Test Procedures for 1983 Through 1997 Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted November 24, 1981, as last amended June 24, 1996, which is incorporated herein by reference, including federally certified light-duty motor vehicles, except as pro-

vided in "Guidelines for Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for Sale in California," adopted July 20, 1982, as last amended July 12, 1991, which is incorporated herein by reference. For vehicles certified to NMOG standards, any reference to NMHC standards in "California Assembly-Line Test Procedures for 1983 Through 1997 Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" shall imply NMOG standards.

NOTE: Authority cited: Sections 39515, 39600, 39601, 43013, 43018, 43101, 43104 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43013, 43018, 43100, 43101, 43101.5, 43102, 43103, 43104, 43105, 43106, 43204, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
2. Amendment filed 9–17–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 39).
3. Amendment filed 4–20–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 17).
4. Amendment filed 11–4–83; effective thirtieth day thereafter (Register 83, No. 45).
5. Amendment filed 11–29–83; effective thirtieth day thereafter (Register 83, No. 49).
6. Amendment filed 9–20–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 38).
7. Amendment filed 9–28–84; effective thirtieth day thereafter (Register 84, No. 39).
8. Amendment filed 10–23–85; effective thirtieth day thereafter (Register 85, No. 43).
9. Amendment filed 8–12–87; operative 9–11–87 (Register 87, No. 33).
10. Amendment filed 5–22–90; operative 6–21–90 (Register 90, No. 28).
11. Amendment filed 8–2–91; operative 9–2–91 (Register 91, No. 49).
12. Amendment filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
13. Amendment filed 11–8–93; operative 12–8–93 (Register 93, No. 46).
14. Editorial correction of printing error (Register 93, No. 46).
15. Amendment filed 9–23–96; operative 10–23–96 (Register 96, No. 39).

§ 2062. Assembly-Line Test Procedures—1998 and Subsequent Model Years.

New 1998 through 2000 model-year passenger cars, light-duty trucks, and medium-duty vehicles, subject to certification and manufactured for sale in California, except for zero-emission vehicles and medium-duty vehicles certified according to the optional standards and test procedures of section 1956.8, Title 13, California Code of Regulations, shall be tested in accordance with the "California Assembly-Line Test Procedures for 1998 Through 2000 Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted June 24, 1996, as last amended August 5, 1999, which is incorporated herein by reference. New 2001 and subsequent model-year passenger cars, light-duty trucks, and medium-duty vehicles, subject to certification and manufactured for sale in California, except for zero-emission vehicles and medium-duty vehicles certified according to the optional standards and test procedures of Section 1956.8, Title 13, California Code of Regulations, shall be tested in accordance with the "California Assembly-Line Test Procedures for 2001 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted August 5, 1999, which is incorporated herein by reference. These test procedures shall also apply to federally certified light-duty motor vehicles, except as provided in "Guidelines for Certification of 1983 and Subsequent Model-Year Federally Certified Light-Duty Motor Vehicles for sale in California," adopted July 20, 1982, as last amended July 21, 1991, which is incorporated herein by reference.

NOTE: Authority cited: Sections 39515, 39600, 39601, 43013, 43018, 43101, 43104 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 9–23–96; operative 10–23–96 (Register 96, No. 39).
2. Amendment of section heading, section and NOTE filed 7–17–98; operative 8–16–98 (Register 98, No. 29).
3. Amendment filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

Article 1.5. Enforcement of Vehicle Emission Standards and Surveillance Testing for 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles

§ 2065. Applicability of Chapter 2 to 2005 and Subsequent Model Year Heavy-Duty Engines and Vehicles.

The requirements of chapter 2, division 3, title 13, California Code of Regulations apply to 2005 and subsequent model year heavy-duty engines and vehicles except as specifically modified by the provisions of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles" adopted December 12, 2002, which are incorporated herein by reference.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43101, 43104, 43105, 43210 and 43806, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43012, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104,

43106, 43202, 43203, 43204, 43210–43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New article 1.5 (section 2065) and section filed 7–25–2001; operative 7–25–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 30).
2. Amendment filed 11–4–2003; operative 12–4–2003 (Register 2003, No. 45).

Article 2. Enforcement of New and In-Use Vehicle Standards

§ 2100. Purpose.

(a) It is the purpose of this article to implement authority granted the state board in Part 5, Division 26 of the Health and Safety Code in order to monitor motor vehicles from manufacture through distribution, to and in the hands of consumers, to determine compliance with applicable laws.

(b) This section shall apply to 1977 and subsequent model-year vehicles.

[The next page is 236.37.]

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43202, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. Amendment of subsections (c), (e) and (g) and new subsections (h) through (k) filed 3–6–74; effective thirtieth day thereafter (Register 74, No. 10).
2. New subsection (l) filed 2–20–75 as an emergency; effective upon filing (Register 75, No. 8).
3. New subsection (l) refiled 5–20–75; effective thirtieth day thereafter (Register 75, No. 21).
4. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
5. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2100.5. Purpose.

Notwithstanding the repeal or expiration of this regulation on May 12, 1983, the provisions of the regulation as they existed prior to such repeal or expiration shall continue to be operative and effective for those events occurring prior to the repeal or expiration.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2100.6. Purpose.

(a) It is the purpose of this article to implement authority granted the Board in Part 5, Division 26 of the Health and Safety Code in order to monitor motor vehicles that, although properly maintained and used, are not in compliance with applicable laws and regulations.

(b) This section shall apply to 1978 and subsequent model-year passenger cars, light-duty trucks, medium and heavy-duty vehicles, and motorcycles.

NOTE: Authority cited: Sections 39601, 43105 and 43213, Health and Safety Code. Reference: Sections 43000, 43105, 43106 and 43211–43213, Health and Safety Code.

HISTORY

1. New section filed 4–18–83; effective thirtieth day thereafter (Register 83, No. 17).

§ 2101. Compliance Testing and Inspection—New Vehicle Selection, Evaluation, and Enforcement Action.

(a) The executive officer may, with respect to any new vehicle engine family, test group or subgroup being sold, offered for sale, or manufactured for sale in California, order a vehicle manufacturer to make available for compliance testing and/or inspection a reasonable number of vehicles, and may direct that the vehicles be delivered to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California. Vehicles shall be selected at random from sources specified by the executive officer according to a method approved by him/her, which insofar as practical shall exclude (1) vehicles manufactured pursuant to the specific order of an ultimate purchaser or (2) vehicles the selection of which, if not excluded, would result in an unreasonable disruption of the manufacturer's distribution system.

A subgroup may be selected for compliance testing only if the executive officer has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family or test group as a whole.

(b) If the vehicles are selected for compliance testing, the selection and testing of vehicles and the evaluation of data shall be made in accordance with the "California New Vehicle Compliance Test Procedures," adopted by the state board on June 24, 1976 and last amended August 5, 1999. Testing of passenger cars and light-duty-trucks certified to the low-emission and ultra-low-emission exhaust standards to determine compliance with the Supplemental Federal Test Procedure emission standards shall commence in the 2002 model year. Motorcycles scheduled for compliance testing shall be selected, tested, and evaluated in ac-

cordance with the "California New Motorcycle Compliance Test Procedures," adopted by the state board on June 30, 1977, and amended November 24, 1981.

(c) If the executive officer determines, in accordance with the "California New Vehicle Compliance Test Procedures," or the "California New Motorcycle Compliance Test Procedures" that an engine family, test group, or any subgroup within an engine family or test group, exceeds the emission standards for one or more pollutants, the executive officer shall notify the manufacturer and may invoke Section 2109. Prior to invoking Section 2109, the executive officer shall consider quality audit test results, if any, and any additional test data or other information provided by the manufacturer.

(d) Vehicles selected for inspection shall be checked to verify the presence of those emissions-related components specified in the manufacturer's application for certification, and for the accuracy of any adjustments, part numbers and labels specified in that application. If any vehicle selected for inspection fails to conform to any applicable law in Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new vehicles to determine "certification" as specified in Subchapter 1, Article 2 of this Chapter and an assembly-line test procedure specified in Subchapter 2, Article 1 of this Chapter, the executive officer shall notify the manufacturer and may invoke Section 2109. Prior to invoking Section 2109, the executive officer shall consider any information provided by the manufacturer.

NOTE: Authority cited: Sections 39600, 39601 and 43104, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43106, 43202, 43210, 43211 and 43212, Health and Safety Code.

HISTORY

1. Amendment filed 3–6–74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
3. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
4. Amendment of subsection (b) filed 5–31–79; effective thirtieth day thereafter (Register 79, No. 22).
5. Amendment of subsection (b) filed 12–29–81; effective thirtieth day thereafter (Register 82, No. 1).
6. Amendment of section heading and subsection (a) filed 4–18–83; effective thirtieth day thereafter (Register 83, No. 17).
7. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
8. Amendment of subsection (b) and NOTE filed 9–23–96; operative 10–23–96 (Register 96, No. 39).
9. Amendment of section and NOTE filed 7–17–98; operative 8–16–98 (Register 98, No. 29).
10. Amendment of subsections (a)–(c) filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 2102. Selection of Vehicles.

NOTE: Authority cited: Sections 39600, 39601, 43104, 43106 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
3. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2103. Evaluation.

NOTE: Authority cited: Sections 39600, 39601, 43104, 43106 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
3. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2104. Action 2103.

NOTE: Authority cited: Sections 39600, 39601, 43104, 43106 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 3–6–74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
3. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
4. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2105. Compliance with Applicable Laws.

NOTE: Authority cited: Sections 39600, 39601, 43104, 43106 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 10–17–73 as procedural and organizational; effective upon filing (Register 73, No. 42).
2. Amendment filed 7–16–76; effective thirtieth day thereafter (Register 76, No. 29).
3. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
4. Change without regulatory effect repealing section filed 3–18–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2106. New Vehicle Assembly–Line Inspection Testing.

If reports required by an assembly–line test procedure under Article 1 of Subchapter 2 are not in accordance with reporting requirements or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly–line inspection testing is being improperly performed, or that vehicles are being manufactured which do not comply with the functional test requirements or, prior to the 2001 model year with the assembly–line emission standards, the executive officer may order corrections of reporting or test procedures, and may, in accordance with Section 2109 or 2110, as applicable, order correction of vehicles not in compliance with applicable laws, emission standards, or test procedures.

NOTE: Authority cited: Sections 39600, 39601, 43105 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43104, 43105 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 3–6–74; effective thirtieth day thereafter (Register 74, No. 10).
2. Amendment filed 5–20–75; effective thirtieth day thereafter (Register 75, No. 21).
3. Amendment filed 5–4–76; effective thirtieth day thereafter (Register 76, No. 19).
4. Amendment of section heading filed 4–18–83; effective thirtieth day thereafter (Register 83, No. 17).
5. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).
6. Amendment filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 2107. Assembly–Line Quality–Audit Testing.

Prior to the 2001 model year, if any official test procedure adopted by the state board specifies that the state board may find a violation of Section 43105 or 43106 of the Health and Safety Code or of this article when a specified percentage of assembly–line vehicles exceeds a standard and when data submitted by the manufacturer indicates such percentage is being exceeded or if surveillance under Article 2 or Article 3 of Subchapter 2 indicates that assembly–line quality audit testing is being improperly performed, the executive officer may invoke the provisions of Section 2109 or 2110, as applicable. Quality audit testing is not required for the 2001 and subsequent model years.

NOTE: Authority cited: Sections 39600, 39601, 43105 and 43210, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43102, 43105, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).

3. Amendment filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 2108. Order of Executive Officer.

Failure to comply with any order of the executive officer issued pursuant to this article may result in the revocation or conditioning of certification in the manner specified in Section 2109 or 2110, as applicable.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 43100, 43105, 43106 and 43210, Health and Safety Code.

HISTORY

1. Amendment filed 5–4–76; effective thirtieth day thereafter (Register 76, No. 19). For prior history, see Register 75, No. 21.
2. Amendment filed 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2109. New Vehicle Recall Provisions.

(a) When this section is invoked pursuant to other sections of this article or Health and Safety Code Section 43105, the executive officer shall require the manufacturer to submit a plan within 30 calendar days of receipt of the invocation order to bring all vehicles into compliance. The executive officer shall order execution of the plan with such changes and additions as he/she determines to be necessary. The plan may include measures to identify the cause of vehicle noncompliance and to correct noncomplying conditions, correction of vehicles under manufacture, correction of vehicles in the possession or control of the manufacturer and dealers, and correction of vehicles in the possession of consumers (by correction upon service whether or not by warranty, by correction following notification of recall by mail, or by correction following efforts actively to locate and correct all such vehicles). The plan may include the temporary cessation of sales to dealers by the manufacturer and efforts by the manufacturer to prevent the sale of vehicles in possession or control of dealers, until the vehicles are corrected. The executive officer may order any one or more of the foregoing actions, or any other action reasonably necessary to bring all vehicles into compliance.

(b) The plan shall specify the percentage of vehicles subject to recall which must actually be corrected.

If, after good faith efforts, the manufacturer cannot correct the percentage of vehicles specified in the plan by the applicable deadlines, the manufacturer may request the executive officer to modify the percentage of vehicles specified in the plan, setting out in full the good faith efforts of the manufacturer to comply with the original plan, and the reasons it has been unable to comply. The executive officer shall, on the basis of this request, modify the percentage of vehicles which must actually be corrected if he/she finds in writing that the manufacturer has made a good faith effort and has shown good cause for the modification. If the manufacturer so requests, the plan shall specify the maximum incentives (such as a tune–up or specified quantity of gasoline), if any, the manufacturer must offer to vehicle owners to induce them to present their vehicles for repair, as a condition of showing that the manufacturer has made a good faith effort to repair the percentage of vehicles specified in the plan. The plan shall also include a schedule for implementing actions to be taken, including identified increments of progress towards implementation and deadlines for completing each such increment.

(c) If a vehicle is recalled pursuant to this section, the manufacturer shall make all necessary corrections specified in the plan without charge to the registered owner of the vehicle or, at the manufacturer's election, shall reimburse the registered owner for all costs (except incidental and consequential damages) of making such necessary corrections.

The term "all costs" shall not include incidental or consequential damages, except that the manufacturer shall reimburse the registered owner for any damage to the vehicle's emissions control system proximately caused by a defect subject to a recall action under this subsection or an action by a manufacturer taken pursuant to a plan under this subsection.

(d) If the plan ordered by the executive officer pursuant to this subsection includes a recall, the manufacturer may, within 20 calendar days of its receipt of the plan ordered by the executive officer, notify the executive officer of its desire to contest the necessity for or scope of that order. Any such notification shall specify the basis of the manufacturer's objections. Upon receipt of such notification, the executive officer shall stay the recall until the state board affords the manufacturer the opportunity,

at a public hearing to be scheduled no less than 30 calendar days and no more than 60 calendar days after receipt of such notification, to present evidence in support of its objections.

A stay of a recall shall not, unless otherwise ordered, stay any other portion of a plan required herein or any other order issued pursuant to this article.

The manufacturer may, within 20 calendar days of its receipt of the plan ordered by the executive officer, request a public hearing of the state board on the necessity for or scope of any other corrective action ordered by the executive officer. Such a hearing shall be held by the state board not less than 30 and no more than 60 calendar days after receipt of the manufacturer's request for such a hearing. The plan ordered by the executive officer shall remain in effect pending such hearing, unless otherwise ordered by the executive officer.

(e) Failure by a manufacturer to carry out all corrective actions or recall actions ordered by the executive officer pursuant to Section 2106 or to subsection (a) of this section according to the schedule included in the plan ordered by the executive officer shall constitute a violation of that order and of Health and Safety Code Section 43105. The executive officer shall extend any deadline in the plan if he/she finds in writing that a manufacturer has shown good cause for such extension.

If the manufacturer fails to correct the percentage of vehicles subject to recall specified in the recall plan issued by the executive officer (including any modifications made by him/her), by the deadline(s) included in that plan, each vehicle included in the number of vehicles by which the manufacturer falls short of such percentage shall constitute a separate violation of the order and of Health and Safety Code Section 43016.

The state board may hold a public hearing to consider whether approval of such vehicles shall be suspended or conditioned. The state board shall hold such a hearing if requested to do so by either the affected manufacturer or the executive officer.

After the hearing, the state board may suspend or condition approval if it finds that the corrective action ordered by the executive officer was reasonable and that the manufacturer failed to comply or to comply within the specified time period.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43016, 43100-43102, 43104 and 43106, Health and Safety Code.

HISTORY

1. Amendment filed 4-17-74; effective thirtieth day thereafter (Register 74, No. 16).
2. Amendment filed 2-20-75 as an emergency; effective thirtieth day thereafter (Register 75, No. 8).
3. Amendment filed 5-20-75; effective thirtieth day thereafter (Register 75, No. 21).
4. Amendment filed 10-22-81; effective thirtieth day thereafter (Register 81, No. 43).
5. Amendment of section heading filed 4-18-83; effective thirtieth day thereafter (Register 83, No. 17).
6. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2110. Remedial Action for Assembly-Line Quality Audit Testing of Less Than a Full Calendar Quarter of Production Prior to the 2001 Model Year.

(a) When this section is invoked prior to the 2001 model year pursuant to other sections of this article or Health and Safety Code Section 43105, the executive officer shall order the manufacturer to submit a remedial action plan to bring all vehicles in possession of the manufacturer into compliance. The manufacturer shall submit the plan within 30 calendar days after it receives the order. The executive officer may order execution of the plan with such changes and additions as he/she determines are necessary, including additional testing and reporting, consistent with the applicable assembly-line test procedures, to verify acceptability of the plan. The plan shall include a schedule for implementing actions to be taken, including identified increments of progress towards implementation, and deadlines for completing each such increment. The executive officer may not order a recall pursuant to this section.

(b) The manufacturer may, within 20 calendar days of its receipt of order for remedial action, request a public hearing of the state board on the necessity for or scope of any corrective action ordered by the executive officer. Such a hearing shall be held by the state board not less than 30 nor more than 60 calendar days after receipt of the manufacturer's request for such a hearing. The plan ordered by the executive officer shall remain in effect pending such hearing, unless otherwise ordered by the executive officer.

(c) Failure by a manufacturer to carry out all corrective actions ordered by the executive officer shall constitute a violation of that order and of Health and Safety Code Section 43105. The executive officer shall extend any deadline in the plan if he/she finds in writing that a manufacturer has shown good cause for such extension. Each vehicle required by the plan issued by the executive officer (including any modifications made by him/her) to receive remedial action which does not receive such action by the deadline(s) included in the plan shall constitute a separate violation of the order and of Health and Safety Code Section 43106.

The state board may hold a public hearing to consider whether approval of such vehicles shall be suspended or conditioned.

The state board shall hold such a hearing if requested to do so by either the affected manufacturer or the executive officer.

After such hearing, the state board may suspend or condition approval if it finds that the corrective action ordered by the executive officer was reasonable and that the manufacturer failed to comply or to comply within the specified time period.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43016, 43100-43102, 43104 and 43106, Health and Safety Code.

HISTORY

1. New section filed 5-4-76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment filed 10-22-81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
4. Amendment of section heading and subsection (a) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

Article 2.1. Procedures for In-Use Vehicle Voluntary and Influenced Recalls

§ 2111. Applicability.

(a) These procedures shall apply to:

(1) California-certified 1982 through the 2009 model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, motorcycles, and California-certified 1997 and subsequent model-year off-road motorcycles and all-terrain vehicles, and 2007 and subsequent model-year off-road sport vehicles, off-road utility vehicles, and sand cars, including those federally certified vehicles which are sold in California pursuant to Health and Safety Code section 43102,

(2) California-certified motor vehicle engines used in such vehicles,

(3) California-certified 2000 and subsequent model-year off-road compression-ignition engines, and

(4) California-certified 2009 and subsequent model-year spark-ignition inboard and stern-drive marine engines complying with the Option 1 requirements in Section 2442(b)(1) and California-certified 2008 and subsequent model-year spark-ignition inboard and stern-drive marine engines complying with the Option 2 requirements in Section 2442(b)(1).

(b) These procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code section 44201.

(c) The Executive Officer may waive any or all of the requirements of these procedures if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer without a corresponding emission reduction.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Repealer of former section 2111, and renumbering and amendment of text previously incorporated by reference in section 2112 to section 2111 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38.
2. Amendment of subsection (a)(1) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
3. Amendment of subsection (a)(1), new subsection (b), subsection relettering, and amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
4. Amendment of subsections (a)(1) and (a)(2) filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
5. Amendment of subsections (a)(2)-(3) and new subsection (a)(4) filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).
6. Amendment of subsection (a)(4) filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).
7. Amendment of subsection (a)(1) filed 7-16-2007; operative 8-15-2007 (Register 2007, No. 29).
8. Amendment of subsection (a)(1) and amendment of NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2112. Definitions.

(a) "Capture rate" means the percentage of in-use vehicles subject to recall which must be corrected to bring the class or category of vehicles into compliance. The number of vehicles subject to recall shall be based on the actual number of vehicles in use as verified by the Department of Motor Vehicles registration records, or vehicle or engine registration records compiled and prepared by R. L. Polk and Company or a comparable source at the time a recall is initiated.

(b) "Correlation factor" means a pollutant-specific multiplicative factor calculated by a manufacturer for an engine family or test group which establishes a relationship between chassis exhaust emission data, as determined from the test procedures specified in section 1960.1 or 1961, Title 13, California Code of Regulations, and engine exhaust emission data, as determined from the test procedures specified in section 1956.8, Title 13, California Code of Regulations.

(c) "Days", when computing any period of time, means normal working days on which a manufacturer is open for business, unless otherwise noted.

(d) "Emission-Related Failure" means a failure of a device, system, or assembly described in the approved application for certification which affects any parameter, specification, or component enumerated in Appendix A to this subchapter 2.5 or listed in the Emission Warranty Parts List pursuant to section 2036, Title 13, California Code of Regulations, except for failures of devices, systems and assemblies which the Executive Officer has deleted from the manufacturer's list of warranted parts pursuant to section 2036 (f), Title 13, California Code of Regulations.

(e) "Emission Warranty Claim" means an adjustment, inspection, repair or replacement of a specific emission-related component for which the vehicle or engine manufacturer is invoiced or solicited by a repairing agent for compensation pursuant to warranty provisions, regardless of whether compensation is actually provided.

(f) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(g) "Influenced Emission Recall" means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer or its agent or representative as a result of in-use enforcement testing or other evidence of noncompliance provided or required by the Board, to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(h) "Nonconformity" or "noncompliance" exists whenever:

(1) a substantial number of a class or category of vehicles or engines, although properly maintained and used, experience a failure of the same emission-related component within their useful lives which, if uncorrected, results in the vehicles' or engines' failure to meet the applicable standards; or

(2) a class or category of vehicles or engines within their useful lives, although properly maintained and used, on average does not comply with the emission standards prescribed under section 43101 of the Health and Safety Code which are applicable to the model-year of such vehicles or engines.

(i) "Ordered Emission Recall" means an inspection, repair, adjustment, or modification program required by the Board and conducted by the manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(j) "Quarterly reports" refer to the following calendar periods: January 1-March 31, April 1-June 30, July 1-September 30, October 1-December 31.

(k) "Ultimate purchaser" has the same meaning as defined in section 39055.5 of the Health and Safety Code.

(l) "Useful life" means, for the purposes of this article:

(1) For Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) For Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) For Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever first occurs.

(4) For 1982 through 1984 model-year diesel heavy-duty vehicles (except medium-duty vehicles), and 1982 through 1984 model-year motor vehicle engines used in such vehicles, a period of use of five years, 100,000 miles, or 3000 hours of operation, whichever first occurs.

(5) For 1982 through 1987 model-year gasoline heavy-duty vehicles (except medium-duty vehicles) certified using the steady-state emission standards and test procedures, and 1982 through 1987 model-year gasoline heavy-duty motor vehicle engines certified using the steady-state emission standards and test procedures, a period of use of five years or 50,000 miles, whichever first occurs.

(6) For 1987 through 2003 model-year gasoline heavy-duty vehicles (except medium-duty vehicles) certified to the transient emission standards and test procedures, and 1987 and subsequent model-year gasoline heavy-duty motor vehicle engines certified using the transient emission standards and test procedures, a period of use of eight years or 110,000 miles, whichever first occurs, except as noted in paragraph (13).

(7) For 1985 through 2003 model-year heavy-duty diesel urban buses, and 1985 through 2003 model-year heavy-duty diesel engines to be used in urban buses, and for 1985 through 2003 model-year diesel heavy-duty vehicles (except medium-duty vehicles), and 1985 through 2003 model-year motor vehicle engines used in such vehicles, a period of use of eight years or 110,000 miles, whichever first occurs, for diesel light, heavy-duty vehicles; eight years or 185,000 miles, whichever first occurs, for diesel medium, heavy-duty vehicles; and eight years or 290,000 miles, whichever first occurs, for diesel heavy, heavy-duty vehicles, except as provided in paragraphs (11), (14), (15) and (16); or any alternative useful life period approved by the Executive Officer. (The classes of diesel light, medium, and heavy, heavy-duty vehicles are defined in 40 CFR section 86.085-2, as amended November 16, 1983.)

(8) For light-duty and medium-duty vehicles certified under the Optional 100,000 Mile Certification Procedure, and motor vehicle engines used in such vehicles, a period of use of ten years or 100,000 miles, whichever first occurs.

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(9) For 2001 and subsequent model year medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the primary standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For all other 1995 and subsequent model-year medium-duty vehicles and motor vehicle engines used in such vehicles, and 1992 through 1994 model-year medium-duty low-emission and ultra-low-emission vehicles certified to the standards in Section 1960.1(h)(2), and motor vehicle engines used in such vehicles, a period of use of eleven years or 120,000 miles, whichever occurs first.

(10) For all other light-duty and medium-duty vehicles, and motor vehicle engines used in such vehicles, a period of use of five years or 50,000 miles, whichever first occurs. For those passenger cars, light-duty trucks and medium-duty vehicles certified pursuant to section 1960.1.5, Title 13, California Code of Regulations, the useful life shall be seven years, or 75,000 miles, whichever first occurs; however, the manufacturer's reporting and recall responsibility beyond 5 years or 50,000 miles shall be limited, as provided in section 1960.1.5. For those passenger cars and light-duty trucks certified pursuant to Title 13, California Code of Regulations, section 1960.1 (f) and section 1960.1(g), the useful life shall be ten years or 100,000 miles, whichever first occurs; however, for those vehicles certified under section 1960.1(f), the manufacturer's warranty failure and defects reporting and recall responsibility shall be subject to the conditions and standards specified in section 1960.1 (f).

(11) For 1994 through 2003 model-year heavy heavy-duty diesel urban buses, and 1994 through 2003 model-year heavy heavy-duty diesel engines to be used in urban buses, for the particulate standard, a period of use of ten years or 290,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(12) For 1997 and subsequent model year off-road motorcycles, all-terrain vehicles, and for 2007 and subsequent model year off-road sport vehicles, off-road utility vehicles, sand cars, and engines used in such vehicles, a period of use of five years or 10,000 kilometers (6,250 miles), whichever first occurs.

(13) For 1998 through 2003 model-year gasoline heavy-duty engines, for the NO_x standard, a period of use of ten years or 110,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(14) For 1998 through 2003 model-year light heavy-duty diesel engines, for the NO_x standard, a period of use of ten years or 110,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(15) For 1998 through 2003 model-year medium heavy-duty diesel engines, for the NO_x standard, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(16) For 1998 through 2003 model-year heavy heavy-duty diesel engines, for the NO_x standard, a period of use of ten years or 290,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(17) For those passenger cars and light-duty trucks certified to the primary standards in section 1961(a)(1), the useful life shall be ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent passenger car and light-duty truck low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first.

(18) For 2004 and subsequent model-year light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years

or 110,000 miles, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(19) For 2004 and subsequent model-year medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(20) For 2004 and subsequent model-year heavy heavy-duty diesel engines, 2004 and subsequent model-year heavy-duty diesel urban buses, 2004 and subsequent model-year heavy-duty diesel engines to be used in urban buses, and 2004 and subsequent model year hybrid-electric urban buses for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, or any alternative useful life period approved by the Executive Officer, except as provided in paragraphs (19)(i) and (19)(ii).

(i) The useful life limit of 22,000 hours in paragraph (19) of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(ii) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d) (42 U.S.C. 7521(d)).

(21) For 2004 and subsequent model-year heavy-duty Otto-cycle engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(22) For 2000 and later model year off-road compression-ignition engines, for oxides of nitrogen, hydrocarbon, oxides of nitrogen plus hydrocarbon (when applicable), carbon monoxide, particulate emission standards, and for smoke opacity:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, a period of use of five years or 3,000 hours of operation, whichever first occurs.

(B) For all other engines rated above 19 kilowatts and under 37 kilowatts, a period of use of seven years or 5,000 hours of operation, whichever first occurs.

(C) For engines rated at or above 37 kilowatts, a period of use of ten years or 8,000 hours of operation, whichever first occurs.

(23) California-certified 2009 and subsequent model year spark-ignition inboard and sterndrive marine engines complying with the Option 1 requirements in Section 2442(b)(1) and California-certified 2008 and subsequent model-year spark-ignition inboard and sterndrive marine engines complying with the Option 2 requirements in Section 2442(b)(1), a period of ten years or 480 hours, whichever first occurs for engines 485 kilowatts and less. For engines greater than 485 kilowatts, a period of one year or 50 hours, whichever first occurs. Manufacturers of engines greater than 485 kilowatts may petition the Executive Officer for a approval of a shorter period when appropriate.

(m) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine.

(n) "Voluntary Emission Recall" means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

Appendix A to Article 2.1

California In-Use Vehicle Emission-Related Recall Procedures, Enforcement Test Procedures, and Failure Reporting Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, Motorcycles,

1997 and Subsequent Model-Year Off-Road Motorcycles and All-Terrain Vehicles, 2000 and Subsequent Model-Year Off-Road Compression-Ignition Engines, and 2008 and Subsequent Model-Year Spark-Ignition Inboard and Sterndrive Marine Engines.

Vehicle and Engine Parameters, Components, and Specifications

I. Passenger Car, Light-Duty Truck, Medium-Duty Vehicle, Motorcycle, and Inboard and Sterndrive Parameters and Specifications.

- A. Basic Engine Parameters—Reciprocating Engines.
 1. Compression ratio.
 2. Cranking compression pressure.
 3. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
 4. Turbocharger calibrations.
 5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).
- B. Basic Engine Parameters—Rotary Engines.
 1. Intake port(s): Timing and overlap if exposed to the combustion chamber.
 2. Exhaust port(s): Timing and overlap if exposed to the combustion chamber.
 3. Cranking compression pressure.
 4. Compression ratio.
- C. Air Inlet System: Temperature control system calibration.
- D. Fuel System.
 1. General
 - a. Engine idle speed.
 - b. Engine idle mixture.
 2. Carburetion.
 - a. Air-fuel flow calibration.
 - b. Transient enrichment system calibration.
 - c. Starting enrichment system calibration.
 - d. Altitude compensation system calibration.
 - e. Hot idle compensation system calibration.
 3. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Fuel shutoff system calibration.
 - c. Starting enrichment system calibration.
 - d. Transient enrichment system calibration.
 - e. Air-fuel flow calibration.
 - f. Altitude compensation system calibration.
 - g. Operating pressure(s).
 - h. Injector timing calibrations.
- E. Ignition System.
 1. Control parameters and calibrations.
 2. Initial timing setting.
 3. Dwell setting.
 4. Altitude compensation system calibration.
 5. Spark plug voltage.
- F. Engine Cooling System: Thermostat calibration.
- 456G. Exhaust Emission Control system.
 1. Air injection system.
 - a. Control parameters and calibrations.
 - b. EGR valve flow calibration.
 2. EGR system.
 - a. Control parameters and calibrations.
 - b. EGR valve flow calibration.
 3. Catalytic converter system.
 - a. Active surface area.
 - b. Volume of catalyst.
 - c. Conversion efficiency.
 - d. Leaded fuel restrictor or constricted fuel filler neck.
 4. Backpressure.

H. Evaporative Emission Control System.

1. Control parameters and calibrations.
2. Fuel tank.
 - a. Pressure and vacuum relief settings.
 - b. Fuel fill pipe and opening specifications (Reference section 2290, Title 13, C.C.R.).

I. Crankcase Emission Control System.

1. Control parameters and calibrations.
2. Valve calibration(s).

J. Auxiliary Emission Control Devices (AECD).

1. Control parameters and calibrations.
2. Component calibration(s).

K. Emission Control Related Malfunction and Diagnostic Systems.

1. On-Board Malfunction and Diagnostic Systems
 - a. Control parameters and calibrations.
 - b. Component calibration(s).
2. Emission Control Related Warning Systems
 - a. Control parameters and calibrations.
 - b. Component calibration(s).

L. Driveline Parameters.

1. Axle ratio(s).

II. Heavy-Duty Gasoline Engine Parameters and Specifications.

A. Basic Engine Parameters.

1. Compression ratio.
2. Cranking compression pressure.
3. Supercharger/turbocharger calibration.
4. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).

B. Air Inlet System: Temperature control system calibration.

C. Fuel System.

1. General.
 - a. Engine idle speed.
 - b. Engine idle mixture.
2. Carburetion.
 - a. Air-fuel flow calibration.
 - b. Transient enrichment system calibration.
 - c. Starting enrichment system calibration.
 - d. Altitude compensation system calibration.
 - e. Hot idle compensation system calibration.
3. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Fuel shutoff system calibration.
 - c. Starting enrichment system calibration.
 - d. Transient enrichment system calibration.
 - e. Air-fuel flow calibration.
 - f. Altitude compensation system calibration.
 - g. Operating pressure(s).
 - h. Injector timing calibrations.

D. Ignition System.

1. Control parameters and calibrations.
2. Initial timing setting.
3. Dwell setting.
4. Altitude compensation system calibration.
5. Spark plug voltage.

E. Engine Cooling System: Thermostat calibration.

F. Exhaust Emission Control system.

1. Air injection system.
 - a. Control parameters and calibrations.
 - b. Pump flow rate.
2. EGR system.
 - a. Control parameters and calibrations.

- b. EGR valve flow calibration.
- 3. Catalytic converter system.
 - a. Active surface area.
 - b. Volume of catalyst.
 - c. Conversion efficiency.
 - d. Leaded fuel restrictor or constricted fuel filler neck.
- 4. Backpressure.
- G. Evaporative Emission Control System.
 - 1. Control parameters and calibrations.
 - 2. Fuel tank.
 - a. Pressure and vacuum relief settings.
 - b. Fuel fill pipe and opening specifications (Reference section 2290, Title 13, C.C.R.).
- H. Crankcase Emission Control System.
 - 1. Control parameters and calibrations.
 - 2. Valve calibration(s).
- I. Auxiliary Emission Control Devices (AECD).
 - 1. Control parameters and calibrations.
 - 2. Component calibration(s).
- J. Emission Control Related Warning Systems.
 - 1. Control parameters and calibrations.
 - 2. Component calibration(s).
- III. Heavy-Duty Diesel Engine and Off-Road Compression-Ignition Engine Parameters and Specifications.
 - A. Basic Engine Parameters—Four Stroke Cycle Reciprocating Engines.
 - 1. Compression ratio.
 - 2. Cranking compression pressure.
 - 3. Supercharger/turbocharger calibration.
 - 4. Valves (intake and exhaust).
 - a. Head diameter dimension.
 - b. Valve lifter or actuator type and valve lash dimension.
 - 5. Camshaft timing.
 - a. Valve opening (degrees BTDC).
 - b. Valve closing (degrees ATDC).
 - c. Valve overlap (inch-degrees).
 - B. Basic Engine Parameters—Two Stroke Cycle Reciprocating Engine.
 - 1–5. Same as section III.A.
 - 6. Intake port(s): Timing in combustion cycle.
 - 7. Exhaust port(s): Timing in combustion cycle.
 - C. Air Inlet System: Temperature control system calibration.
 - 1. Temperature control system calibration.
 - 2. Maximum allowable air inlet restriction.
 - D. Fuel System.
 - 1. Fuel injection.
 - a. Control parameters and calibrations.
 - b. Transient enrichment system calibration.
 - c. Air–fuel flow calibration.
 - d. Altitude compensation system calibration.
 - e. Operating pressure(s).
 - f. Injector timing calibration.
 - E. Exhaust Emission Control System: Maximum allowable backpressure.
 - F. Crankcase Emission Control System.
 - 1. Control parameters and calibrations.
 - 2. Valve calibration(s).
 - G. Auxiliary Emission Control Device (AECD).
 - 1. Control parameters and calibrations.
 - 2. Component calibration(s).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43105 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204–43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. Amendment of text previously incorporated by reference filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of subsection (k)(9) filed 5–22–90; operative 6–21–90 (Register 90, No. 28).
3. Change without regulatory effect amending subsection (c) and adding Appendix A to the Table of Contents below article 2.1, filed 10–16–90 pursuant to section 100, title 1, California Code of Regulations (Register 90, No. 46).
4. Amendment of subsections (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and (n) filed 8–2–91; operative 9–2–91 (Register 91, No. 49).
5. Amendment of subsection (l) filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
6. Amendment of subsection (l)(7) and new subsection (l)(11) filed 5–12–94; operative 6–13–94 (Register 94, No. 19).
7. New subsection (l)(12) and amendment of Appendix filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
8. Amendment of subsections (l)(6)–(7) and new subsections (l)(13)–(16) filed 12–14–95; operative 1–13–96 (Register 95, No. 50).
9. Amendment of subsections (l)(6)–(7), (l)(11) and (l)(13)–(16) and new subsections (l)(17)–(l)(20) filed 4–15–99; operative 5–15–99 (Register 99, No. 16).
10. Amendment of subsections (b) and (l)(9), new subsection (l)(17) and subsection relettering filed 10–28–99; operative 11–27–99 (Register 99, No. 44).
11. New subsections (l)(22)–(l)(22)(C), amendment of first paragraph and section III. of Appendix A, and amendment of NOTE filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
12. New subsection (l)(23) and amendment of first paragraph and heading I. of Appendix filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).
13. Amendment of section and NOTE filed 10–16–2003; operative 11–15–2003 (Register 2003, No. 42).
14. Amendment of subsection (l)(23) and first paragraph of Appendix A to article 2.1 and amendment of NOTE filed 11–13–2006; operative 12–13–2006 (Register 2006, No. 46).
15. Amendment of subsection (l)(12) filed 7–16–2007; operative 8–15–2007 (Register 2007, No. 29).

§ 2113. Initiation and Approval of Voluntary and Influenced Emission-Related Recalls.

(a) When any manufacturer initiates a voluntary emission recall campaign, the manufacturer shall notify the Executive Officer of the recall at least 30 days before owner notification is to begin. The manufacturer shall also submit a voluntary recall plan for approval, as prescribed under Section 2114 of these procedures. A voluntary recall plan shall be deemed approved unless disapproved by the Executive Officer within 20 days after receipt of the recall plan.

(b) When any manufacturer, based on enforcement test results or any other information provided or required by the ARB, proposes to initiate an influenced emission recall campaign, the manufacturer shall submit for approval by the Executive Officer an influenced emission recall plan as prescribed by Section 2114 of these procedures. The plan shall be submitted within 45 days following the receipt of a notification from the ARB that enforcement test results or other information demonstrate a vehicle or an engine noncompliance.

(c) The Executive Officer shall approve the recall plan if the plan contains the information specified in Section 2114 and is designed to notify the vehicle owner and correct the nonconformity in an expeditious manner. Notification of vehicle or engine owners and the implementation of recall repairs shall commence no later than the schedule specified under Section 2114(a)(3) and (4), unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Repealer of former Section 2113, and renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2113 filed

- 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2114. Voluntary and Influenced Recall Plans.

(a) The recall plan for both voluntary and influenced recalls shall contain the following information unless otherwise specified:

(1) A description of each class or category of vehicle or engine subject to recall including the number of vehicles or engines to be recalled, the engine family, test group or a subgroup thereof, the model year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the nonconformity and the specific modifications, alterations, repairs, adjustments, or other changes to be made to correct the vehicles or engines.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the manufacturer's method and schedule for notifying the service facilities and vehicle or engine owners of the recall.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity. This shall include the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the nonconformity, and the designation of facilities at which the nonconformity can be remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons.

(6) A copy of the letter of notification to be sent to vehicle or engine owners.

(7) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the recall plan, including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(8) A copy of all necessary instructions to be sent to those persons who are to perform the repair.

(9) A description of the impact of the proposed repairs or adjustments on fuel economy, driveability, performance and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these descriptions.

(10) Under an influenced recall, an estimate of the capture rate from the proposed recall derived from actual data and/or manufacturer experience. A 60 percent capture rate shall be assigned for recalls based exclusively on noncompliance as defined in Section 2112(h)(1), above.

(11) Under an influenced recall based on noncompliance as defined in Section 2112(h)(2), above, a description of the impact of the proposed changes on the average emissions from the vehicles or engines to be recalled. The description shall contain the following:

(A) Average noncompliance emission levels.

(B) Average emission reduction per pollutant resulting from the recall repair. These averages shall be verified by the manufacturer by applying the proposed recall repairs to two or more in-use vehicles or engines representing the average noncompliance emission levels. Only those vehicles or engines with baseline-emission levels within 25 percent of the average emission levels of noncomplying pollutant(s) established under the in-use enforcement test program may be used by manufacturers to verify proposed recall repairs. The Executive Officer may allow the use of vehicles or engines exceeding these limits if none which meet the limits can be reasonably procured. In the case of heavy-duty engines, the av-

erage emission levels may be verified using laboratory engines, subject to approval by the Executive Officer.

(C) An estimate of the average emission level per pollutant for the class or category of vehicles or engines after repair as corrected by the estimated capture rate. The estimated average emission level shall comply with the applicable emission standard. The Executive Officer may waive the requirement for average emission compliance with the standards provided the emission level per vehicle repaired is reduced to its new-vehicle certification emission level at a minimum capture rate of 60 percent.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2114 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment of subsections (a)(1), (a)(10) and (a)(11) filed 10–28–99; operative 11–27–99 (Register 99, No. 44).
4. Editorial correction restoring inadvertently omitted subsection (a)(10) (Register 99, No. 45).

§ 2115. Eligibility for Repair.

The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong and compelling reasons and with the approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the remedial action cannot be performed without additional cost.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2115 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2116. Repair Label.

(a) The manufacturer shall require those who perform the repair to affix a label to each vehicle or engine repaired, or, when required, inspected, under the voluntary or influenced recall plan.

(b) The label shall be placed in a location approved by the Executive Officer and shall be fabricated of a material suitable for such location in which it is installed and which is not readily removable.

(c) The label shall contain the recall campaign number and a code designating the campaign facility at which the repair, or inspection for repair, was performed.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2116 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regard-

ing new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2117. Proof of Correction Certificate.

The manufacturer shall require those who perform the repair to provide the owner for each vehicle or engine repaired with a certificate, in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of a recall enforcement program adopted by the Department of Motor Vehicles or another state agency which requires presentation of proof of correction of a recalled vehicle prior to issuance of a smog certificate, registration renewal, or other entitlement to use.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of section and NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2118. Notification.

The notification of vehicle or engine owners shall contain the following:

(a) The statement: "Your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and federal) standards," if applicable as determined by the Executive Officer.

(b) A statement that the nonconformity of any such vehicles or engines will be remedied at the expense of the manufacturer.

(c) A statement that such nonconformity if not repaired may cause the vehicle or engine to fail a vehicle inspection or Smog Check test when such tests are required under state law.

(d) A statement describing the adverse effect, if any, of the uncorrected nonconformity on the performance, fuel economy, or durability of the vehicle or engine.

(e) After the effective date of the recall enforcement program referred to in Section 2117, a statement that a certificate showing that the vehicle has been repaired under the recall program shall be issued by the service facilities, and that such a certificate will be required as a condition of vehicle registration or operation, as appropriate.

(f) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold or transferred.

(g) The statement: "In order to ensure your full protection under the emission warranty provisions, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined as lack of proper maintenance of your (vehicle or engine)." This statement is not required for off-road motorcycles or all-terrain vehicles.

(h) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

His

1. Renumbering and amendment of text of Section 2112 to Section 2118 filed 1-26-95; operative 2-23-90 (Register 90, No. 8). For prior history, see Register 83, No. 17).
2. Amendment of subsection (g) and NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S.

Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2119. Recordkeeping and Reporting Requirements.

(a) Unless otherwise specified by the Executive Officer, the manufacturer shall report on the progress of the recall campaign by submitting subsequent reports for six consecutive quarters commencing with the quarter after the recall campaign begins. Such reports shall be submitted no later than 25 days after the close of each calendar quarter to: Chief, Mobile Source Operations Division, 9528 Telestar, El Monte, CA 91731. For each class or category of vehicle or engine subject to the emission recall campaign, the quarterly report shall contain the following:

(1) Engine family or test group and emission recall campaign number designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the voluntary or influenced emission recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity and an explanation of the means by which this number was determined.

(5) Number of vehicles or engines inspected pursuant to the voluntary or influenced emission recall plan.

(6) Number of inspected vehicles or engines found to be affected by the nonconformity.

(7) Number of vehicles or engines receiving repair under the recall plan.

(8) Number of vehicles or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.

(10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this submittal may be changed by the Executive Officer depending on the needs of recall enforcement.

(11) A copy of any service bulletins transmitted to dealers or other authorized repair facilities which relate to the nonconformity to be corrected and which have not previously been reported.

(12) A copy of all communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that any of the information submitted to the Executive Officer pursuant to (a) above has changed or was incorrect, revised information and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) above shall be cumulative totals.

(c) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, the names and addresses of vehicle or engine owners:

(1) To whom notification was given;

(2) Whose vehicles were repaired or inspected under the recall plan; and

(3) Who were determined not to qualify for such recall action due to removed or altered components.

(d) The information gathered by the manufacturer to compile the reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines and shall be made available to authorized personnel of the Air Resources Board upon request.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2119 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment of subsections (a) and (a)(1) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2120. Other Requirements Not Waived.

The filing of any report under the provisions of these procedures shall not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any other provisions of law.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2120 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2121. Penalties.

Under the influenced recall, failure by a manufacturer to notify the vehicle or engine owners and repair the vehicles or engines in the manner specified in the plan shall constitute a violation of the Executive Officer's order approving the plan and a violation of Health and Safety Code Section 43105. Notwithstanding the above, no penalty shall be imposed for a manufacturer's failure to meet the estimated capture rate except for an influenced recall when the 60-percent capture rate is required pursuant to Section 2114(a)(10) above, in which case a recall pursuant to Section 2123 below may be ordered if the Executive Officer determines that the manufacturer did not show a good faith effort to achieve the capture rate set forth in the recall plan.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

Article 2.2. Procedures for In-Use Vehicle Ordered Recalls

§ 2122. General Provisions.

The provisions regarding applicability of the ordered recall procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112. The provisions of this Article shall apply to the vehicles and engines specified in section 2111 manufactured up to and including the 2009 model year, plus their useful lives. This Article shall not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment of section and NOTE filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2123. Initiation and Notification of Ordered Emission-Related Recalls.

(a) A manufacturer shall be notified whenever the Executive Officer has determined, based on warranty information reports, field information reports, enforcement testing results, or any other information, that a substantial number of a class or category of vehicles or engines produced by that manufacturer, although properly maintained and used, contain a failure in an emission-related component which, if uncorrected, may result in the vehicles' or engines' failure to meet applicable standards over their useful lives; or whenever a class or category of vehicles or engines within their useful lives, on average, do not conform to the standards prescribed pursuant to Section 43101 of the Health and Safety Code as applicable to the model year of such vehicles.

(b) It shall be presumed for purposes of this section that an emission-related failure will result in the exceedance of emission standards unless the manufacturer presents evidence in accordance with the procedures set forth in Title 13, California Code of Regulations, Section 2147 which demonstrates to the satisfaction of the Executive Officer that the failure will not result in exceedance of emission standards over the useful life of the vehicle or engine.

(c) The notification shall include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date at least 45 days from the date of receipt of such notification by which the manufacturer shall submit a plan to remedy the nonconformity.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2123 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2124. Availability of Public Hearing.

(a) The manufacturer may request a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations to contest the finding of nonconformity and the necessity for or the scope of any ordered corrective action.

(b) If a manufacturer requests a public hearing pursuant to subsection (a) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit the recall plan required by Section 2125 within 30 days after receipt of the Board's decision.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2124 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2125. Ordered Recall Plan.

(a) Unless a public hearing is requested by the manufacturer, a recall plan shall be submitted to the Chief, Mobile Source Division, 9528 Telstar Avenue, El Monte, CA 91731, within the time limit specified in the notification. The Executive Officer may grant the manufacturer an extension upon good cause shown.

(b) The recall plan shall contain the following:

(1) A description of each class or category of vehicle or engine to be recalled, including the engine family or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled.

(2) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the method by which they will be notified.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the vehicle or engine for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(6) The capture rate required for each class or category of vehicle or engine to be recalled. Under recalls based on exceedance of emission standards, the capture rate shall be calculated using the following formula:

$$R = \frac{(Ef - Es) \times 100\%}{\Delta}$$

where: R = capture rate (see section 2112(a), above, for definition).

Δ = average reduction per vehicle resulting from the recall repair (see subsection (b)(12)(B), below, for determination).

Ef = average noncompliance emission level determined from in-use enforcement testing and other sources.

Es = emission standard for a particular pollutant.

An 80 percent capture rate shall be required for recalls based exclusively on noncompliance as defined in section 2112(h)(1), above.

(7) The plan may specify the maximum incentives (such as a tune-up or specified quantity of gasoline), if any, the manufacturer will offer to induce vehicle or engine owners to present their vehicles for repair, as evidence that the manufacturer has made a good faith effort to repair the percentage of vehicles or engines specified in the plan. The plan shall include a schedule for implementing actions to be taken including identi-

fied increments of progress towards implementation and deadlines for completing each such increment.

(8) A copy of the letter of notification to be sent to vehicle or engine owners.

(9) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the recall plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(10) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan.

(11) A description of the impact of the proposed changes on fuel economy, driveability, performance and safety of each class or category of vehicles or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these descriptions.

(12) A description of the impact of the proposed changes on the average emissions of the vehicles or engines to be recalled based on noncompliance as defined in section 2112(h)(2), above. The description shall contain the following:

(A) Average noncompliance emission levels.

(B) Average emission reduction or increase per pollutant resulting from the recall repair. These averages shall be verified by the manufacturer by applying the proposed recall repairs to two or more in-use vehicles or engines representing the average noncompliance emission levels. Only those vehicles or engines with baseline emission levels within 25 percent of the average emission levels of noncomplying pollutant(s) established under the in-use enforcement test program may be used by manufacturers to verify proposed recall repairs. The Executive Officer may allow the use of vehicles or engines exceeding these limits if none which meet the limits can be reasonably procured. In the case of heavy-duty engines, the average emission levels may be verified by using laboratory engines, subject to approval by the Executive Officer.

(C) An estimate of the average emission level per pollutant for a class or category of vehicles or engines after repair as corrected by the required capture rate. The estimated average emission level shall comply with the applicable emission standards. If the average emissions levels achieved by applying the average emission reduction per vehicle or engine after repair and the estimated capture rate, do not achieve compliance with the emissions standards, a manufacturer shall propose other measures to achieve average emissions compliance.

(13) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in section 2113 to section 2125 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of subsections (b)(6) and (b)(12) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
3. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2126. Approval and Implementation of Recall Plan.

(a) If the Executive Officer finds that the recall plan is designed effectively to correct the nonconformity and complies with the provisions of Section 2125, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners and the implementation of recall repairs shall

commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

(b) If the Executive Officer does not approve the recall plan or the mitigation measures provided in Section 2130 as submitted, the Executive Officer shall order modification of the plan or mitigation measures with such changes and additions as he or she determines to be necessary. The Executive Officer shall notify the manufacturer in writing of the disapproval and the reasons for the disapproval.

(c) The manufacturer may contest the Executive Officer's disapproval by requesting a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations. As a result of the hearing, the Board may affirm, overturn or modify the Executive Officer's action. In its decision, affirming or modifying, the Board shall specify the date by which the manufacturer shall commence notifying vehicle or engine owners and implementing the required recall repairs.

(d) If no public hearing is requested in accordance with (c) above, the manufacturer shall incorporate the changes and additions required by the Executive Officer and shall commence notifying vehicle or engine owners and implementing the required recall repairs within 60 days of the manufacturer's receipt of the Executive Officer's disapproval.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2126 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2127. Notification of Owners.

(a) Notification to vehicle or engine owners shall be made by first class mail or by such other means as approved by the Executive Officer provided, that for good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(b) The manufacturer shall use all reasonable means necessary to locate vehicle or engine owners provided, that for good cause, the Executive Officer may require the manufacturer to use motor vehicle registration lists available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure effective notification.

(c) The Executive Officer may require subsequent notification by the manufacturer to vehicle or engine owners by first class mail or other reasonable means provided, that for good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(d) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "the California Air Resources Board has determined that your (vehicle or engine) (is or may be) releasing air pollutants which exceed (California or California and Federal) standards. These standards were established to protect your health and welfare from the dangers of air pollution."

(2) A statement that the nonconformity of any such vehicles or engines will be remedied at the expense of the manufacturer.

(3) A statement that eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle or engine manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the recall action and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity, if not repaired, may cause the vehicle or engine to fail an emission inspection or Smog Check test when such tests are required under State law.

(6) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or driveability of the vehicle or engine or to the function of other engine components.

(7) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities at which the nonconformity can be remedied.

(8) After the effective date of the recall enforcement program referred to in Section 2117, above, a statement that a certificate showing that the vehicle has been repaired under the recall program shall be issued by the service facilities and that such a certificate may be required as a condition of vehicle registration or operation, as applicable.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (vehicle or engine)." This statement is not required for off-road motorcycles or all-terrain vehicles.

(11) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(e) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the recall action cannot be performed without additional cost.

(f) No notice sent pursuant to Section 2125(b)(8), above, nor any other communication sent to vehicle or engine owners or dealers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.

(g) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2127 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of subsection (d)(10) and NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2128. Repair Label.

(a) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each vehicle or engine repaired or, when required, inspected under the recall plan.

(b) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.

(c) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2128 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2129. Proof of Correction Certificate.

The manufacturer shall require those who perform the recall repair to provide the owner of each vehicle or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of the recall enforcement program referred to in Section 2117, above.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. New section filed 1–24–90; operative 2–23–90 (Register 90, No. 8).
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2130. Capture Rates and Alternative Measures.

The manufacturer shall comply with the capture rate specified in the recall plan as determined pursuant to Section 2125(b)(6), above, within six consecutive quarters beginning with the quarter in which the notification of vehicle or engine owners was initiated. If, after good faith efforts, the manufacturer cannot correct the percentage of vehicles specified in the plan by the applicable deadlines and cannot take other measures to bring the engine family or test group into compliance with the standards, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired vehicles within 45 days from the last report filed pursuant to Section 2133(c), below. The Executive Officer shall approve such measures provided that:

(a) the emission reductions from the recalled and repaired vehicles or engines and the mitigation measures are equivalent to achieving the capture rate; and

(b) the emission reductions from the mitigation measures are real and verifiable; and

(c) the mitigation measures are implemented in a timely manner.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. New section filed 1–24–90; operative 2–23–90 (Register 90, No. 8).
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

3. Amendment of first paragraph filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 2131. Preliminary Tests.

The Executive Officer may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2131 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2132. Communication with Repair Personnel.

The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2132 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2133. Recordkeeping and Reporting Requirements.

(a) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

(1) Engine family involved and recall campaign number as designated by the manufacturer.

(2) Date owner notification was begun, and date completed.

(3) Number of vehicles or engines involved in the recall campaign.

(4) Number of vehicles or engines known or estimated to be affected by the nonconformity.

(5) Number of vehicles or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.

(6) Number of inspected vehicles or engines.

(7) Number of vehicles or engines receiving repair under the recall plan.

(8) Number of vehicles or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).

(9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.

(10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this sub-

mittal, as specified in subsection (c) below, may be changed by the Executive Officer depending on the needs of recall enforcement.

(11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(12) All communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that the original responses to subsections (a)(3) and (4) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) shall be cumulative totals.

(c) Unless otherwise directed by the Executive Officer, the information specified in subsection (a) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.

(d) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of vehicle or engine owners:

- (1) To whom notification was given;
- (2) Who received remedial repair or inspection under the recall plan; and
- (3) Who were denied eligibility for repair due to removed or altered components.

(e) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines involved, or one year beyond the reporting time frame specified in subsection (c) above, whichever is later.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2133 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2134. Penalties.

Failure by a manufacturer to carry out all recall actions ordered by the Executive Officer pursuant to Sections 2123 through 2133 of these procedures shall constitute a violation of Health and Safety Code Section 43105.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2134 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

§ 2135. Extension of Time.

The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2113 to Section 2135 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

Article 2.3. In-Use Vehicle Enforcement Test Procedures

§ 2136. General Provisions.

The provisions regarding applicability of the enforcement test procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112 and beginning with the 2010 model year, Sections 2166 and 2166.1. If the Executive Officer determines that an emissions or test procedure violation exists under Health and Safety Code 43105, he/she may order a recall or corrective action to correct the affected vehicles or engines.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43106, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2136 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment of section and NOTE filed 12–5–2007; operative 1–4–2008 (Register 2007, No. 49).

§ 2137. Vehicle and Engine Selection.

(a) Any vehicle of an engine family, test group, any vehicle of a subgroup of an engine family or test group, or any engine used in a piece of equipment, manufactured for sale in California, shall be subject to these test procedures during its useful life. A minimum of ten (10) in-use vehicles or engines determined by the ARB to be properly maintained and used will be procured and tested by the ARB or its designated laboratory to represent the emission characteristics of the engine family, test group or subgroup. The ARB may test less than ten (10) in-use vehicles or engines if the manufacturer notifies the ARB in writing that the manufacturer will accept the results from less than ten (10) vehicles or engines as being representative of the engine family, test group or subgroup.

(b) No vehicle or engine shall be accepted by the ARB as a representative vehicle or engine for enforcement testing unless the following criteria are met:

- (1) California certified and registered.
- (2) Odometer indication of less than certified useful-life mileage and vehicle age within useful-life time period.
- (3) No indication of abuse (e.g., racing, overloading, misfueling, or other misuse), neglect, improper maintenance or other factors that would have a permanent effect on emission performance.

(4) No major repair to engine or major repair of vehicle resulting from collision.

(5) No indication of any problem that might jeopardize the safety of laboratory personnel.

(6) For off-road compression-ignition engines subject to recall testing, engines shall have an hour meter indication and engine age not exceeding the following periods:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, four years or 2,250 hours of operation, whichever first occurs.

(B) For all other engines rated above 19 kilowatts and under 37 kilowatts, five years or 3,750 hours of operation, whichever first occurs.

(C) For all engines rated at or above 37 kilowatts, seven years or 6,000 hours of operation, whichever first occurs.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2137 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment of subsection (a), repealer of subsection (b)(5) and subsection renumbering filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
4. Amendment of section heading and subsections (a) and (b) and new subsections (b)(6)-(b)(6)(C) filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).

§ 2138. Restorative Maintenance.

(a) Upon accepting a vehicle for testing, the ARB or its designated laboratory will replace the fuel with Indolene Clear or appropriate certification test fuel.

(b) The ARB or its designated laboratory shall perform the following diagnosis or restorative maintenance prior to enforcement testing:

(1) Identify part numbers of all essential emission control system components.

(2) Check air filter, all drive belts, all fluid levels, radiator cap, all vacuum hoses and electrical wiring related to emission control for integrity; check fuel metering and emission control system components for maladjustments and/or tampering. Record all discrepancies.

(3) Check ignition system with oscilloscope and replace any defective components; i.e., spark plugs, wires, etc.

(4) Check compression.

(5) Check and adjust engine parameters to manufacturer's specifications.

(6) Check the OBD system for proper operation.

(7) If the vehicle is within 500 miles of a scheduled maintenance service, that maintenance shall be performed except in the case of off-road motorcycles and all-terrain vehicles. For off-road motorcycles and all-terrain vehicles, all required maintenance shall be performed.

(c) For any enforcement testing conducted by the manufacturer pursuant to title 13, section 2139 (c)(1), California Code of Regulations, the "ARB or its designated laboratory", as stated in subsections (a) and (b), shall refer to the manufacturer or its designated laboratory.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Health and Safety Code Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in section 2112 to section 2138 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. New subsection (c) filed 8-2-91; operative 9-2-91 (Register 91, No. 49).

3. Amendment of subsection (b)(6) and NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

4. Amendment of section heading and subsection (a), new subsection (b)(6) and subsection renumbering filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2139. Testing.

After the vehicles have been accepted and restorative maintenance, if any, has been performed, the ARB or its designated laboratory shall perform the applicable emission tests pursuant to the following:

(a) For passenger cars and light-duty trucks, in-use compliance emission tests shall be performed pursuant to section 1960.1 or 1961, Title 13, California Code of Regulations, as applicable.

(b) For medium-duty vehicles certified according to the chassis standards and test procedures specified in section 1960.1 or 1961, Title 13, California Code of Regulations and the documents incorporated by reference therein, in-use compliance emission tests shall be performed pursuant to section 1960.1 or 1961, Title 13, California Code of Regulations, as applicable.

(c) For medium-duty engines and vehicles certified according to the optional engine test procedures specified in section 1956.8, Title 13, California Code of Regulations and the documents incorporated by reference therein, in-use compliance emission tests shall be performed pursuant to one of the following procedures:

(1) The engines of medium-duty vehicles may be tested pursuant to the engine test procedures specified in section 1956.8, provided that the manufacturer or its designated laboratory conduct procurement and enforcement testing pursuant to Sections 2136 through 2140, Title 13, California Code of Regulation, at the manufacturer's expense.

For manufacturers that have only one engine family or test group, the manufacturer or its designated laboratory that have more than one engine family or test group, the manufacturer or its designated laboratory shall procure no more than fifteen vehicles per engine family or test group. For manufacturers that have more than one engine family or test group, the manufacturer or its designated laboratory shall procure and test at the manufacturer's expense no more than one-third of its engine families or test groups and no more than fifteen vehicles from each engine family or test group. For the purposes of this section, "one-third" of a manufacturer's engine families or test groups shall be determined by dividing the number of distinct engine families or test groups by three, adding 0.5, and truncating the result to the nearest whole number.

The specific engine families or test groups subject to enforcement testing shall be selected by the ARB. The manufacturer or its designated laboratory shall begin the engine procurement process within 10 working days of notification by the ARB and shall complete testing within 100 working days of notification by the ARB. The Executive Officer shall approve the manufacturer's procurement procedures in advance of their use by the manufacturer. The Executive Officer shall approve a manufacturer's procurement procedures if engines are screened according to the criteria specified in section 2137, Title 13, California Code of Regulations and selected randomly from registration records compiled and prepared by R. L. Polk and Company or a comparable source. In addition, no vehicle shall be selected for enforcement testing with mileage less than 60 percent of the useful-life mileage without prior approval from the Executive Officer. The manufacturer shall permit an ARB representative to witness procurement, restorative maintenance, and enforcement testing. The Executive Officer shall have the authority to accept or reject a test engine based upon criteria specified in section 2137. Once an engine has been tested and determined to be in compliance with the current in-use emission standards, no further testing will be performed on subsequent engine families or test groups that carry-over the durability data of the tested engine family or test group.

Notwithstanding the above, if a manufacturer fails to demonstrate compliance with the emission standards after one-third of its engine families or test groups have been tested, additional engine families or test groups shall be tested, by the manufacturer or its designated laboratory, at the manufacturer's expense, until compliance is demonstrated on one-third of the engine families or test groups or all of a manufacturer's engine families or test groups have been tested. In addition, any engine family or test group which has been tested and determined to be in noncompliance shall be retested by the manufacturer each subsequent year until compliance with the applicable emission standards has been demonstrated. Notwithstanding the above, the ARB may conduct engine enforcement testing pursuant to the engine test procedures specified in section 1956.8, at their own expense.

(2) Medium-duty vehicles may be tested according to the chassis test procedures specified in section 1960.1(k) or 1961, as applicable, if a manufacturer develops correlation factors which establish the relationship between engine and chassis testing for each engine family or test group and submits these correlation factors within one year after the beginning of production. The correlation factors shall be applied to the measured in-use engine exhaust emission data to determine the in-use engine exhaust emission levels. All correlation factors and supporting data included in a manufacturer's application must be submitted to and approved by the Executive Officer in advance of their use by a manufacturer. Correlation factors intended to apply to a specific engine family or test group shall be applicable for each vehicle model incorporating that specific engine. Manufacturers shall submit test data demonstrating the applicability of the correlation factors for vehicle models comprising a minimum of 80 percent of their engine sales for that specific engine family or test group. The correlation factors for the remaining fleet may be determined through an engineering evaluation based upon a comparison with similar vehicle models. The Executive Officer shall approve a submitted correlation factor if it accurately corresponds to other established empirical and theoretical correlation factors and to emission test data available to the Executive Officer.

A manufacturer may choose to use the results from the chassis in-use testing as a screening test. If an engine family or test group does not demonstrate compliance with any of the applicable in-use engine standards, as determined from the chassis test data and the applied correlation factors, the manufacturer shall be subject to the requirements and cost of in-use compliance engine testing, as specified in section 2139(c)(1). The manufacturer shall be subject to engine testing for any non-complying engine family or test group for each subsequent year until compliance with the engine emission standards is demonstrated.

Subsequent to approval of the correlation factors, the Executive Officer may make a determination that the original correlation factors are not valid. Such a determination may be based upon in-use emission data, including chassis and engine testing. Upon determination that the correlation factors for a specific engine family or test group are not valid, the manufacturer of the engine family or test group shall be subject to the enforcement testing requirements and costs of in-use compliance engine testing, as specified in section 2139(c)(1).

(3) The manufacturer shall choose one of the procedures specified in subsections (c)(1) through (c)(2). The Executive Officer shall permit the use of alternative test procedures if the Executive Officer determines the alternative test procedure adequately predicts the exhaust emissions from the engine test procedure specified in section 1956.8, Title 13, California Code of Regulations. Such a determination may be based upon correlation with test data from the engine test procedures.

(4) The time limits specified in subsections (c)(1) and (c)(2) may be extended by the Executive Officer if the manufacturer demonstrates that the time limits specified could not be achieved due to reasons beyond the reasonable control of the manufacturer.

(d) For heavy-duty engines and vehicles, in-use compliance emission tests shall be performed pursuant to section 1956.8, Title 13, California Code of Regulations.

(e) For motorcycles, in-use compliance emission tests shall be performed pursuant to section 1958, Title 13, California Code of Regulations.

(f) For off-road motorcycles and all-terrain vehicles, in-use compliance tests shall be performed pursuant to section 2412, Title 13, California Code of Regulations. The in-use compliance testing shall use the same test procedure utilized for the specific vehicle's original certification testing.

(g) For off-road compression-ignition engines, in-use compliance tests shall be performed pursuant to Section 2423, Title 13, California Code of Regulations. The in-use compliance testing shall use the same test procedure utilized for the specific engine's original certification testing.

(h) For spark-ignition inboard and sterndrive marine engines, in-use compliance tests shall be performed pursuant to section 2442, Title 13, California Code of Regulations. The in-use compliance testing shall use the same test procedure utilized for the specific engine's original certification testing.

(i) For any emission in-use compliance test performed pursuant to subsections (a) through (h), the ARB may waive a specific test for subsequent vehicle samples if results from vehicle samples already tested are deemed sufficient to establish complying emission levels. The ARB shall inform the manufacturer at least 30 days prior to enforcement testing of its vehicles or engines and shall permit a manufacturer representative to observe the enforcement testing.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104 and 43105, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43103, 43104, 43105, 43106, 43107, 43204-43205.5 and 43211-43213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in section 2112 to section 2139 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. New subsections (a), (b), (c), (d), (e) and (f) filed 8-2-91; operative 9-2-91 (Register 91, No. 49).
3. Amendment of subsection (c)(2) filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
4. New subsection (f), subsection relettering, and amendment of newly designated subsection (g) and NOTE filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
5. Amendment of subsections (a), (b), (c)(1) and (c)(2) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
6. New subsection (g), subsection relettering and amendment of newly designated subsection (h) filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
7. New subsection (h), subsection relettering and amendment of newly designated subsection (i) filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

§ 2140. Notification and Use of Test Results.

(a) The Executive Officer shall notify the manufacturer in writing if the in-use vehicle enforcement test results indicate that the test fleet contains three or more failures of the same emission-related component. Upon receipt of the notification, the manufacturer shall submit an emissions information report in accordance with Title 13, California Code of Regulations, Sections 2146 and 2147. The engine family, test group or sub-group manufacturer shall be subject to recall when a specific emission-related failure occurred in three or more test vehicles, unless the Executive Officer determines from the emissions information report that a recall is unnecessary.

(b) If the results of the in-use vehicle emission tests conducted pursuant to Section 2139 indicate that the average emissions of the test vehicles for any pollutant exceed the applicable emission standards specified in Title 13, California Code of Regulations, Sections 1960.1, 1961, 1956.8, 1958, 2412, 2423 or 2442, the entire vehicle population so represented shall be deemed to exceed such standards. The Executive Officer

shall notify the manufacturer of the test results and upon receipt of the notification, the manufacturer shall have 45 days to submit an influenced recall plan in accordance with Sections 2113 through 2121, Title 13, California Code of Regulations. If no such recall plan is submitted, the Executive Officer may order corrective action including recall of the affected vehicles in accordance with Sections 2122 through 2135, Title 13, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204–43205.5 and 43211–43213, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2112 to Section 2140 filed 1–24–90; operative 2–23–90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of subsection (b) and NOTE filed 1–26–95; operative 1–26–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
3. Amendment filed 10–28–99; operative 11–27–99 (Register 99, No. 44).
4. Amendment of subsection (b) filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
5. Amendment of subsection (b) filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).

Article 2.4. Procedures for Reporting Failures of Emission-Related Components

§ 2141. General Provisions.

(a) The provisions regarding applicability of the failure reporting procedures and the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Sections 2111 and 2112, except that this Section 2141 does not apply to off-road compression-ignition engines, as defined in Section 2421. The provisions of this Article shall apply to the vehicles and engines specified in section 2111 manufactured up to and including the 2009 model year, plus their useful lives. This Article shall not apply to vehicles and engines manufactured for the 2010 model year and thereafter.

(b) The requirement to file emission warranty information reports and field information reports for a given class or category of vehicles or engines shall be applicable for the warranty period but not to exceed the useful-life period of the vehicles or engines beginning with the 1990 model-year vehicles or engines.

(c) The requirement to file an emissions information report for a given class or category of vehicles or engines shall be applicable for the useful-life period of the vehicles or engines.

(d) In the case of motor vehicles or engines for which certification of the exhaust and evaporative emission control systems is granted to different manufacturers, the information reporting responsibility in subsections (b) and (c) above shall be assigned to the certifying manufacturer.

NOTE: Authority cited: Sections 39600, 39601, 43105 and 43106, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. New section filed 1–24–90; operative 2–23–90 (Register 90, No. 8).
2. Amendment of subsection (a) filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
3. Amendment of section and NOTE filed 12–5–2007; operative 1–4–2008 (Register 2007, No. 49).

§ 2142. Alternative Procedures.

(a) A vehicle manufacturer may use an alternative procedure to those specified in Sections 2144(a) and 2145(a), provided the Executive Officer has determined that the alternative procedure will produce substantially equivalent results. In making such a determination, the Executive Officer shall consider the capacity of the alternative procedure to:

- (1) ensure early detection of failing components within the useful life of the vehicles or engines;
- (2) track failing components by engine family;
- (3) assure prompt notification of the Executive Officer when a systemically failing component is indicated;
- (4) provide objective, complete and easily monitored data; and
- (5) be audited by the Executive Officer.

(b) If, in order to comply with the requirements of Section 2142(a), 2144(a) or 2145(a), a manufacturer elects to develop a system based upon a sampling of representative California dealerships, such plan must be reviewed and approved by the Executive Officer prior to its implementation.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. New section filed 1–24–90; operative 2–23–90 (Register 90, No. 8).

§ 2143. Failure Levels Triggering Recall.

An engine family, test group or a subgroup shall be subject to a recall when the number of failures of a specific emission-related component exceeds the failure level set forth below, unless the Executive Officer determines from the emission information report that a recall is unnecessary pursuant to the criteria set forth in Section 2148(a) and (b). Vehicles or engines in an engine family or test group are subject to recall at the following failure levels: 4 percent or 50 (whichever is greater) for 1990 through 1991 model year vehicles or engines; 3 percent or 50 (whichever is greater) for 1992 through 1993 model-year vehicles or engines; and 2 percent or 50 (whichever is greater) for 1994 and subsequent model-year vehicles or engines. The Executive Officer may extend the applicability of the 4 or 3 percent failure levels if he/she determines that proceeding to the next lower level will create an excessive administrative burden on the ARB or the vehicle manufacturers without a corresponding benefit in the reduction of emissions.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code.

HISTORY

1. New section filed 1–24–90; operative 2–23–90 (Register 90, No. 8).
2. Amendment filed 10–28–99; operative 11–27–99 (Register 99, No. 44).

§ 2144. Emission Warranty Information Report.

(a) A manufacturer shall:

(1) Review warranty claim records for each engine family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components. The data compiled shall be based on all warranty claims, without any prescreening of data as to the validity of the claims. In the case of heavy-duty vehicles or engines, a manufacturer may use nationwide data for monitoring warranty claims of a California-certified engine family or test group which is also certified by the United States Environmental Protection Agency.

(2) Categorize warranty claims for each engine family or test group by the specific emission control component replaced or repaired.

(3) On the basis of data obtained subsequent to the effective date of these regulations, file an emission warranty information report for each quarter when the cumulative number of unscreened warranty claims for a specific emission-related component or repair represent at least one percent or twenty five (whichever is greater) of the vehicles or engines of a California-certified engine family or test group.

(b) The emission warranty information report shall contain the following information in substantially the format outlined below:

(1) The manufacturer's corporate name.

(2) A description of each class or category of California-certified vehicles or engines affected by a warranty replacement or warranty repair of a specific emission-related component, including model year and engine family or test group.

(3) The number and percentage of vehicles or engines in each engine family or test group for which a warranty replacement or warranty repair of a specific emission-related component was identified.

(4) A short description of the specific emission-related component that was replaced or repaired under warranty.

(c) Emission warranty information reports shall be submitted not more than 25 days after the close of a calendar quarter. Subsequent to the filing of an emission warranty information report, a manufacturer shall submit quarterly reports updating the number and percentage of emission-related warranty claims with the most recent information, unless a recall has been implemented. Emission warranty information reports and updates shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731.

(d) The records described in Section 2144(a)(1) of these procedures and the records used under the alternative procedure described in Section 2142(a) of these procedures shall be made available to the Executive Officer upon request.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of subsections (a)(1)-(3), (b)(2), (b)(3) and (c) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2145. Field Information Report.

(a) On the basis of data obtained and reported pursuant to Section 2144 of these procedures, a manufacturer shall file a field information report not more than 45 days after an emission warranty information report indicates that a cumulative total of unscreened warranty claims for a specific emission-related component is found to exist in excess of the percentage of vehicles specified in Section 2143, unless the manufacturer has committed to perform a recall by notifying the ARB of its intent in writing within the 45-day period. A recall plan must be submitted within 45 days of that notice.

(b) All field information reports shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731, and shall contain the following information in substantially the format outlined below:

- (1) The manufacturer's corporate name.
- (2) A field information report number assigned by the manufacturer which shall be used in all related correspondence.
- (3) A description of each class or category of California-certified vehicles or engines affected including make, model, model-year, engine family or test group and such other information as may be required to identify the vehicles or engines affected. The description shall include those engine families or test groups related to the affected engine family or test group through common certification test data allowed under Title 40, Code of Federal Regulations, Section 86.085-24(f), as amended December 10, 1984 or Title 40 Code of Federal Regulations, Section 86.1839-01, as adopted May 4, 1999 ("carry-over" and "carry-across" engine families).
- (4) A description of the emission-related component that failed or was replaced or repaired under warranty, the failure and the probable cause of the failure.

(5) The number and percentage of vehicles or engines in each engine family or test group for which a failure of a specific emission-related component was identified.

(6) The total number and percentage of unscreened warranty claims and failures of a specific emission-related component projected to occur during the engine family's or test group's useful life and a description of the method used to project this number.

(7) An estimated date when the failure of a specific emission-related component will reach the levels specified in Section 2143 of these procedures.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. Renumbering and amendment of text previously incorporated by reference in Section 2111 to Section 2145 filed 1-24-90; operative 2-23-90 (Register 90, No. 8). For prior history, see Registers 86, No. 38 and 83, No. 17.
2. Amendment of subsections (b), (b)(3), (b)(5) and (b)(6) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2146. Emissions Information Report.

(a) A manufacturer shall file an emissions information report:

(1) For 1990 and subsequent model-year vehicles or engines, when the failure of a specific emission-related component exceeds the percentages specified in Section 2143 of these procedures. An emissions information report shall not be required sooner than 45 days after the field information report has been submitted to the Executive Officer.

(2) Not more than 45 days after the Executive Officer, with cause, requires such a report. For purposes of this section, "cause" shall be based upon any information in ARB possession which indicates that a failure of significant scope is occurring which might necessitate a recall, including but not limited to the in-use enforcement test results specified in Section 2140(a) above, and information gathered from ARB in-use surveillance activities, Smog Check inspections, and consumer complaints.

(3) For 1982 through 1989 model-year vehicles or engines, not more than 15 days after a specific emission-related defect is determined to exist in twenty-five or more vehicles or engines of the same model year. A defect shall be determined in accordance with procedures established by a manufacturer to identify safety-related defects.

(b) No emissions information report shall be required if a manufacturer has committed to perform a recall by notifying the ARB of its intent in writing after the failure of a specific emission-related component exceeds the percentages specified in Section 2143 of these procedures. A recall plan shall be submitted within 45 days of the manufacturer's notification of intent to perform a recall.

(c) All emissions information reports shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731, and shall contain the following information in substantially the format outlined below. For purposes of this section, the term "failure" shall be considered synonymous with the term "defect" for those emissions information reports filed pursuant to subsection (a)(3), above.

- (1) The manufacturer's corporate name.
- (2) The field information report number from which the failure was first reported, if applicable.
- (3) A description of each class or category of California-certified vehicles or engines affected by the failure including make, model, model-year, engine family or test group, and such other information as may be required to identify the vehicles or engines affected.
- (4) A description of the emission-related component that failed, the failure and the probable cause of failure.
- (5) A description of any driveability problems or impact on other vehicle or engine performance factors such as fuel economy and cold starting likely to result from the failure.
- (6) For emissions information reports filed pursuant to Section 2146(a)(1) and (2), a description of how emissions will be affected over the useful life of the vehicles or engines due to the failure.
- (7) For emissions information reports filed pursuant to Section 2146(a)(3), an evaluation of the emission impact of the failure and any available emission data which relate to the failure.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of subsections (c) and (c)(3) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2147. Demonstration of Compliance with Emission Standards.

(a) In order to overcome the presumption of noncompliance set forth in Title 13, California Code of Regulations, Section 2123(b), the average emissions of the vehicles and engines with the failed emission-related

component must comply with applicable emission standards. A manufacturer may demonstrate compliance with the emission standards by following the procedures set forth in either subsection (b) or subsection (c) of this section.

(b) A manufacturer may test properly maintained in-use vehicles with the failed emission-related component pursuant to the applicable certification emission tests specified in Title 13, California Code of Regulations, Section 1960.1 or 1961, as applicable, for passenger cars, light-duty trucks and medium-duty vehicles, Section 1956.8 for heavy-duty engines and vehicles, Section 1958 for motorcycles, and Section 2442 for inboard and sterndrive marine engines. The emissions shall be projected to the end of the vehicle's or engine's useful life using in-use deterioration factors. The in-use deterioration factors shall be chosen by the manufacturer from among the following:

(1) "Assigned" in-use deterioration factors provided by the ARB on a manufacturer's request and based on ARB in-use testing; or,

(2) deterioration factors generated during certification, provided adjustments are made to account for vehicle aging, customer mileage-accumulation practices, type of failed component, component failure mode, effect of the failure on other emission-control components, commercial fuel and lubricant quality, and any other factor which may affect the vehicle's or engine's operating conditions; or,

(3) subject to approval by the Executive Officer, a manufacturer-generated deterioration factor. The Executive Officer shall approve such deterioration factor if it is based on in-use data generated from certification emission tests performed on properly maintained and used vehicles in accordance with the procedures set forth in Section 1960.1 or 1961 of Title 13 of the California Code of Regulations as applicable for passenger cars, light-duty trucks, and medium-duty vehicles; Section 1956.8 of Title 13 of the California Code of Regulations for heavy duty vehicles and engines; and Section 1958 of Title 13 of the California Code of Regulations for motorcycles, and if the vehicles from which it was derived are representative of the in-use fleet with regard to emissions performance and are equipped with similar emission control technology as vehicles with the failed component.

(c) In lieu of the vehicle or engine emission testing described in subsection (b) above and subject to approval by the Executive Officer, a manufacturer may perform an engineering analysis, laboratory testing or bench testing, when appropriate, to demonstrate the effect of the failure.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of subsections (b) and (b)(3) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).
3. Amendment of subsection (b) filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

§ 2148. Evaluation of Need for Recall.

(a) Once the emission information report is filed, the Executive Officer shall evaluate the failure to determine whether a recall is necessary. Factors to be considered shall include but are not limited to the following:

- (1) the validity of the data;
- (2) the emission impact of the failure on individual vehicles or engines;
- (3) the possibility of induced tampering due to driveability problems resulting from the failure;
- (4) the effects of the failure on performance, fuel economy, and safety;
- (5) the failure rates and the timing and extent of a remedy if no recall is required; and
- (6) other factors specific to the failure.

(b) Notwithstanding subsection (a) above, a recall shall not be required if the manufacturer submits information with the emissions information report which demonstrates to the satisfaction of the Executive Officer that the failure:

- (1) is limited to an emission-related component on a less-than-substantial percentage of vehicles and does not represent a pervasive defect

in design, application, or execution which is likely to affect a substantial number of such emission-related components during the useful life of the vehicle or engines, and

(2) is likely to be corrected under the warranty program or other in-use maintenance procedure shortly after the inception of the problem.

(c) If a manufacturer can identify a subgroup of an engine family or test group which is subject to a failure, a recall may be limited to that subgroup with Executive Officer approval.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).
2. Amendment of subsection (c) filed 10-28-99; operative 11-27-99 (Register 99, No. 44).

§ 2149. Notification and Subsequent Action.

(a) The Executive Officer shall notify the manufacturer of the evaluation results. If the Executive Officer deems a noncompliance exists, a manufacturer shall have 15 days upon receipt of ARB notification to notify the ARB in writing of its intent to perform a recall. A manufacturer may initiate one of the following recalls:

(1) A voluntary recall if the emissions information report submitted was required pursuant to Section 2146(a)(1) or (a)(3) of these procedures;

(2) An influenced recall if the emissions information report submitted was required pursuant to Section 2146(a)(2) of these procedures.

(b) If no notification to perform a voluntary or influenced recall is submitted by the manufacturer within the 15-day period specified in subsection (a) above, the ARB may initiate further investigation which could lead, respectively, to an influenced or ordered recall of the subject vehicles or engines.

(c) Following notification of noncompliance by the ARB, a manufacturer shall submit within 45 days a recall plan in accordance with Section 2113(a) or (b), Title 13, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43018, 43101, 43104, 43105, 43106, 43107, 43204-43205.5, 43211-43213 and 43107, Health and Safety Code.

HISTORY

1. New section filed 1-24-90; operative 2-23-90 (Register 90, No. 8).

Article 3. Surveillance Testing

§ 2150. Assembly-Line Surveillance.

(a) Each manufacturer offering new vehicles for sale in California shall make available to the state board at reasonable times and upon reasonable written notice its facilities for the purpose of observing assembly-line testing conducted pursuant to Article 1.

(b) Upon request, facilities at the assembly-line shall be made available for the state board to conduct its own assembly-line tests with the manufacturer's or the state board's own equipment. In lieu of the state board's surveillance testing at assembly-lines, a manufacturer and the executive officer of the state board may agree

(1) to the state board's surveillance testing in California at a point or points mutually satisfactory to both, or

(2) to surveillance being conducted by an independent laboratory pursuant to instructions of the executive officer. The executive officer shall endeavor to conduct assembly-line surveillance testing under this subdivision with respect to manufacturers whose assembly-lines are outside the continental United States.

NOTE: Authority cited: Sections 39600, 39601 and 43202, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43100, 4302 and 43210, Health and Safety Code.

HISTORY

1. Amendment of subsection (a) filed 10-17-73 as procedural and organizational; effective upon filing (Register 73, No. 42).
2. Amendment filed 12-5-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 49).
3. New subsection (c) filed 3-6-74; effective thirtieth day thereafter (Register 74, No. 10).

4. Repealer of subsection (c) filed 5-23-75; effective thirtieth day thereafter (Register 75, No. 21).
5. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2151. New Motor Vehicle Dealer Surveillance.

(a) No dealer shall sell, or offer or deliver for sale a new passenger car, light-duty truck, or medium-duty vehicle which is required to meet emission standards adopted pursuant to Chapter 2 (commencing with Section 43100) of Part 5 of Division 26 of the Health and Safety Code, unless such vehicle conforms to the following requirements:

- (1) Ignition timing set to manufacturer's specification with an allowable tolerance of $\pm 3^\circ$
- (2) Idle speed is set to manufacturer's specification with an allowable tolerance of ± 100 rpm;
- (3) Required exhaust and evaporative emission controls, such as EGR valves, are operating properly;
- (4) Vacuum hoses and electrical wiring for emission controls are correctly routed; and
- (5) Idle mixture is set to manufacturer's specification or according to manufacturer's recommended service procedure.

(b) The executive officer or his/her authorized representative shall, pursuant to Health and Safety Code Section 43012, conduct inspection and surveillance of new motor vehicles at dealerships to verify conformity with the requirements set forth in paragraph (a). Functional tests, steady-state inspection tests, and other tests as reasonably necessary shall be performed. The California Motor Vehicle Inspection Program emission test standards in Section 2176 applicable to the appropriate model year may be used by the executive officer or his/her authorized representative to verify the compliance of new motor vehicles with the requirements of subparagraph (a). Exceeding the limits specified in Section 2176 shall be deemed a violation of the requirements of subparagraph (a). Costs such as those enumerated in Section 2153 shall be borne by the manufacturers.

(c) Violation of the requirements set forth in paragraph (a) may result in one or more of the following sanctions:

- (1) Dealer liability for a civil penalty pursuant to Health and Safety Code Section 43212; for the purpose of this section, the word "distributor" in Section 43212 includes dealers;
- (2) Dealer infraction liability for violation of Vehicle Code Section 24007(b) or 27156; or
- (3) Any other remedy against a manufacturer or dealer provided for by law.

NOTE: Authority cited: Sections 39600, 39601 and 43211, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43009, 43012, 43210, 43211, 43212 and 43600, Health and Safety Code; and Sections 24007(b), 27156 and 27157, Vehicle Code.

HISTORY

1. Amendment filed 12-12-78; effective thirtieth day thereafter (Register 78, No. 50). For prior history, see Register 77, No. 12.
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2152. Surveillance of Used Cars at Dealerships.

(a) No dealer shall sell, or offer or deliver for sale a used passenger car, light-duty truck, or medium-duty vehicle which is required to meet emission standards adopted pursuant to Chapter 1 (commencing with Section 43000) of Part 5 of Division 26 of the Health and Safety Code, unless such vehicle conforms to the following requirements:

- (1) Ignition timing set to retrofit device or vehicle manufacturer's specification with an allowable tolerance $\pm 3^\circ$;
- (2) Idle speed set to retrofit device or vehicle manufacturer's specification with an allowable tolerance of ± 100 rpm;
- (3) Required exhaust and evaporative emission controls, such as EGR valves, are operating properly;
- (4) Vacuum hoses and electrical wiring for emission controls are correctly routed and connected; and
- (5) Idle mixture set to retrofit device or vehicle manufacturer's specification or according to manufacturer's recommended service procedure.

(b) The requirements set forth in subparagraphs (a)(1) through (a)(5) shall also apply to a dealer when servicing emission related components. However, only that requirement(s) appropriate to the service performed shall apply.

(c) The executive officer or his/her authorized representative shall, pursuant to Health and Safety Code Section 43012, conduct inspection and surveillance of used motor vehicles at dealerships to verify conformity with the requirements set forth in paragraphs (a) and (b). Functional tests, steady-state inspection tests, and other tests as reasonably necessary, shall be performed. In addition, the California Motor Vehicle Inspection Program emission test standards in Section 2176 applicable to the appropriate model year may be used by the executive officer or his/her authorized representative to verify compliance with the requirements of subparagraph (a). Exceeding the limits specified in Section 2176 shall be deemed a violation of the requirements of subparagraph (a).

(d) Violation of the requirements set forth in paragraphs (a) and (b) may result in one or more of the following sanctions:

- (1) Dealer infraction liability for violation of Vehicle Code Section 24007(b) or 27156;
- (2) Action against the dealer's license pursuant to Vehicle Code Section 11713; or
- (3) Any other remedy against a manufacturer or dealer provided for by law.

NOTE: Authority cited: Sections 39600, 39601 and 43211, Health and Safety Code. Reference: Sections 39002, 39003, 43009, 43012, 43100 and 43600, Health and Safety Code; and Sections 11713, 24007(b), 27156, 27157 and 27157.5, Vehicle Code.

HISTORY

1. New section filed 5-23-75; effective thirtieth day thereafter (Register 75, No. 21).
2. Amendment of section and NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment filed 12-12-78; effective thirtieth day thereafter (Register 78, No. 50).
4. Editorial correction to subsection (a) (Register 79, No. 10).
5. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2153. Reimbursement of Costs.

In connection with surveillance of emissions from new vehicles prior to their retail sale, the manufacturers of such vehicles shall pay fees to permit the state board to recover the state board's direct and indirect costs in conducting such surveillance. These costs will be computed on a person-hour basis according to time spent on each manufacturer, and shall include personnel salaries, administrative overhead, travel time and expenses. With respect to surveillance conducted away from the state board's Vehicle Testing Laboratory, if more than one manufacturer is involved in a particular trip, travel time and expenses shall be apportioned among them according to time spent in surveillance of each manufacturer's vehicles. The computations used in establishing fees will periodically be revised and shall be available upon request.

NOTE: Authority cited: Sections 39600, 39601 and 43203, Health and Safety Code. Reference: Section 43210, Health and Safety Code.

HISTORY

1. New section filed 12-5-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 49).
2. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

Article 4. Certificates of Compliance

§ 2160. Certificates of Compliance Exemptions—New and Used Diesel Vehicles over 6,000 Pounds Gross Weight Rating.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Section 4000.1(e), Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. Amendment filed 12-21-76 as an emergency; effective upon filing (Register 76, No. 52). For prior history, see Register 76, No. 1.
2. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Certificate of Compliance as to filing of 12-21-76 filed 4-1-77 (Register 77, No. 14).
4. Amendment filed 10-25-78; effective thirtieth day thereafter (Register 78, No. 43).
5. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
6. Amendment filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).
7. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2161. Certificates of Compliance Exemptions—New and Used Diesel Vehicles, 6,000 Pounds or Less Gross Weight Rating.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Section 4000.1(e), Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. New section filed 10-25-78; effective thirtieth day thereafter (Register 78, No. 43).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
3. Amendment filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).
4. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2162. Certificates of Compliance Exemptions—New and Used Motorcycles.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Section 4000.1(e), Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. New section filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).
2. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2163. Certificates of Compliance Exemptions for Used Motorcycles.

Certificates of Compliance are not required upon transfer of ownership and registration of motorcycles, nor upon initial registration of motorcycles with odometer readings of over 7,500 miles. This section shall become effective on September 1, 1984, and shall supersede the provisions of Section 2162 on that date.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Sections 4000.1(e) and 4000.2, Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. New section filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).

§ 2164. Certificates of Compliance Exemptions for Used Diesel-Powered Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles.

Certificates of Compliance are not required upon transfer of ownership and registration of diesel-powered passenger cars, light-duty trucks, and medium-duty vehicles, nor upon initial registration of diesel-powered passenger cars, light-duty trucks, and medium-duty vehicles with odometer readings of over 7,500 miles. This section shall become effective on September 1, 1984, and shall supersede the provisions of Sections 2160 and 2161 on that date.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Sections 4000.1(e) and 4000.2, Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. New section filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).

§ 2165. Certificates of Compliance Exemptions for Used Heavy-Duty Diesel Vehicles.

Certificates of Compliance are not required upon transfer of ownership and registration of heavy-duty diesel vehicles, nor upon initial registration of heavy-duty diesel vehicles with an odometer reading of over

7,500 miles. This section shall become effective on September 1, 1984, and shall supersede the provisions of Sections 2160 and 2161 on that date.

NOTE: Authority cited: Section 4000.1(e), Vehicle Code; and Sections 39600 and 39601, Health and Safety Code. Reference: Sections 4000.1(e) and 4000.2, Vehicle Code; and Sections 43150-43156, Health and Safety Code.

HISTORY

1. New section filed 2-9-84; effective thirtieth day thereafter (Register 84, No. 6).

Article 5. Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action

§ 2166. General Provisions.

(a) The provisions of this article apply to:

(1) California-certified 2010 and subsequent model-year passenger cars, light-duty trucks, medium-duty vehicles, heavy-duty vehicles, and motorcycles.

(2) California-certified engines used in such vehicles.

(b) For the purposes of this article, the definitions shall be the same as those set forth in Title 13, California Code of Regulations, Section 2035 (c) and Section 2166.1.

(c) These procedures shall not apply to zero emission vehicles and those vehicles certified under Health and Safety Code 44201.

(d) The Executive Officer may waive any or all of the requirements of this Article if he or she determines that the requirement constitutes an undue burden on the manufacturer. In making this determination, the Executive Officer may, but is not required to, consider the emissions impact, except as provided in 2168(f), or the economic impact of the requirement.

(e) This article contains procedures for reporting emissions warranty information and procedures for determining, and the facts constituting, compliance or failure of compliance with and violations of test procedures based on emissions warranty information. This article also contains procedures for requiring recalls or other corrective action based on such information. Nothing in this article shall limit the Executive Officer's authority pursuant to Health and Safety Code section 43105 to require recalls or other corrective action in other types of situations.

(f) Each part of this article shall be deemed severable, and in the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New article 5 (sections 2166-2174) and section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2166.1. Definitions.

(a) "Capture rate" means the percentage of in-use vehicles subject to recall which must be corrected to bring the class or category of vehicles into compliance. The number of vehicles subject to recall shall be based on the actual number of vehicles in use as verified by the Department of Motor Vehicles registration records, or vehicle or engine registration records compiled and prepared by R. L. Polk and Company or a comparable source at the time a recall is initiated.

(b) "Corrective Action" refers to any action taken by the manufacturer to remedy a violation of emission standards or test procedures. Corrective action may include recall, extended warranty, or other action ordered by the Executive Officer. The Executive Officer may order direct notification of corrective action to vehicle or engine owners.

(c) "Days", when computing any period of time, means normal working days on which a manufacturer is open for business, unless otherwise noted.

(d) "Emission control component" or "emission-related component" means a device, system, or assembly described in the manufacturer's approved application for certification which is considered to be a "warranted part" pursuant to Title 13, California Code of Regulations, Division 3, Chapter 1, Article 6 and subject to this Article.

(e) "Emission Warranty Claim" means an adjustment, inspection, repair or replacement of a specific emission-related component within the statutory warranty period for which the vehicle or engine manufacturer is invoiced or solicited by a repairing agent for compensation pursuant to Title 13, California Code of Regulations, Division 3, Chapter 1, Article 6 and subject to this Article.

(f) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(g) "Exhaust after-treatment device" means any device or system designed to oxidize, reduce or trap post-combustion exhaust emissions, including those components that transport the exhaust emissions from the engine to the after-treatment device, described in the manufacturer's application for certification, and installed on a vehicle or engine certified for sale in California.

(h) "Extended Warranty" means corrective action required by the Executive Officer that extends the warranty time and mileage periods for a specific emissions-related component pursuant to this article. For passenger cars, light-duty trucks, medium-duty vehicles and engines, and heavy-duty vehicles and engines used in such vehicles, the extended warranty shall be equal to the applicable certified useful life period of that vehicle or engine. The Executive Officer may order direct notification of corrective action to vehicle or engine owners. The extended warranty on hybrid electric vehicle battery packs used for vehicle propulsion shall be limited to the lesser of 1) the applicable useful life of the vehicle or 2) 10 years.

(i) "Emission Warranty Information Reporting Termination Point" means the point at which the requirement to submit the Emission Warranty Information Reports terminates. Emission Warranty Information Reports shall be updated until one year after the statutory warranty time period for a given model year ends (e.g., a 2010 model year engine family with a three year or 50,000 mile warranty period would be reported until the end of the 2013 calendar year). The only exception is PZEV vehicles which will be limited to a 12 year reporting period and the seven year or 70,000 mile high price components will be limited to a reporting period of 5 years.

(j) "Influenced Emission Recall" means an inspection, repair, adjustment, or modification program initiated and conducted by a manufacturer or its agent or representative as a result of any evidence of noncompliance to remedy any nonconformity for which direct notification of vehicle or engine owners is necessary.

(k) "Nonconformity" or "noncompliance" exists whenever an engine family, test group or subgroup of vehicles is determined to be in violation of test procedures pursuant to this Article.

(l) "Ordered Recall" or "recall" means an inspection, repair, adjustment, or modification program required by the Executive Officer and conducted by the manufacturer or its agent or representative to remedy any nonconformity for which direct notification of vehicle or engine owners may be required.

(m) "Quarterly reports" refer to the following calendar periods: January 1–March 31, April 1–June 30, July 1–September 30, October 1–December 31.

(n) "Systemic Failure" means any emission-control component as defined in this article, found to have valid failures that represent at least four percent or 50 vehicles or engines (whichever is greater) of the vehicles or engines of a California certified engine family or test group, pursuant to this Article.

(o) "Ultimate purchaser" has the same meaning as defined in section 39055.5 of the Health and Safety Code.

(p) For the purposes of this article, "useful life" means the following, however, nothing in this subsection alters the applicability provisions of section 2166.

(1) For Class I motorcycles and motorcycle engines (50 to 169 cc or 3.1 to 10.4 cu. in.), a period of use of five years or 12,000 kilometers (7,456 miles), whichever first occurs.

(2) For Class II motorcycles and motorcycle engines (170 to 279 cc or 10.4 to 17.1 cu. in.), a period of use of five years or 18,000 kilometers (11,185 miles), whichever first occurs.

(3) For Class III motorcycles and motorcycle engines (280 cc and larger or 17.1 cu. in. and larger), a period of use of five years or 30,000 kilometers (18,641 miles), whichever first occurs.

(4) For 2001 and subsequent-model year medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the primary standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent medium-duty low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For all other 1995 and subsequent model-year medium-duty vehicles and motor vehicle engines used in such vehicles, a period of use of eleven years or 120,000 miles, whichever occurs first.

(5) For those passenger cars and light-duty trucks certified to the primary standards in section 1961(a)(1), the useful life shall be ten years or 120,000 miles, whichever occurs first. For 2001 and subsequent passenger car and light-duty truck low-emission, ultra-low-emission and super-ultra-low-emission vehicles certified to the optional 150,000 mile standards in section 1961(a)(1), and motor vehicle engines used in such vehicles, a period of use of fifteen years or 150,000 miles, whichever occurs first. For those 2003 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles, certified pursuant to Title 13, California Code of Regulations, section 1962, a period of use of fifteen years or 150,000 miles, whichever occurs first.

(6) For 2004 and subsequent model-year light heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(7) For 2004 and subsequent model-year medium heavy-duty diesel engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbons emissions standards, a period of use of ten years or 185,000 miles, whichever first occurs; or any alternative useful life period approved by the Executive Officer.

(8) For 2004 and subsequent model-year heavy heavy-duty diesel engines, 2004 and subsequent model-year heavy-duty diesel urban buses, 2004 and subsequent model-year heavy-duty diesel engines to be used in urban buses, and 2004 and subsequent model year hybrid-electric urban buses for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 435,000 miles, or 22,000 hours, whichever first occurs, or any alternative useful life period approved by the Executive Officer.

(A) The useful life limit of 22,000 hours of this definition is effective as a limit to the useful life only when an accurate hours meter is provided by the manufacturer with the engine and only when such hours meter can reasonably be expected to operate properly over the useful life of the engine.

(B) For an individual engine, if the useful life hours limit of 22,000 hours is reached before the engine reaches 10 years or 100,000 miles, the useful life shall become 10 years or 100,000 miles, whichever occurs first, as required under Clean Air Act section 202(d) (42 U.S.C. 7521(d)).

(9) For 2004 and subsequent model-year heavy-duty Otto-cycle engines, for carbon monoxide, particulate, and oxides of nitrogen plus non-methane hydrocarbon emissions standards, a period of use of 10 years or 110,000 miles, whichever first occurs.

(q) "Valid failure" or "valid failure rate" means an emission-control component or emission-related component that was properly diagnosed and replaced under warranty by an authorized warranty station and repre-

sents the true and accurate failures of a specific component after legitimate screening (as specified in Section 2168) of the applicable warranty data authorized and acceptable to the Executive Officer, pursuant to this Article.

(r) "Vehicle or engine manufacturer" means the manufacturer granted certification for a motor vehicle or motor vehicle engine.

(s) "Violation of test procedures" means violation of any portion of any test procedure made applicable to motor vehicles by Division 26, Part 5 of the Health and Safety Code or by Division 3 of Title 13 of the California Code of Regulations or any test procedure violation determined pursuant to this article.

(t) "Voluntary Recall" means an inspection, repair, adjustment, or modification program voluntarily initiated and conducted by a manufacturer or its agent or representative to remedy any nonconformity, pursuant to this Article, for which direct notification of vehicle or engine owners may be necessary.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2167. Emission Warranty Information Report.

(a) A manufacturer shall:

(1) Review California emission warranty claim records for each California-certified engine family or test group on a quarterly basis to determine and compile by cumulative total the number of claims made for emission-related components. The data compiled shall be based on all emission warranty claims, without any prescreening of data as to the validity of the claims. In the case of heavy-duty vehicles or engines, a manufacturer may use nationwide data for monitoring emission warranty claims of a California-certified engine family or test group which is also certified by the United States Environmental Protection Agency.

(2) Categorize emission warranty claims for each engine family or test group by the specific emission control component replaced or repaired, or in the case of multiple components with the same part number that are replaced in single service event, shall be counted as one warranted repair for that service event.

(3) On the basis of data obtained subsequent to the effective date of these regulations, file an emission warranty information report for each calendar year if the cumulative number of unscreened emission warranty claims for a specific emission-related component or repair represent at least four percent or fifty (whichever is greater) of the vehicles or engines of a California-certified engine family or test group.

(4) The filing of an emission warranty information report for a partial zero emission vehicle shall be limited to exhaust after-treatment devices, computer related repairs including calibration updates, and any emission-control device not subject to the 15 year or 150,000 mile emission control warranty provisions for such vehicles. A zero emission energy storage device used for traction power (such as battery, ultracapacitor, or other electric storage device) is not required to be reported. The Executive Officer may add emission-related components to this list as technology changes.

(b) The emission warranty information report shall be submitted in an electronic format as specified by the ARB. The file must be structured so that the test group or engine family name and the part number are the primary file keys. These two data fields are unique and cannot be duplicated within the data file or changed in subsequent Emission Warranty Information Report submissions unless approved by the ARB database administrator. The electronic file shall include the following information:

(1) The California-certified test group or engine family.

(2) Part number, labor operation code or some other nomenclature that uniquely identifies a given component within a test group or engine family.

(3) The name of the specific emission-related component being replaced or repaired. The component name may not be changed in subsequent Emission Warranty Information Reports unless approved by the ARB database administrator.

(4) A repair code to indicate if the emission-related component was repaired or replaced.

(5) The warranty coverage pursuant to Title 13, California Code of Regulations, Division 3, Chapter 1, Article 6 for each reported component.

(6) The California sales volume, the number of cumulative claims and percentage of vehicles or engines in each engine family or test group for which a warranty replacement or warranty repair of a specific emission-related component was identified (i.e., the percentage of vehicles or engines is equal to the cumulative number of unscreened emission warranty claims for a specific emission-related component or repair divided by the sales volume of the California-certified engine family or test group).

(7) Time frame of the Emission Warranty Information Report being submitted.

(8) The models of the test group or engine family for each component being repaired or replaced.

(9) An action status report code as dictated by the ARB database administrator.

(c) Emission warranty information reports shall be submitted not more than 25 days after the end of each calendar year until the emission warranty information reporting termination point is reached. The Executive Officer may request that a manufacturer file quarterly emission warranty information reports for a specific emission-related component(s) for a specified period of time. Emission warranty information reports and updates shall be submitted and provided on electronic media to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731 and/or can be emailed to a designated ARB staff.

(d) The records described in this section shall be made available to the Executive Officer upon request.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2168. Supplemental Emissions Warranty Information Report.

(a) A manufacturer shall file a Supplemental Emissions Warranty Information Report within 60 days after an emission warranty information report as specified in Section 2167 indicates that a cumulative total of unscreened emission warranty claims for a specific emission-related component represents at least ten percent or 100 components (whichever is greater) of the vehicles or engines of a engine family or test group. The manufacturer must continue to update and report the Supplemental Emissions Warranty Information Report on a quarterly basis. A manufacturer shall submit an updated Supplemental Emissions Warranty Information Report within 60 days after each calendar quarter until the emission warranty information reporting termination point is reached for the specific emission component being reported or corrective action is launched for the reported emission component. With the approval of the Executive Officer, manufacturers may delay or terminate the submission of the Supplemental Emissions Warranty Information Report.

(b) If a manufacturer demonstrates to the satisfaction of the Executive Officer that a systemic emission component failure has occurred early within the statutory emission warranty period, as defined below, then the Executive Officer may decide not to require the manufacturer to perform corrective action on the affected vehicles or engines. To prove that a systemic emission-related component failure occurred early within the statutory emission warranty period, the manufacturer must demonstrate in the Supplemental Emissions Warranty Information Report to the Execu-

tive Officer's satisfaction, that a systemic failure exists in a specific subgroup of vehicles or engines within an engine family or test group and has been satisfactorily corrected under warranty within 18 months after the last vehicle or engine of the affected engine family or test group in a model year was manufactured. In such a case, the manufacturer may not be subject to additional corrective action for the subject engine family, test group or subgroup, but must demonstrate to the Executive Officer the upper limit of the early emission component failure rate and the date it will terminate. Should the emission component failure rate exceed the rate established by the manufacturer by an additional valid failure rate of four percent or 50 vehicles (whichever is greater) the manufacturer must refile a Supplemental Emissions Warranty Information Report pursuant to this Article (making it subject to further corrective action) or implement the corrective action as ordered pursuant to sections 2169–2171.

(c) Subject to approval of the Executive Officer, as part of the Supplemental Emissions Warranty Information Report, the manufacturer may be allowed to screen out or remove emission warranty claims for components that were subsequently determined to have failed due to abuse, neglect or improper maintenance, or for any warranty repairs that were performed solely for customer satisfaction purposes or due to misdiagnosis. The manufacturer must demonstrate to the satisfaction of the Executive Officer, using good engineering judgment based on emission component failure analysis data and representative statistical sampling, that the emission components replaced or repaired under these emission warranty claims are free from mechanical defects and perform to the manufacturer's specifications and all other applicable requirements.

(d) As part of the Supplemental Emissions Warranty Information Report, the manufacturer may be allowed to screen out or remove emission warranty claims for secondary component failures that directly resulted from an established primary emission component failure. The manufacturer must demonstrate to the satisfaction of the Executive Officer that the primary failure is the direct cause for the secondary component failure and that secondary failure will cease after the primary failure is corrected.

(e) A Supplemental Emissions Warranty Information Report may not be required if the manufacturer commits to perform a recall on any emission control component by notifying the ARB of its commitment in writing. In such a case, the manufacturer may screen the components to be recalled from the Emission Warranty Information Report. However, if the recall applies to a sub-group of vehicles or engines, or if the recall is not deemed acceptable by the Executive Officer, the uncorrected vehicles or engines are still subject to reporting requirements and corrective action pursuant to this Article. Also, if the components replaced under recall fail within the warranty period reaching four percent or 50 vehicles or engines (whichever is greater) within an engine family or test group, the manufacturer must report these emission warranty claims pursuant to this Article and may be required to perform corrective action.

(f) If a manufacturer demonstrates to the satisfaction of the Executive Officer that a systemic emission component failure will not have an emissions impact under any conceivable circumstance, then no corrective action shall be required for the affected vehicles or engines. The Executive Officer need not base this determination on emissions testing.

(g) If a manufacturer demonstrates to the satisfaction of the Executive Officer that a computer OBD recalibration or update is not being performed to correct an emissions exceedance or an OBD compliance issue, then no corrective action shall be required for the affected vehicles or engines.

(h) All Supplemental Emissions Warranty Information Reports shall be submitted to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue Suite No. 4, El Monte, CA 91731 and shall contain the following information in substantially the format outlined below.

(i) Upon the manufacturer's request and with the approval of the Executive Officer, any reported emission component that is replaced as part of a corrective action may be waived from further reporting requirements.

(j) The Supplemental Emission Warranty Information report shall be submitted in an electronic format as specified by the ARB. Supplemental Emissions Warranty Information Reports shall contain the following data:

(1) The manufacturer's corporate name.

(2) Each Supplemental Emissions Warranty Information Report shall be filed individually for each emission-related component that reached the specified reporting level as indicated in (a) of this section. Manufacturers shall designate a unique supplemental emissions warranty information report number to assist in tracking individual emission-related component problems. The nomenclature format for assigning a tracking number shall follow the sequence using the manufacturer's four digit name designation followed by the letters SEWIR, the calendar year filed and then a three digit sequential number. An example of this format would be as follows: MFRX-SEWIR-2010-001.

(3) A description of each class or category of California-certified vehicles or engines affected including make, model, model-year, engine family or test group and such other information as may be required to identify the vehicles or engines affected. The description shall include those engine families or test groups related to the affected engine family or test group through common certification test data allowed under Title 40, Code of Federal Regulations, Section 86.085–24(f), as amended December 10, 1984 or Title 40 Code of Federal Regulations, Section 86.1839–01, as adopted May 4, 1999 ("carry-over" and "carry-across" engine families).

(4) A description of the emission-related component that failed, the failure, the probable cause of failure and the emission-related component part number. A description of all other vehicles that contain the failing component. A description of whether the failure has been detected by the On-Board Diagnostic system in the affected vehicles or engines as required by title 13 CCR sections 1968.1–1968.5, 1971.1 or by the Engine Manufacturer Diagnostic system in the affected vehicles or engines as required by title 13 CCR section 1971.

(5) Manufacturers conducting computer recalibrations or reflashes shall explain the vehicle conditions/parameters that are being changed by the recalibration action. The manufacturer must also indicate if OBD compliance requirements are being remedied.

(6) Any information necessary to make the demonstrations provided in subsections (b)–(g) above.

(7) A statement whether the cumulative total of valid failures for a specific emission-related component represents at least 4 percent or 50 (whichever is greater) of the vehicles or engines within a California certified engine family or test group. On the basis of data obtained and reported pursuant to this article, a manufacturer may determine that a cumulative total of valid failures for a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater) of the vehicles or engines of a California certified engine family or test group. If this is the case, the manufacturer must supply the following information:

(A) The number and percentage of vehicles or engines in each engine family or test group for which a failure of a specific emission-related component was identified.

(B) The total number and percentage of unscreened emission warranty claims and failures of a specific emission-related component projected to occur during the engine family's or test group's useful life and a description of the method used to project this number.

(C) An estimated date when the failure of a specific emission-related component will reach 4 percent or 50 (whichever is greater).

(D) If the failure of a specific emission-related component is found to exist in less than 4 percent or 50 (whichever is greater), provide a brief explanation why the vehicles with this specific component replacement or repair are being repaired.

(k) The Executive Officer shall determine whether the valid failure rate of a specific emission-related component has reached the level of a systemic failure, based on the information provided pursuant to this sec-

tion. In making this determination, the Executive Officer need not consider economic impacts, or, except as provided in section 2168 (f), emissions impacts. The Executive Officer may request that any information submitted pursuant to this section be supplemented.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2169. Recall and Corrective Action for Failures of Exhaust After-Treatment Devices.

(a) A manufacturer shall recall an engine family, test group or subgroup of vehicles or engines to correct the systemic failure of an exhaust after-treatment device, as defined in Section 2166.1 when valid failures for the exhaust after-treatment device meet or exceed four percent or 50 (whichever is greater) of the vehicles or engines within an engine family or test group, as determined by the Executive Officer pursuant to Section 2168.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or supplement to the corrective action specified in (a).

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2170. Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines).

(a) In the case of any vehicle or engine equipped with an ARB approved on-board diagnostic (OBD) system in accordance with Section 1968.1-1968.5 and 1971.1, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, to correct the systemic failure of emission control components other than exhaust after-treatment devices, when valid failures for any emission control component in the engine family or test group meet or exceed four percent or 50 (whichever is greater) of the vehicles or engines within an engine family or test group, as determined by the Executive Officer pursuant to Section 2168.

(b) At the sole discretion of the Executive Officer, the manufacturer shall conduct a recall for the circumstances specified in (a), either as an alternative to or supplement to the corrective action specified in (a).

(c) At the sole discretion of the Executive Officer, manufacturers that warrant their vehicles, engines or components as defined in Title 13, California Code of Regulations, Division 3, Chapter 1, Article 6 for the full useful life period may not, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) of the vehicles or engines within an engine family or test group.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2171. Recall and Corrective Action for Vehicles Without On-Board Diagnostic Systems, Vehicles with Non-Compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction.

(a) If vehicles or engines not equipped with on-board diagnostic (OBD) systems, or OBD-equipped vehicles or engines that do not detect emission-control failures as required by title 13 CCR sections 1968.1-1968.5 and 1971.1, have systemic failures of emission-control components (including exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) valid failures within an engine family or test group, the required corrective action will be the recall of all affected vehicles or engines in the engine family or test group as determined by the Executive Officer pursuant to Section 2168. If vehicles or engines have systemic failures of on-board computers, found to meet or exceed four percent or 50 (whichever is greater) valid failures within an engine family or test group the required corrective action will also be the recall of all affected vehicles or engines, as determined by the Executive Officer pursuant to Section 2168.

(b) At the sole discretion of the Executive Officer, the manufacturer shall perform corrective action, including, but not limited to, providing an extended warranty as defined in Section 2166.1, for the circumstances specified in (a), either as an alternative to or supplement to the recall specified in (a).

(c) At the sole discretion of the Executive Officer, manufacturers that warrant their vehicles, engines or components as defined in Title 13, California Code of Regulations, Division 3, Chapter 1, Article 6 for the full useful life period may not, be required to perform corrective action on systemic failures of emission-control components (with the exception of exhaust after-treatment devices), found to meet or exceed four percent or 50 (whichever is greater) of the vehicles or engines within an engine family or test group.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172. Notification of Required Recall or Corrective Action by the Executive Officer.

The Executive Officer shall notify the manufacturer when recall or corrective action is required. The Executive Officer's notification shall include a description of each class or category of vehicles or engines encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date no earlier than 45 days from the date of receipt of such notification (no earlier than 90 days for recalls) by which the manufacturer shall submit a plan to remedy the nonconformity unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.1. Ordered or Voluntary Corrective Action Plan.

(a) Unless a public hearing is requested by the manufacturer, the manufacturer shall submit a recall or corrective action plan to the Chief, Mobile Source Operations Division, 9480 Telstar Avenue, Suite 4, El Monte, CA 91731, within the time limit specified in the notification is-

sued pursuant to Section 2172. The Executive Officer may grant the manufacturer an extension upon good cause shown.

(b) The recall or corrective action plan shall contain the following:

(1) A description of each class or category of vehicles or engines to be recalled or subject to corrective action, including the engine family, test group or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the vehicles or engines to be recalled or subjected to corrective action.

(2) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the vehicles or engines into conformity with the requirements of this article including a brief summary of the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made. Nonconformities shall be addressed by replacing a nonconforming component with an improved, conforming component.

(3) A description of the method by which the manufacturer will determine the names and addresses of vehicle or engine owners and the method by which they will be notified.

(4) A description of the procedure to be followed by vehicle or engine owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the vehicle or engine for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(5) If some or all of the nonconforming vehicles or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(6) A copy of the letter of notification to be sent to vehicle or engine owners.

(7) A description of the system by which the manufacturer will ensure that an adequate supply of parts will be available to perform the repair under the recall or corrective action plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(8) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall or corrective action plan.

(9) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan or other corrective action.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.2. Approval and Implementation of Corrective Action Plan.

If the Executive Officer finds that the recall or corrective action plan is designed effectively to correct the nonconformity and complies with the provisions of Section 2172.1, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of vehicle or engine owners and the implementation of repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.3. Notification of Owners.

(a) Manufacturers shall notify vehicle or engine owners of a recall or other corrective action by first class mail or by such other means as approved by the Executive Officer. For good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(b) The manufacturer shall use all reasonable means necessary to locate vehicle or engine owners. For good cause, the Executive Officer may require the manufacturer to use motor vehicle registration lists available from State or commercial sources to obtain the names and addresses of vehicle or engine owners to ensure effective notification.

(c) The Executive Officer may require subsequent notification by the manufacturer to vehicle or engine owners by first class mail or other reasonable means. For good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(d) The notification of vehicle or engine owners shall contain the following:

(1) The statement: "The California Air Resources Board has determined that your (vehicle or engine) has an emission control component problem that requires corrective action".

(2) A statement that the nonconformity of any such vehicles or engines will be remedied at the expense of the manufacturer.

(3) A statement that eligibility may not be denied solely on the basis that the vehicle or engine owner used parts not manufactured by the original equipment vehicle manufacturer, or had repairs performed by outlets other than the vehicle or engine manufacturer's franchised dealers.

(4) A clear description of the components which will be affected by the recall or other corrective action and a general statement of the measures to be taken to correct the nonconformity.

(5) A statement that such nonconformity, if not repaired, may cause the vehicle or engine to fail an emission inspection or Smog Check test when such tests are required under State law.

(6) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or drivability of the vehicle or engine or to the function of other engine components.

(7) A description of the procedure which the vehicle or engine owner should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities at which the nonconformity can be remedied.

(8) A statement that a certificate showing that the vehicle or engine has been repaired under the recall program shall be issued by the service facilities and that such a certificate may be required as a condition of vehicle registration or operation, as applicable.

(9) A card to be used by a vehicle or engine owner in the event the vehicle or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the vehicle or engine was sold.

(10) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (vehicle or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (vehicle or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (vehicle or engine)."

(11) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(e) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the vehicle or engine except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the recall action cannot be performed without additional cost.

(f) No notice sent pursuant to Section 2172.1(b)(8), above, nor any other communication sent to vehicle or engine owners or dealers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.

(g) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.4. Repair Label.

(a) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each vehicle or engine repaired or, when required, inspected under the recall plan.

(b) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.

(c) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.5. Proof of Correction Certificate.

The manufacturer shall require those who perform the recall repair to provide the owner of each vehicle or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the noncomplying vehicle or engine has been corrected under the recall program.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.6. Preliminary Tests.

The Executive Officer may require the manufacturer to conduct tests on components and vehicles or engines incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.7. Communication with Repair Personnel.

The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.8. Recordkeeping and Reporting Requirements.

(a) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall or corrective action campaign. The records shall include, for each class or category of vehicle or engine, but need not be limited to, the following:

- (1) Engine family involved and recall or corrective action campaign number as designated by the manufacturer.
- (2) Date owner notification was begun, and date completed.
- (3) Number of vehicles or engines involved in the recall or corrective action campaign.
- (4) Number of vehicles or engines known or estimated to be affected by the nonconformity.
- (5) Number of vehicles or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.
- (6) Number of inspected vehicles or engines.
- (7) Number of vehicles or engines receiving repair under the recall plan.
- (8) Number of vehicles or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).
- (9) Number of vehicles or engines determined to be ineligible for recall action due to removed or altered components.
- (10) A listing of the identification numbers of vehicles or engines subject to recall but for whose repair the manufacturer has not been invoiced.

This listing shall be supplied in a standardized computer data storage format to be specified by the Executive Officer. The frequency of this submittal, as specified in subsection (c) below, may be changed by the Executive Officer depending on the needs of recall enforcement.

(11) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(12) All communications transmitted to vehicle or engine owners which relate to the nonconformity and which have not previously been submitted.

(b) If the manufacturer determines that the original responses to subsections (a)(3) and (4) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (a)(5), (6), (7), (8), and (9) shall be cumulative totals.

(c) Unless otherwise directed by the Executive Officer, the information specified in subsection (a) of these procedures shall be included in six quarterly reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming vehicles or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.

(d) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of vehicle or engine owners:

- (1) To whom notification was given;
 (2) Who received remedial repair or inspection under the recall plan;
 and
 (3) Who were denied eligibility for repair due to removed or altered components.

(e) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the vehicles or engines involved, or one year beyond the reporting time frame specified in subsection (c) above, whichever is later.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2172.9. Extension of Time.

The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2173. Penalties.

Failure by a manufacturer to carry out all recall or corrective action campaigns ordered by the Executive Officer pursuant to this article shall constitute a violation of this article and Health and Safety Code Section 43105. Civil penalties may be assessed for that violation and for any other violation of any other requirement of this article.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

§ 2174. Availability of Public Hearing.

(a) The manufacturer may request a public hearing pursuant to the procedures set forth in Sections 60040 to 60053, Title 17, California Code of Regulations to contest the finding of nonconformity pursuant to this Article and the necessity for or the scope of any ordered recall, or other

ordered corrective action. Notwithstanding any other provision of law, including title 13 or title 17 of California Code of Regulations, the record in any public hearing conducted pursuant a request made under this section shall be limited to: (i) the information provided to the Executive Officer under sections 2167-2168 and the Executive Officer's response thereto prior to the date the Executive Officer's notification is issued pursuant to section 2172, (ii) the Executive Officer's notification issued pursuant to section 2172, and (iii) new relevant evidence that could not, with reasonable diligence have been discovered and included in the information provided to the Executive Officer under sections 2167-2168 for the Executive Officer's notification issued pursuant to section 2172. At the hearing evidence of economic impact and evidence of emissions impact, except as provided in Section 2168(f), is irrelevant.

(b) If a manufacturer requests a public hearing pursuant to subsection (a) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit a recall or corrective action plan identical to the one required by Section 2172.1 within the time periods specified in the Executive Officer's notification under section 2172 from receipt of the Board's decision.

NOTE: Authority cited: Sections 39500, 39600, 39601, 43013, 43018, 43100, 43101, 43102, 43104, 43105, 43106, 43107 and 43806, Health and Safety Code; and Section 28114, Vehicle Code. Reference: Sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43017, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43202, 43204, 43205, 43205.5, 43206, 43210, 43211, 43212, 43213 and 43806, Health and Safety Code; and Section 28114, Vehicle Code.

HISTORY

1. New section filed 12-5-2007; operative 1-4-2008 (Register 2007, No. 49).

Chapter 3. Highway and Mandatory Inspection Emission Standards

Article 1. General Provisions

§ 2175. Highway Exhaust Emissions—Light-Duty Vehicles.

(a) The state board finds the standards for exhaust emissions set forth in Table 1 to be the maximum allowable emissions of pollutants from light-duty (6,000 pounds or less gross vehicle weight) and medium-duty (8,500 pounds or less gross vehicle weight) gasoline-powered vehicles when inspected at California Highway Patrol roadside inspection lanes.

(b) The inspection shall consist of exhaust emission measurements from the vehicle with the air injection system (if any) connected. Hydrocarbon and carbon monoxide concentrations shall be determined by non-dispersive infrared instrumentation.

The idle mode test shall be performed with the transmission set in neutral gear with the engine at its normal operating temperature.

Table 1
Highway Inspection Standards

Category Number	Model Year	Emission Control System	No. of Cylinder	Idle Standards* HC PPM CO %
1	1955-1965		5 or more	800 8.50
2	1966-1970	with air injection	5 or more	450 5.00
3	1966-1970	without air injection	5 or more	550 7.00
4	1971-1972	with air injection	5 or more	300 4.00
5	1971-1972	without air injection	5 or more	450 6.50
6	1973-1974	with air injection	5 or more	200 3.50
7	1973-1974	without air injection	5 or more	450 6.50
8	1955-1967		4 or less	1200 8.00
9	1968-1970	with air injection	4 or less	400 5.50
10	1968-1970	without air injection	4 or less	900 7.50
11	1971-1972	with air injection	4 or less	400 5.50
12	1971-1972	without air injection	4 or less	400 6.50
13	1973-1974	with air injection	4 or less	300 4.50
14	1973-1974	without air injection	4 or less	350 6.50
15	1975+	no catalyst	ALL	150 3.00
16	1975+	catalyst without air injection	ALL	200 4.00
17	1975+	catalyst with air injection	ALL	100 1.00
18	1975+	three-way catalyst	ALL	80 1.00

*HC (ppm) is defined as hydrocarbons in parts per millions of hexane by volume and CO (%) is defined as carbon monoxide in percent by volume.

NOTE: Authority cited: Sections 39600, 39601 and 43101, Health and Safety Code; and Sections 27157 and 27157.5, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000 and 43101, Health and Safety Code; and Sections 27157 and 27157.5, Vehicle Code.

HISTORY

1. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12). For prior history, see Register 75, No. 21.
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2175.5. Exemption of Vehicles.

In cases of conflict with manufacturer's specifications, the executive officer may by Executive Order exempt certain vehicles from a standard set forth in Section 2175 above or set appropriate separate standards. A list of such vehicle(s) or class(es) of vehicles shall be distributed to the California Highway Patrol and the Bureau of Automotive Repair.

NOTE: Authority cited: Sections 39600, 39601 and 43101, Health and Safety Code; and Sections 27157 and 27157.5, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000 and 43101, Health and Safety Code; and Sections 27157 and 27157.5, Vehicle Code.

HISTORY

1. New section filed 3-4-75; effective thirtieth day thereafter (Register 75, No. 10).
2. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2176. Mandatory Inspection Exhaust Emissions—Light-Duty and Medium-Duty Vehicles.

(a) Pursuant to Section 43010, Chapter 1, Part 5, Division 26 of the Health and Safety Code, exhaust emissions from light-duty (6,000 pounds or less gross vehicle weight) and medium-duty (8,500 pounds or less gross vehicle weight) gasoline-powered vehicles subject to inspection pursuant to Chapter 20.4 (commencing with Section 9889.50) of Division 3 of the Business and Professions Code shall not exceed the standards set forth in this section by vehicle class as shown in Table 1.

(b) The inspection shall consist of exhaust emission measurements from the vehicle with the air injection system (if any) connected. Hydrocarbon, carbon monoxide, and oxides of nitrogen concentrations shall be determined by non-dispersive infrared instrumentation.

The cruise mode test shall be performed first on a chassis dynamometer at the speeds and loads shown in the following table:

Loading Class	Number of Cylinders	Vehicle Shipping Weight	Speed (mph)	Loading (Hp)
1	4 or less	—	4 ± 1	10 ± 1
2	5 or 6	—	40 ± 1	15 ± 1.5
3	7 or more	less than 3,250 lbs.	40 ± 1	17.5 ± 1.5
4	7 or more	3,250 lbs. or more	40 ± 1	20 ± 1.5

A vehicle which cannot reach the speed and load specified in the table above, or which by its original design cannot be tested at cruise on an inspection center dynamometer, may be exempted from the cruise mode of the test. Vehicles owned by licensed fleet operators may be exempted from cruise mode test, provided an underhood functional inspection is performed on these vehicles, in addition to idle mode test. An idle mode test may be performed on vehicles at one lane inspection centers wherever dynamometers are inoperative.

The idle mode test shall be performed with the transmission set in neutral gear with the engine at its normal operating temperature. The cruise mode test shall be performed with automatic transmission in drive and with manual transmission set in high gear but overdrive will be disengaged.

(c) In the event of a conflict between the emission standards set forth in subdivision (a) and a manufacturer's specifications for a particular engine family or group of vehicles (defined by make, model year, and emission control system), as demonstrated by an excessive failure rate, by valid assembly-line data of the vehicle manufacturer, or by other data available to the executive officer, the executive officer may by Executive Order exempt such engine families or groups of vehicles from the standards set forth in subdivision (a) and set appropriate separate emission standards.

Table 1
Two Mode MVIP Standards

Category Number	Model Year	Emission Control System	No. of Cylinders	Idle Standards*		40 MPH Cruise Standards*		
				HC PPM	CO %	HC PPM	CO %	NO _x ** PPM
1	1955–1965		5 or more	800	8.50	400	6.50	NO STD
2	1966–1970	with air injection	5 or more	450	5.00	350	4.00	2400
3	1966–1970	without air injection	5 or more	550	7.00	350	4.50	3000
4	1971–1972	with air injection	5 or more	300	4.00	200	2.00	2200
5	1971–1972	without air injection	5 or more	450	6.50	250	3.00	3200
6	1973–1974	with air injection	5 or more	200	3.50	150	2.00	1700
7	1973–1974	without air injection	5 or more	400	6.50	250	2.50	2600
8	1955–1967		4 or less	1200	8.00	400	6.50	NO STD
9	1968–1970	with air injection	4 or less	400	5.50	300	4.50	3200
10	1968–1970	without air injection	4 or less	900	7.50	300	6.00	3000
11	1971–1972	with air injection	4 or less	400	5.50	300	4.00	3000
12	1971–1972	without air injection	4 or less	400	6.50	300	5.00	3400
13	1973–1974	with air injection	4 or less	300	4.50	250	4.00	1700
14	1973–1974	without air injection	4 or less	350	6.50	250	4.00	2600
15	1975 +	no catalyst	ALL	150	3.00	150	1.50	2100
16	1975 +	catalyst without air injection	ALL	200	4.00	150	1.50	2200
17	1975 +	catalyst with air injection	ALL	100	1.00	100	1.00	1500
18	1975 +	three-way catalyst	ALL	80	1.00	80	1.00	1000

*HC (ppm) is defined as hydrocarbons in parts per million of hexane by volume, CO (%) is defined as carbon monoxide in percent by volume, and NO_x (ppm) is defined as oxides of nitrogen in parts per million in nitric oxide by volume.

NOTE: Authority cited: Sections 39600, 39601 and 43010, Health and Safety Code; and Sections 9889.50 and 9889.51, Business and Professions Code. Reference: Sections 39002, 39003, 39500, 43000, 43013 and 43600, Health and Safety Code; and Section 9889.50, Business and Professions Code.

HISTORY

1. New section filed 9–18–74; effective thirtieth day thereafter (Register 74, No. 38).
2. Amendment filed 3–4–75; effective thirtieth day thereafter (Register 75, No. 10).
3. Amendment filed 3–16–79 as an emergency; designated effective 3–16–79. Certificate of Compliance included (Register 79, No. 11).
4. Amendment of typographical error in subsection (a) of 3–16–79 emergency order; filed 4–11–79 as procedural and organizational; effective upon filing (Register 79, No. 15).
5. Editorial correction of History Note 4 (Register 79, No. 18).
6. Amendment of subsection (c) filed 9–20–79 as an emergency; effective upon filing (Register 79, No. 38). Certificate of Compliance included.
7. Amendment filed 5–8–80; designated effective 7–1–80 (Register 80, No. 19).
8. Repealer and new section filed 6–19–81; effective thirtieth day thereafter (Register 81, No. 25).
9. Editorial correction of subsection (b) (Register 81, No. 31).
10. Editorial correction of Table 1 (Register 82, No. 4).
11. Amendment 11–30–83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2177. Guidelines for Issuance of Certificate of Compliance.

For participants in the Methanol Fuel Experimental Program, the emission control systems listed below, as originally installed on the vehicle, are to be inspected annually. The original equipment systems shall be functioning properly in order to obtain a valid Certificate of Compliance. In addition, each vehicle's ignition system shall be inspected and exhaust carbon monoxide emissions shall be measured. No vehicle which has an ignition misfire or carbon monoxide emissions in excess of the idle emission standards contained in Section 2176 shall receive a Certificate of Compliance.

1. Exhaust Gas Recirculation (EGR) System
 - a. EGR valve and control components, and carburetor spacer if applicable.
2. Air Injection System
 - a. Air Pump.

b. Valves affecting distribution of flow.

c. Distribution manifold including connection to exhaust manifold.

3. Catalyst or Thermal Reactor System

a. Catalytic converter and associated mounting hardware.

b. Thermal reactor and lined or coated exhaust manifolds.

c. Exhaust port liner and/or double walled exhaust pipe.

4. Evaporative Emission Control System

a. Vapor storage canister.

b. Vapor–liquid separator.

c. Canister Purge system.

5. Positive Crankcase Ventilation (PCV) System

a. PCV valve.

b. Oil filler cap.

6. Miscellaneous Items Used in Above Systems

a. Vacuum and time sensitive valves and switches.

b. Electronic controls including computer or microprocessor and all input sensors including the exhaust gas oxygen sensor.

NOTE: Authority cited: Sections 39515, 39600 and 39601, Health and Safety Code; and Sections 27157 and 27157.5, Vehicle Code. Reference: Sections 39003, 39500, 43000, 43004, 43006, 43009 and 43013, Health and Safety Code; and Sections 5115, 5117, 27157 and 27157.5, Vehicle Code.

HISTORY

1. New section filed 6–2–83; effective thirtieth day thereafter (Register 83, No. 23).

Chapter 3.5. Heavy–Duty Diesel Smoke Emission Testing, and Heavy–Duty Vehicle Emission Control System Inspections

§ 2180. Applicability.

Unless otherwise noted, this chapter applies to all diesel–powered and gasoline–powered heavy–duty vehicles, including pre–1974 model–year vehicles, operating in the State of California.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code; and Section 505, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Redesignation and amendment of subchapter 3.5 to chapter 3.5 and amendment of section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Amendment of section and NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

§ 2180.1. Definitions.

(a) The definitions of this section supplement and are governed by the definitions set forth in Chapter 2 (commencing with section 39010), Part 1, Division 26 of the Health and Safety Code. The following definitions shall govern the provisions of this chapter.

(1) "Authorized dealer" means a group of independent service and repair facilities that are recognized by the motor vehicle or engine manufacturer as being capable of performing repairs to factory specifications; including warranty repair work.

(2) "ARB post-repair inspection" means a repeat emission control system inspection, conducted by the Air Resources Board at an Air Resources Board-specified site, for the purpose of clearing a Citation issued under section 2185(a)(1)(C).

(3) "ARB post-repair test" means a repeat test, conducted by the Air Resources Board at an Air Resources Board-specified site, for the purpose of clearing a Citation issued under section 2185(a)(1)(C).

(4) "Basic penalty" means the civil penalty of (\$500) for a test procedure or emission control system inspection violation that is to be deposited in the Vehicle Inspection and Repair Fund.

(5) "Citation" means a legal notice issued by the Air Resources Board to the owner of a heavy-duty vehicle requiring the owner to repair the vehicle and to pay a civil penalty.

(6) "Day" means calendar day.

(7) "Defective" means a condition in which an emission control system or an emission control system component is malfunctioning due to age, wear, malmaintenance, or design defects.

(8) "Demonstration of correction" means the documents identified in section 2186.

(9) "Driver" has the same meaning as defined in California Vehicle Code section 305.

(10) "Emission control label" or "ECL" means the label required by the "California Motor Vehicle Emission Control Label Specifications", incorporated by reference in 13 CCR, section 1965, or Title 40, Code of Federal Regulations (CFR), Part 86, Subpart A.

(11) "Emission control system" means the pollution control components on an engine at the time its engine family is certified, including, but not limited to, the emission control label.

(12) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her designee.

(13) "Federal emission standards" means the emission standards adopted by the U.S. Environmental Protection Agency, pursuant to Title 42 United States Code, section 7521(a), that are required to be met for the certification of heavy-duty vehicles or engines.

(14) "Fleet" means two (2) or more heavy-duty vehicles.

(15) "Heavy-duty commercial vehicle" means a "motor truck" designed, used, or maintained primarily for the transportation of property, as defined in section 410 of the Vehicle Code, and having a gross vehicle weight rating (GVWR) greater than 10,000 pounds.

(16) "Heavy-duty vehicle" means a motor vehicle having a manufacturer's maximum gross vehicle weight rating (GVWR) greater than 6,000 pounds, except passenger cars.

(17) "Inspection procedure" means the test procedure specified in section 2182 and the emission control system inspection specified in section 2183.

(18) "Inspection site" means an area including a random roadside location, a weigh station, or a fleet facility used for conducting the heavy-duty vehicle test procedure, emission control system inspection, or both.

(19) "Inspector" means an Air Resources Board employee with the duty of enforcing Health and Safety Code sections 43701(a) and 44011.6 and title 13, CCR sections 2180 through 2194.

(20) "Issuance" means the act of mailing or personally delivering a Citation to the owner.

(21) "Minimum penalty" means the (\$300) penalty that is to be deposited in the Diesel Emission Reduction Fund pursuant to Health and Safety Code section 44011.6(l).

(22) "Notice of Violation" means a legal notice issued to the owner of a heavy-duty vehicle powered by a pre-1991 model-year diesel engine with a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, requiring the owner to repair the vehicle and submit a demonstration of correction.

(23) "Officer" means a uniformed member of the Department of the California Highway Patrol.

(24) "Opacity" means the percentage of light obstructed from passage through an exhaust smoke plume.

(25) "Owner" means either (A) the person registered as the owner of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country; or (B) a person shown by the registered owner to be legally responsible for the vehicle's maintenance. The person identified as the owner on the registration document carried on the vehicle at the time a Citation is issued shall be deemed the owner unless that person demonstrates that another person is the owner of the vehicle.

(26) "Removal from service" means the towing and storage of a vehicle under the auspices of the Department of the California Highway Patrol.

(27) "Repair facility" means any place where heavy-duty vehicles are repaired, rebuilt, reconditioned, or in any way maintained for the public at a charge, and fleet maintenance facilities.

(28) "SAE J1667" means Society of Automotive Engineers (SAE) Recommended Practice SAE J1667 "Snap-Acceleration Smoke Test Procedure for Heavy-Duty Diesel Powered Vehicles," as issued February 1996 ("1996-02"), which is incorporated herein by reference.

(29) "Schoolbus" means the same as defined in California Vehicle Code section 545.

(30) "Smokemeter" means a detection device used to measure the opacity of smoke in percent opacity.

(31) "Tampered" means missing, modified, or disconnected, or, as it applies to emission control labels, permanently obscured.

(32) "Test procedures," for the purpose of chapter 3.5, means the test procedures set forth in SAE J1667.

(33) "Uncleared Citation" means a Citation for which demonstration of correction and, if required, payment of any civil penalty, has not been made.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code; Sections 410 and 505, Vehicle Code; title 42 United States Code, section 7521(a); and title 40, Code of Federal Regulations Part 86, Subpart A.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment of subsection (a)(29) filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
3. Amendment filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
4. Amendment of subsections (a)(1)-(2) and (a)(6), new subsection (a)(25), subsection renumbering and amendment of NOTE filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
5. New subsections (a)(1), (a)(6), (a)(13), (a)(15) and (a)(33), subsection renumbering, amendment of newly designated subsections (a)(10) and (a)(32) and amendment of NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).
6. Change without regulatory effect amending subsections (a)(2)-(3), repealing subsection (a)(29) and renumbering subsections filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2181. Responsibilities of the Driver and Inspector During the Inspection Procedure.

(a) Driver of heavy-duty diesel-powered vehicle. The driver of a heavy-duty diesel-powered vehicle selected to undergo the inspection procedure shall do all of the following:

- (1) Drive the vehicle to the inspection site upon direction of an officer.
- (2) Show proof of driver's license and vehicle registration to the inspector or officer upon request.
- (3) Perform the test procedure upon request by an inspector.
- (4) Open the vehicle door so that the inspector can observe the driver depress the accelerator pedal.
- (5) Permit an emission control system inspection and open the hood of the vehicle upon the request of the inspector.
- (6) As applicable, sign the Citation or Notice of Violation to acknowledge its receipt and sign the smoke test report to acknowledge performance of the test procedure.

(b) Driver of heavy-duty gasoline-powered vehicle. The driver of a heavy-duty gasoline-powered vehicle selected to undergo the inspection shall do all of the following:

- (1) Drive the vehicle to the inspection site upon direction of an officer.
- (2) Show proof of driver's license and vehicle registration to the inspector or officer upon request.
- (3) Permit an emission control system inspection and open the hood of the vehicle upon request of the inspector.
- (4) As applicable, sign the Citation or Notice of Violation to acknowledge its receipt.

(c) Inspector. The inspector in performing the inspection procedures shall do all of the following:

- (1) Advise the driver that refusal to submit to the inspection procedure is a violation of these regulations.
- (2) Obtain engine identification information from the vehicle when tested pursuant to section 2182 to determine which opacity standard specified in section 2182 applies.
- (3) Except as otherwise provided in section 2181(c)(4), issue a Citation to the driver of a vehicle that fails the test procedure or the emission control system inspection.
- (4) Issue a Notice of Violation to the driver of a vehicle powered by a pre-1991 model-year diesel engine with a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, except where a Notice of Violation or Citation has been issued for the vehicle in the preceding 12 months.

(5) Issue a warning to the owner of a heavy-duty diesel-powered vehicle missing its emission control label that the label must be replaced and the engine number identification must be provided to the ARB within 45 days of written notification or receipt of a Citation under section 2183 from the ARB, or it will be conclusively presumed in any subsequent smoke opacity test where the emission control label remains missing that the vehicle is subject to the 40 percent smoke opacity standard in section 2182(a)(1), unless at the time of the subsequent test it is plainly evident from a visual inspection that the vehicle is powered by a pre-1991 model-year engine.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code; and Sections 260 and 305, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment of subsection (c)(2) filed 12-1-93; operative 1-3-94 (Register 93, No. 49).
3. Amendment of section heading and section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
4. New subsections (a)(2), (a)(6), (b)(2) and (b)(6), subsection relettering, amendment of newly designated subsections (a)(5) and (b)(3) and amendment of NOTE filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
5. Amendment of subsections (a)(7), (b), (b)(4), (c) and (c)(3)-(6) and amendment of NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

6. Change without regulatory effect repealing subsection (a)(6), renumbering subsections and repealing subsection (c)(6) filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2182. Heavy-Duty Diesel Vehicle Smoke Opacity Standards and Test Procedures; Excessive Smoke.

(a) Standards

(1) No heavy-duty vehicle powered by a 1991 or subsequent model-year diesel engine operating on the highways within the State of California shall exceed 40 percent smoke opacity when tested in accordance with this section unless its engine is exempted under subsection (c) or (d) below.

(2) No heavy-duty vehicle powered by a pre-1991 model-year diesel engine, operating on the highways within the State of California, shall exceed 55 percent smoke opacity when tested in accordance with this section unless its engine is exempted under subsection (c) or (d) below.

(b) Exemptions

(1) The Executive Officer shall exempt from subsections (a)(1) and (2) any engine family that is shown by the engine manufacturer to the satisfaction of the Executive Officer to exhibit smoke opacity greater than 40 percent or 55 percent respectively when in good operating condition and adjusted to the manufacturer's specifications. Such engine family(s) must comply with any technologically appropriate less stringent opacity standard identified by the Executive Officer based on a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.

(2) The Executive Officer shall exempt from subsections (a)(1) and (2) any 1991 and earlier model-year heavy-duty diesel engines that are equipped with carryover add-on aftermarket turbocharger kits approved by the ARB, and are shown by the kit or engine manufacturer to the satisfaction of the Executive Officer to exhibit smoke opacity greater than 40 percent or 55 percent respectively when in good operating condition and adjusted to manufacturer's specifications. Such engines must comply with any technologically appropriate less stringent opacity standard identified by the Executive Officer based on a review of the data obtained from engines in good operating condition and adjusted to manufacturer's specifications.

(3) Exemptions previously issued and in effect on January 1, 1996 shall remain in effect under the amendments to this section adopted on March 2, 1998 and effective on May 4, 1998.

(4) A manufacturer seeking an exemption under subsection (b) shall provide the ARB with the engine emissions data needed to exempt the engine family and determine technologically appropriate less stringent opacity standards.

(c) Effect of missing emission control label on applicable standard. When the owner of a heavy-duty diesel-powered vehicle receives a Citation or written notification from the ARB that the emission control label was missing during an inspection, the owner must replace the emission control label and provide the engine number identification to the ARB within 45 days of receipt of the notification in addition to paying applicable penalties under section 2185(a)(3). If the owner fails to comply with this requirement, it will be conclusively presumed in any subsequent smoke opacity test where the emission control label remains missing that the vehicle is subject to the 40 percent smoke opacity standard in section 2182(a)(1), unless at the time of the subsequent test it is plainly evident from a visual inspection that the vehicle is powered by a pre-1991 model-year engine.

(d) Excessive Smoke. A heavy-duty vehicle has excessive smoke if it fails to comply with the smoke opacity standard applicable under this section 2182.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment filed 12-1-93; operative 1-3-94 (Register 93, No. 49).

3. Amendment of section heading and section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
4. Amendment of subsection (c), repealer of subsection (e) and amendment of NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

§ 2183. Inspection of the Emission Control System on a Heavy-Duty Vehicle.

(a) Heavy-duty diesel-powered vehicles. No heavy-duty diesel-powered vehicle shall operate in California with tampered or defective emission control components. The ARB shall conduct a visual inspection of heavy-duty diesel-powered vehicles to determine whether emission control components have been tampered with or are defective. The inspection shall include, but is not limited to, the following:

- (1) The engine governor.
- (2) Any seals and/or covers protecting the air-fuel ratio adjustments.
- (3) Any fuel injection pump seals and covers.
- (4) The air cleaner and flow restriction indicator.
- (5) The exhaust gas recirculation valve.
- (6) The particulate matter trap system or catalytic converter system, including pipes and valves.
- (7) Related hoses, connectors, brackets, and hardware for these components.
- (8) Engine computer controls, related sensors, and actuators.
- (9) Emission control label (ECL).
- (10) Any other emissions-related components for a particular vehicle/engine as determined from the manufacturer's specifications, emission control label, certification data, or published vehicle parts manuals.

(b) Heavy-duty gasoline-powered vehicles. No heavy-duty gasoline-powered vehicle shall operate in California with tampered or defective emission control components. The ARB shall conduct a visual inspection of heavy-duty gasoline-powered vehicles to determine whether emission control components have been tampered with or are defective. The inspection shall include, but is not limited to, the following:

- (1) The air injection system.
- (2) The positive crankcase ventilation system.
- (3) The exhaust gas recirculation system.
- (4) The catalytic converter, including pipes and valves.
- (5) The evaporative emission control system.
- (6) Related hoses, connectors, brackets, and hardware for these components.
- (7) Engine computer controls, related sensors, and actuators.
- (8) On-Board Diagnostic (OBD) systems for 1994 and subsequent model year vehicles, if so equipped.
- (9) ECL.
- (10) Any other emissions-related component for a particular vehicle/engine as determined from the manufacturer's specifications, emission control label, certification data, or published vehicle parts manuals.

(c) No 1974 or newer diesel powered heavy-duty commercial vehicle shall operate in California without evidence that, at the time of manufacture, the installed engine met emission standards at least as stringent as applicable federal emission standards for the model year of the engine. The ARB shall base its determination on whether an engine meets the above requirements by inspecting the ECL affixed to the vehicle's engine.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment of section heading and subsections (a) and (b) filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Amendment of subsections (a), (a)(9), (b) and (b)(9), new subsection (c) and amendment of NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

§ 2184. Refusal to Submit to Inspection Procedure.

The refusal by an owner or driver of a vehicle to submit to the test procedure in section 2182 or to the emission control system inspection in

section 2183 constitutes a failure of the test procedure or inspection, unless the driver is cited by the California Highway Patrol for a violation of California Vehicle Code section 2813.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code. Sections 305, 505 and 2813, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Repealer of subsection (a) designator filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Amendment of section and NOTE filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
4. Change without regulatory effect amending section filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2185. Civil Penalty Schedule.

(a) The owner of a heavy-duty vehicle that fails the test procedure or the emission controls system inspection, including by refusal to submit, is subject to the following penalty schedule:

(1) Heavy-Duty Vehicle Opacity and Tampering Penalties for Violating Sections 2182 and 2183(a) and (b), Except for Violations Involving a Tampered ECL.

(A) Except as provided below, the owner of a heavy-duty vehicle, that is cited for the first time pursuant to section 2182 or 2183 (a) and (b), other than for a tampered ECL, and for which demonstration of correction is provided and payment is made within 45 days from personal or certified mail receipt of the Citation, shall pay the minimum penalty of \$300. An owner who fails to correct the vehicle or pay the minimum penalty within 45 days of receipt of the Citation shall be assessed a penalty of \$800.

(B) The above penalty shall not apply to the first Citation received by an owner of a school bus, but the owner shall be subject to the penalty provisions of paragraphs 2185(a)(1)(A) and (C) respectively for second and any subsequent violations.

(C) The owner of a vehicle that is cited pursuant to section 2182 or 2183(a) and (b), other than for a tampered ECL, for a second time within a 12 month period for the same vehicle shall within 45 days from personal or certified mail receipt of the current Citation provide demonstration of correction and pay the penalty of \$1,500 and the minimum penalty of \$300 for a total of \$1,800, notwithstanding section 2185(c).

(D) The owner of a heavy-duty vehicle that violates section 2184 by refusing to submit to an inspection conducted under sections 2182 or 2183(a) and (b), including inspections for a tampered ECL, shall be assessed a penalty of \$800 for a first time violation. Subsequent violations of section 2184 for refusing to submit to an inspection under 2182 shall be subject to a penalty of \$1800.

(2) Penalties for a Tampered ECL under section 2183.

(A) An owner of any heavy-duty vehicle shall receive a Citation each time that ARB finds that the vehicle has a tampered ECL. For the first year following the effective date of the amended regulation, February 15, 2007, if the owner demonstrates to ARB that a new label has been affixed to the vehicle's engine within 45-days of receipt of the Citation pursuant to section 2186(a)(3) below, no penalty shall be assessed. An owner of a heavy-duty vehicle who has been issued a Citation for a tampered ECL label and who has failed to have a replacement label affixed to the engine within 45-days of service of the Citation as set forth in section 2186(a)(3) below shall be subject to a \$300 penalty.

(B) After the first year from the effective date of the amended regulation, February 15, 2007, the owner shall receive a citation assessing the owner a \$300 penalty. The fine shall only be waived if, at the time of inspection, the owner provides other documentation from the engine manufacturer or an authorized dealer that demonstrates compliance with section 2183(c), and provided the ECL is replaced pursuant to paragraph (A) above. The documentation shall identify the engine by serial number.

(3) Penalties for Violations of Section 2183(c). The owner of a heavy-duty commercial vehicle that is cited for a violation of section 2183(c) shall be subject to the following penalties:

(A) The owner shall be subject to a penalty of \$500 for each violation.

(B) For the purposes of section 2185(a)(3), it shall be presumed that a heavy-duty commercial vehicle with a tampered ECL is not in compliance with section 2183(c) and is subject to a \$500 penalty for each violation in addition to the penalties provided for under section 2185(a)(2). If the owner demonstrates to ARB that a new ECL has been affixed to the vehicle's engine within 45-days of receipt of the Citation, pursuant to section 2186(a)(3) below, and the ECL demonstrates that the vehicle's engine was designed to at least meet U.S. EPA promulgated emission standards for the year of the engine's manufacture, the penalty for violation of section 2183(c) shall be waived.

(b)(1) No Citation shall be issued to the owner of a heavy-duty vehicle powered by a pre-1991 model-year diesel engine on the basis of a measured smoke opacity exceeding 55 percent but not exceeding 69 percent, unless:

(A) the owner fails to provide a demonstration of correction within 45 days from personal or certified mail receipt of the Notice of Violation, or

(B) a Notice of Violation or Citation has been issued for the vehicle in the preceding 12 months.

(2) The owner of a heavy-duty vehicle that is the subject of a Notice of Violation and for which demonstration of correction is provided within 45 days from personal or certified mail receipt of the Notice of Violation shall not be subject to a penalty for the violation.

(3) The owner of a heavy-duty vehicle that is initially subject to a Notice of Violation, but is cited after a demonstration of correction is not provided within 45 days from personal or certified mail receipt of a Notice of Violation, shall be subject to the penalty in section 2185(a)(1)(A).

(4)(A) Where a heavy-duty vehicle with a pre-1991 engine inspected in accordance with section 2181 has a measured opacity exceeding 55 percent but not exceeding 69 percent within 12 months of issuance of a Notice of Violation for which a demonstration of correction was timely provided within the applicable 45-day period, a Citation shall be issued and the owner shall be subject to the penalty in section 2185(a)(1)(A).

(B) Where a heavy-duty vehicle with a pre-1991 engine inspected in accordance with section 2181 has a measured opacity exceeding 55 percent but not exceeding 69 percent within 12 months of issuance of a Notice of Violation for which a demonstration of correction was not timely provided within the applicable 45-day period, a Citation shall be issued and the owner shall be subject to the penalty in section 2185(a)(1)(C).

(c) If a heavy-duty vehicle fails the test procedure or an emission control system inspection one year or more after the date of its most recent failure, the owner of that vehicle shall be subject to the penalty schedule in section 2185(a)(1)(A) and (a)(1)(C).

(d) When a heavy-duty vehicle is cited after a bona fide change of ownership between non-related persons or entities, the new owner shall not be subject to the penalty schedule in section 2185(a)(1)(A) and (C) if the only Citations issued for the vehicle within the previous 12 months were issued prior to the change of ownership to the new owner.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43016, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43016, 43018, 43701 and 44011.6, Health and Safety Code. Sections 305, 505 and 545, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).

2. Amendment filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).

3. Amendment filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).

4. Change without regulatory effect amending subsection (a)(1)(B) filed 8-8-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 32).

5. Amendment of section and NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

6. Change without regulatory effect amending section filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2186. Demonstration of Correction and Post-Repair Test or Inspection.

(a) Demonstration of Correction. The owner must demonstrate correction of the vehicle by submitting to the Air Resources Board documents demonstrating compliance with (1) or (2) or (3):

(1) Where repairs are made at a repair facility, a repair receipt or a completed work order which contains the following information:

(A) Name, address, and phone number of the facility;

(B) Name of mechanic;

(C) Date of the repair;

(D) Description of component replacement(s), repair(s), and/or adjustment(s); and

(E) Itemized list of replaced component(s), including description of part, part number, and cost;

(2) Where the owner makes his or her own repairs outside of a repair facility.

(A) An itemized receipt for the parts used in the repair, and

(B) A statement identifying that date and nature of the repairs made;

(3) The owner of the heavy-duty vehicle who has received a Citation for a tampered ECL shall:

(A) Have the engine manufacturer through its authorized dealer, affix an emission control label identical to the label that was installed on the engine at the time of its original manufacturer;

(B) Provide written verification from the heavy-duty vehicle/engine manufacturer or its authorized dealer that the label has been replaced. The written verification must include identification of the engine serial number.

(b) Statement of Correction. The owner must also submit to the Air Resources Board documents demonstrating compliance with (1) or (2):

(1) Where the Citation or Notice of Violation was based on a failure to meet the opacity standard applicable under section 2182, a smoke test report from a subsequent test showing that the repaired vehicle passed the applicable section 2182 standard along with a statement to that effect made under penalty of perjury by the person who conducted the subsequent test;

(2) Where the Citation or Notice of Violation was based on a failure to pass an emission control system inspection as specified in section 2183, a statement by a person, under penalty of perjury, that the person has reinspected any components identified in the Citation or Notice of Violation as defective or tampered and has determined that these components are correct, are installed, and are in good working order; or

[The next page is 240.3.]

(c) The Air Resources Board shall require an ARB post-repair test or an ARB post-repair inspection whenever:

(1) a submitted repair receipt or work order does not comply with (a) above;

(2) a repair receipt, work order or authorized dealer verification appears to be falsified; or

(3) a second and subsequent failures of the test procedure or an emission control system inspection on the vehicle occur within a one year period.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code. Section 505, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Amendment of section and NOTE filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
4. Amendment filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).
5. Change without regulatory effect amending subsection (b) and repealing subsection (b)(3) filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2187. Vehicles Removed from Service.

(a) Vehicles are subject to removal from service by the Department of the California Highway Patrol if requested by the Air Resources Board inspector, and if one or more uncleared Citations issued under section 2182 exist at the time of inspection.

(b) Upon payment by bank check, money order, or credit card of all unpaid penalties for a vehicle that has been removed from service, the Air Resources Board shall provide the owner, or designee, a release form for presentation to the Department of the California Highway Patrol.

(c) The release of the vehicle shall be subject to the condition that it be repaired and post-repair tested or inspected within 15 days.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018 and 44011.6, Health and Safety Code. Section 505, Vehicle Code.

HISTORY

1. New section filed 10-21-91; operative 11-20-91 (Register 92, No. 9).
2. Amendment of subsection (c) filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Amendment of subsections (a) and (b) filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

§ 2188. Contesting a Citation.

The owner of a vehicle cited under these regulations may request a hearing pursuant to section 60075.1 et seq., title 17, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
2. Amendment of section and NOTE filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

§ 2189. Severability of Provisions.

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this Chapter is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 44011.6, Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43013, 43018, 43701 and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 1-16-2007; operative 2-15-2007 (Register 2007, No. 3).

Chapter 3.6. Periodic Smoke Inspections of Heavy-Duty Diesel-Powered Vehicles

§ 2190. Vehicles Subject to the Periodic Smoke Inspection Requirements.

These regulations shall be applicable, operative July 1, 1998, as follows:

(a) Except as provided in subsections (b), (c), (d), (e) and (f), the requirements of this chapter apply to all heavy-duty diesel-powered vehicles with gross vehicle weight ratings greater than 6,000 pounds which operate on the streets or highways within the State of California.

(b) Heavy-duty diesel-powered vehicles which are not part of a fleet or are employed exclusively for personal use are excluded from the requirements of this chapter.

(c) Heavy-duty diesel-powered vehicles which are registered under the International Registration Plan as authorized by Article 4 (commencing with section 8050), Chapter 4, Division 3 of the Vehicle Code and which have established a base state other than California (non-California based vehicles) are excluded from the requirements of this chapter.

(d) Heavy-duty diesel-powered vehicles which operate in California under the terms of Interstate Reciprocity Agreements as authorized by Article 3 (commencing with section 8000), Chapter 4, Division 3 of the Vehicle Code and which belong to fleets that are not based in California are excluded from the requirements of this chapter.

(e) Heavy-duty diesel-powered vehicles operating in California under the terms of any other apportioned registration, reciprocity, or bilateral prorate registration agreement between California and other jurisdictions and which belong to fleets that are not based in California are excluded from the requirements of this chapter.

(f) Heavy-duty diesel-powered vehicles operating in California under short-term vehicle registrations or permits of 90 days or less (including but not limited to 90-day temporary registrations and 4-day permits under Vehicle Code section 4004) are excluded from the requirements of this chapter.

NOTE: Authority cited: Sections 39600, 39601 and 43701(a), Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43018, 43701(a), and 44011.6, Health and Safety Code.

HISTORY

1. New subchapter 3.6 and section filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
2. Amendment of first sentence filed 11-30-95; operative 12-30-95 (Register 95, No. 48).
3. Redesignation and amendment of subchapter 3.6 to chapter 3.6, new section heading and amendment of section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).

§ 2191. Definitions.

(a) The definitions of this section supplement and are governed by the definitions set forth in Chapter 2 (commencing with Section 39010), Part 1, Division 26 of the Health and Safety Code. The provisions of this chapter shall also be governed by the definitions set forth in section 2180.1, Title 13, California Code of Regulations including the following modifications:

(1) "Fleet" means any group of 2 or more heavy-duty diesel-powered vehicles which are owned or operated by the same agency or entity.

(2) "Test opacity" means the opacity of smoke from a vehicle when measured in accordance section 2193(e).

NOTE: Authority cited: Section 39600, 39601 and 43701(a), Health and Safety Code. Reference: Sections 39002, 39003, 39010, 39033, 43000, 43018, 43701(a) and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
2. Amendment filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).

§ 2192. Vehicle Inspection Responsibilities.

(a) The owner of a heavy-duty diesel-powered vehicle subject to the requirements of this chapter shall do all of the following:

(1) Test the vehicle for excessive smoke emissions periodically according to the inspection intervals specified in section 2193(a), (b), and (c).

(2) Measure the smoke emissions for each test using the test procedure specified in section 2193(e).

(3) Record the smoke test opacity levels and other required test information as specified in section 2194.

(4) Have the vehicle repaired if it exceeds the applicable smoke opacity standard specified in section 2193(e).

(5) Record the vehicle repair information as specified in section 2194.

(6) Conduct a post-repair smoke test to determine if the vehicle complies with the applicable smoke opacity standard.

(7) Record the post-repair smoke test results as specified in section 2194.

(8) If the vehicle does not comply with the applicable smoke opacity standard after the test required by section 2192(a)(7), make additional repairs to achieve compliance, and record the smoke test results as specified in section 2194.

(9) Keep the records specified in section 2194 for two years after the date of inspection.

(10) Permit an Air Resources Board inspector to review the inspection records specified in section 2194 at owner/operator designated fleet locations by appointment.

NOTE: Authority cited: Sections 39600, 39601 and 43701(a), Health and Safety Code. Reference: Sections 39002, 39003, 39033, 43000, 43016, 43018, 43701(a) and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
2. Amendment of subsections (a)-(a)(2), (a)(4) and (a)(8) filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. New subsection (a)(9), subsection renumbering and amendment of NOTE filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
4. Change without regulatory effect repealing subsection (a)(9) and renumbering subsections filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

§ 2193. Smoke Opacity Inspection Intervals, Standards, and Test Procedures.

(a) Initial phase-in. Vehicles which are subject to the requirements of this chapter on the operative date of these regulations shall be tested for smoke opacity (and repaired if the applicable smoke opacity standard is exceeded) in accordance with the requirements of section 2192 pursuant to the applicable following schedule:

(1) Fleets of five or more vehicles subject to this chapter:

(A) At least 25 percent of the fleet's vehicles within 180 calendar days of the effective date of these regulations;

(B) At least 50 percent of the fleet's vehicles within 270 calendar days of the effective date of these regulations;

(C) At least 75 percent of the fleet's vehicles within 365 calendar days of the effective date of these regulations; and

(D) The fleet's remaining vehicles no later than 455 calendar days after the effective date of these regulations.

(2) For fleets of 2 to 4 vehicles, at least one vehicle must be tested in the initial 180 day period, and in each subsequent 90 calendar day period, until all vehicles in the fleet have been tested.

(b) New fleets. Fleets which first become subject to the requirements of this chapter subsequent to the effective date of these regulations must be tested in accordance with section 2192 within the applicable time intervals reflected in subsection (a) above, beginning on the date the fleet becomes subject to these regulations.

(c) Annual testing. Once a vehicle subject to the requirements of this chapter has been tested in accordance with subsection (a) or (b), or has been acquired by a fleet owner after the effective date of these regulations, the vehicle must periodically be tested for smoke opacity (and repaired if the applicable smoke opacity standard is exceeded) in accordance with the requirements of section 2192 within 12 months of the previous test conducted under this section 2193.

(d) Exemption for vehicles powered by 1994 or subsequent model-year engines. Any heavy-duty vehicle powered by a 1994 or subsequent model-year engine is exempt from the testing requirements of this section until January 1 of the calendar year that is four years after the model year of the engine, and is to be treated as having been acquired by the owner on that January 1. For example, 1995 model-year engine will be exempt until January 1, 1999.

(e) Smoke opacity standards and test procedures.

(1) Except as otherwise provided in subsection (e)(2) below, the smoke opacity standards and test procedures are those specified in section 2182, Titled 13, California Code of Regulations.

(2) Prior to July 1, 1999, if a repair facility is not equipped with an operable SAE J1667 smokemeter, vehicles may be tested at the repair facility in accordance with the smoke opacity test procedures and opacity standards set forth in section (e)(3). These are the test procedures and opacity standards originally established for the heavy-duty diesel vehicle roadside inspection program in 1991.

(3) Optional smoke opacity test procedures and standards prior to July 1, 1999.

(A) Standards.

1. The maximum smoke opacity standard for a 1991 or subsequent model-year heavy-duty diesel-powered vehicle with a Federal peak smoke engine certification level of 35 percent peak opacity or less is 40 percent when tested in accordance with section 2193(e)(3)(B) and (C).

2. The maximum smoke opacity standard for any other heavy-duty diesel-powered vehicle is 55 percent when tested in accordance with section 2193(e)(3)(B) and (C).

3. The above standards do not apply to an engine exempted under section 2182(b).

(B) Equipment. The smoke opacity measurement equipment shall consist of a light extinction type smokemeter which includes an optical detection unit, a control/indicator unit, and a strip chart recorder.

1. The smokemeter shall comply with the specifications provided in the Society of Automotive Engineers (SAE) procedure J1243, "Diesel Emission Production Audit Test Procedure," May 1988, which is incorporated herein by reference, section 7.4 and shall be calibrated according to specifications in SAE procedure J1243, section 8.2.

2. The strip chart recorder shall comply with specifications in SAE procedure J1243, section 7.5, subsections 1-4 (May 1988).

(C) Procedure. The test procedure shall consist of preparation, preconditioning, and test phases:

1. In the preparation phase, the vehicle shall be placed at rest, the transmission shall be placed in neutral, and the vehicle wheels shall be properly restrained to prevent any rolling motion.

2. In the preconditioning phase, the vehicle shall be put through a snap-idle cycle two or more times until two successive measured smoke levels are within ten (10) opacity percent of each other. The smokemeter shall be rechecked prior to the preconditioning sequence to determine that its zero and span setting are adjusted according to specifications in SAE procedure J1243, section 8.1 (May 1988).

3. In the test procedure phase, the vehicle shall be put through the snap-idle cycle three times.

4. The opacity shall be measured during the preconditioning and test phases with a smokemeter and shall be recorded continuously on the chart recorder during each snap-idle cycle. The maximum instantaneous value recorded by the chart recorder shall be the opacity reading.

5. The test opacity to determine the compliance with (A)1. and (A)2. above shall be the average of the two meter readings with the least difference in opacity values. If all three readings have successive equivalent differences between them, the test opacity shall be the average of the three readings.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43701(a), Health and Safety Code. Reference: Sections 39002, 39003, 39033, 43000, 43013, 43018, 43701(a) and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 12-1-93; operative 1-1-95 (Register 93, No. 49).

2. Amendment of subsection (a) filed 11-30-95; operative 12-30-95 (Register 95, No. 48).
3. Amendment of section heading and section filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).

§ 2194. Record Keeping Requirements.

(a) The owner of a vehicle subject to the requirements of this chapter shall record the following information when performing the smoke opacity testing:

- (1) The brand name and model of the opacity meter.
- (2) The dates of last calibration of the opacity meter and chart recorder.
- (3) The name of the smoke meter operator who conducted the test.
- (4) The name and address of the contracted smoke test facility or vehicle repair facility that conducted the test (if applicable).
- (5) The applicable smoke opacity standard for the tested vehicle.
- (6) Vehicle identification number, vehicle's engine year, engine make, and engine model, and test date. Fleet designated vehicle identification numbers are also acceptable.
- (7) The initial smoke test opacity levels (for three successive test readings).
- (8) An indication of whether the vehicle passed or failed the initial smoke test.
- (9) The post-repair test date.
- (10) The post-repair smoke test opacity levels (for three successive test readings).
- (11) An indication of whether the vehicle passed or failed the post-repair smoke test.
- (12) For vehicles that have failed the smoke test and have been repaired, the vehicle repair information specified in section 2186(a), Title 13, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601 and 43701, Health and Safety Code. Reference: Sections 39002, 39003, 39033, 43000, 43018, 43701 and 44011.6, Health and Safety Code.

HISTORY

1. New section filed 12-1-93; operative 1-1-95 (Register 93, No. 49).
2. Amendment of subsections (a) and (a)(2) filed 5-4-98; operative 5-4-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 19).
3. Repealer of subsection (a)(2), subsection renumbering and new subsections (b)-(b)(1)(D) filed 3-21-2005; operative 3-21-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 12).
4. Change without regulatory effect repealing subsections (b)-(b)(1)(D) filed 5-23-2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 21).

Chapter 4. Criteria for the Evaluation of Motor Vehicle Pollution Control Devices and Fuel Additives

Article 1. Fuel Additives and Prototype Emission Control Devices

§ 2200. Applicability.

This article shall apply to all motor vehicle fuel additives and to all prototype motor vehicle pollution control devices proposed for sale in California.

NOTE: Authority cited: Sections 39600, 39601, 43014 and 43833, Health and Safety Code. Reference: Sections 39002, 39003, 39040, 39500, 43000 and 43204, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. New section filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2201. General Policy.

NOTE: Authority cited: Sections 39600, 39601, 43011, 43014 and 43833, Health and Safety Code. Reference: Sections 39002, 39003 and 43000, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Repealer of Subchapter 4 (Sections 2200-2206) and new Subchapter 4 (Sections 2200-2206) filed 11-22-74 as an emergency; effective upon filing (Register 74, No. 47).
2. Certificate of Compliance filed 12-19-74 (Register 74, No. 51).
3. Amendment of NOTE filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
4. Renumbering of Section 2200 to 2201 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
5. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
6. Repealer filed 8-22-96; operative 9-21-96 (Register 96, No. 34).

§ 2202. Performance Requirements.

NOTE: Authority cited: Sections 39600, 3601, 43011 and 43833, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000 and 43013, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Renumbering of Section 2201 to 2202 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
3. Repealer filed 8-22-96; operative 9-21-96 (Register 96, No. 34).

§ 2203. Submission Requirements.

Proposals submitted for evaluation must be accompanied by an executed copy of the state board's hold harmless agreement, which is available upon request from any state board office. Persons submitting a control device or fuel additive for evaluation shall set forth, in writing, a description of the device or additive and its application to the control of motor vehicle emissions in sufficient detail, including drawings and schematic diagrams, so that its operation and principles can be understood by reviewers. Performance claims shall be supported by test data. The test procedure and instrumentation used to obtain the data shall be described.

NOTE: Authority cited: Sections 39600, 39601, 43014 and 43833, Health and Safety Code. Reference: Sections 39002, 39003, 39500 and 43000, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Renumbering of Section 2202 to 2203 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2204. Initial Evaluation.

The information submitted shall be reviewed by the state board's staff in an initial evaluation to decide if the device or additive has the potential for reducing vehicular emissions or the method is sufficiently unique in its application to warrant laboratory tests by the state board. The results of the initial evaluation will be reported in writing and/or by personal conference with the person submitting the information.

NOTE: Authority cited: Sections 39600, 39601 and 43014, Health and Safety Code. Reference: Sections 39002, 39003, 39500 and 43000, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Renumbering of Section 2203 to 2204 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2205. Laboratory Tests.

(a) Device. When the initial evaluation indicates that the control approach warrants a laboratory test, the submitter must provide a working system which is to be subjected to the appropriate laboratory test. The basis for the evaluation of the results of the laboratory tests will be a comparison of the test data with applicable reference standards. Each component of a multi-component system may be examined and tested to determine its relative contribution in the overall reduction in emissions by the system.

Upon completion of the above tests, the submitter will be notified in writing of the test results. If the results show the device does not have the potential to meet applicable emission standards, the evaluation procedure will be terminated.

If the test shows promising results, a secondary stage evaluation may be undertaken. This may include, but not be limited to, replicating the tests previously performed and the testing of emissions from several vehicles with the device. If the tests from the second stage of evaluation show promising results, a final stage of testing may be undertaken. This may involve the use of fleet vehicles.

(b) Fuel Additive. In accordance with the general policy stated in Section 2200, an application for testing of a motor vehicle fuel additive may be made to the state board by an additive manufacturer. The "Test Procedures for Gasoline and Diesel Vehicle Fuel Additives," adopted by the state board on July 10, 1974, shall be followed in the testing of fuel additives. The state board may charge an application fee, not to exceed the cost of the tests, for any testing conducted pursuant to this section.

NOTE: Authority cited: Sections 39600, 39601, 43014 and 43833, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000 and 43204, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Renumbering of Section 2204 to 2205 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2206. Fee Schedule.

(a) General Provisions.

(1) Purpose: The following fee schedule is adopted pursuant to Section 43833 of the California Health and Safety Code and the "Test Procedures for Gasoline and Diesel Vehicle Fuel Additives," adopted by the state board on July 10, 1974. The fees are designed to cover the cost of the tests actually conducted under the test program on additives for which the manufacturer has requested testing. Individual test programs will be as agreed upon by the applicant and the state board.

(2) Applicability: These provisions are applicable to tests conducted under the state board's "Test Procedures for Gasoline and Diesel Vehicle Fuel Additives," dated July 10, 1974.

(b) Collection of Fees. All fee remittances are to be made payable to State of California, Air Resources Board, 9528 Telstar Avenue, El Monte, CA 91731.

(c) Fee Schedule. The state board's fuel additive test procedure specifies different phases of testing. Depending on the extent of the test activity, each applicant will be charged according to the following fee schedule:

(1) Gasoline Fuel Additive.

(A) Chemical Analysis.

1. Initial evaluation—\$400.00.
2. Required chemical analysis and toxicological evaluation at cost (subdivision (e)).

(B) Preliminary Test.

1. Engine test (consisting of 32 data points under steady state engine operating conditions)—\$650.00.
2. Vehicle test (two cold start CVS-1975 comparative tests)—\$1,500.00.

The manufacturer will be charged at cost for vehicle rental fee incurred by the state board to obtain the required vehicle for testing.

(C) Fleet Test.

At Cost (subdivision (e)).

(2) Diesel Fuel Additive.

(A) Chemical Analysis.

1. Initial evaluation—\$400.00.
2. Required chemical analysis and toxicological evaluation at cost (subdivision (e)).

(B) Engine Tests.

1. Engine Test (two comparative tests, each consisting of a 13-mode emission test and an exhaust smoke test)—\$1,200.00.

2. Vehicle Test.

per 13-mode emission test—\$500.00

per exhaust smoke test—\$250.00

per two cold-start CVS-1975 comparative tests—\$1,500.00

The manufacturer will be charged at cost for vehicle rental fee incurred by the state board to obtain the required vehicle for testing.

(d) Payment of Fees. Each applicant requesting evaluation of an additive shall remit with the application the fee specified in Subsection (c)(1)(A)1. or (c)(2)(A)1. above for the initial evaluation. At the conclusion of this evaluation, the applicant will, where appropriate, be notified of suggested additional testing, if any, to be conducted by the state board staff on the applicant's product. The applicable fee shall be paid to the state board prior to the commencement of any further testing. Failure to pay the fee will result in termination of the test evaluation by the state board.

(e) Contract Provisions. The state board may engage independent laboratories to conduct evaluation tests in accordance with the test procedures specified by the state board. The actual cost for such tests will be charged to the applicant.

NOTE: Authority cited: Sections 39600, 39601 and 43833, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000 and 43204, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Amendment of subsection (c) filed 12-19-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 51).
2. Amendment of subsection (a) filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Renumbering of Section 2205 to 2206 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
4. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2207. Observation of Laboratory Tests.

The submitter may observe laboratory tests of his/her device or additive.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000 and 43204, Health and Safety Code; and Section 27156, Vehicle Code.

HISTORY

1. Renumbering of Section 2206 to 2207 filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

Article 2. Aftermarket Parts

§ 2220. Applicability.

This article shall apply to all aftermarket parts which are sold, offered for sale, or advertised for sale for use on motor vehicles which are subject to California or federal emissions standards. To the extent applicable, the results of any tests conducted pursuant to Article 1 may be used in total or partial fulfillment of the requirements of this article.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; and Sections 27156, 38390 and 38391, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000 and 43204, Health and Safety Code.

HISTORY

1. New Article 2 (Sections 2220-2226) filed 11-28-77; effective thirtieth day thereafter (Register 77, No. 49).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2221. Replacement Parts.

(a) Any replacement part subject to the provisions of this article shall be presumed to be in compliance with this article unless the executive officer makes a finding to the contrary pursuant to Section 2224(a).

(b) The manufacturer of any replacement part subject to the provisions of this article shall maintain sufficient records, such as performance specifications, test data, or other information, to substantiate that such a replacement part is in compliance with this article. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the year of manufacture of the replacement part.

NOTE: Authority cited: Sections 39000, 39002, 39003, 39500, 39600, 39601 and 43150, Health and Safety Code. Reference: Sections 27156, 38391 and 38395, Vehicle Code; and Sections 43000 and 43644, Health and Safety Code.

[The next page is 241.]

HISTORY

1. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

§ 2222. Add-On Parts and Modified Parts.

(a) As used in this section, the terms "advertise" and "advertisement" include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.

(b)(1) Except for publishers as provided in subsection 3, no person or company doing business solely in California or advertising only in California shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system unless such part, apparatus, or mechanism has been exempted from Vehicle Code section 27156, and the limitations of the exemption, if any, are contained within the advertisement in type size to give reasonable notice of such limitations.

(2) Except for publishers as provided in subsection 3, no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required motor vehicle pollution control device or system and not exempted from Vehicle Code section 27156 unless each advertisement contains a legally adequate disclaimer in type size adequate to give reasonable notice of any limitation on the sale or use of the device, apparatus, or mechanism.

(3) No publisher, after receipt of notice from the state board or after otherwise being placed on notice that the advertised part is subject to and has not been exempted from the provisions of Vehicle Code section 27156, shall make or disseminate or cause to be made or disseminated before the public in this state any advertisement for add-on or modified parts subject to the provisions of this article, which have not been exempted from Vehicle Code section 27156, unless such advertisement clearly and accurately states the legal conditions, if any, on sale and use of the parts in California.

(4) The staff of the state board shall provide, upon request, model language which satisfies these requirements.

(c) No person shall advertise, offer for sale, or install a part as a motor vehicle pollution control device or as an approved or certified device, when in fact such part is not a motor vehicle pollution control device or is not approved or certified by the state board.

(d) No person shall advertise, offer for sale, sell, or install an add-on or modified part as a replacement part.

(e) The Executive Officer may exempt add-on and modified parts based on an evaluation conducted in accordance with the "Procedures for Exemption of Add-on and Modified Parts," adopted by the state board on November 4, 1977, as amended June 1, 1990.

(f) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from Vehicle Code section 27156 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle model and work performed if applicable. Such records shall be open for reasonable inspection by the Executive Officer or his/her representative. All such records shall be maintained for four years from the date of sale or installation.

(g) A violation of any of the prohibitions set forth in this section shall be grounds for the Executive Officer to invoke the provisions of section 2225.

(h)(1) Prior to January 1, 2009, the Executive Officer shall exempt new aftermarket catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters" as adopted by the state board on August 19, 1988.

(2) On or after January 1, 2009, the Executive Officer shall exempt new aftermarket catalytic converters from the prohibitions of California Vehicle Code sections 27156 and 38391 based on an evaluation con-

ducted in accordance with the "California Evaluation Procedures for New Aftermarket Catalytic Converters" as adopted by the state board on October 25, 2007.

(3) No person shall install, sell, offer for sale or advertise, any new aftermarket catalytic converter in California unless it has been exempted pursuant to the procedures as provided in this subsection.

(4) For the purposes of this regulation, a new aftermarket catalytic converter is a catalytic converter which is constructed of all new materials, is not a replacement part as defined in Title 13, California Code of Regulations, section 1900, and is not an original equipment catalytic converter. A catalytic converter which includes any new material or construction not equivalent to the materials or construction of the original equipment catalytic converter (e.g., an original equipment catalytic converter can with a new non-original equipment substrate) shall also be considered a new aftermarket catalytic converter.

(i)(1) On or after July 1, 2008, or after 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale, or advertise any used, recycled, or salvaged catalytic converter in California.

(2) Prior to July 1, 2008, or 30 days from the date of filing of this subsection with the Secretary of State, whichever is later, no person shall install, sell, offer for sale or advertise, any used, recycled, or salvaged catalytic converter in California unless the catalytic converter has been exempted pursuant to the "Procedures for Exemption of Add-On Parts and Modified Parts," adopted by the state board on November 4, 1977, as amended June 1, 1990.

(3) For the purposes of this regulation, a "used catalytic converter" is a catalytic converter which is not a new aftermarket catalytic converter as defined in Subsection (h)(4), or a replacement part as defined in section 1900.

NOTE: Authority cited: Sections 39600, 39601, 43000, 43000.5 and 43011, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000, 43000.5, 43011, 43204, 43205 and 43644, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. Amendment filed 7-6-81; effective thirtieth day thereafter (Register 81, No. 28).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
3. New subsections (h) and (i) filed 2-15-89; operative 3-17-89 (Register 89, No. 8).
4. Amendment of subsection (e) filed 7-17-90; operative 8-16-90 (Register 90, No. 35).
5. Amendment of section and NOTE filed 6-10-2008; operative 7-10-2008 (Register 2008, No. 24).

§ 2223. Specific Criteria.

NOTE: Authority cited: Section 39601, Health and Safety Code; and Section 27156, Vehicle Code. Reference: Sections 39002, 39003, 39500, and 43000, Health and Safety Code.

HISTORY

1. Repealer filed 7-6-81; effective thirtieth day thereafter (Register 81, No. 28).

§ 2224. Surveillance.

(a) Replacement parts. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit any records relating to such part which are maintained pursuant to section 2221(b) above. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If, after a review of all records submitted by the manufacturer and of the results of any tests conducted by the state board's staff, the executive officer finds that such part is not in fact a replacement part, the executive officer may invoke section 2225. Replacement parts evaluated pursuant to this section shall be compared with the specifications contained in the applicable vehicle manufacturer's application for certification.

(b) Add-on parts and modified parts. The executive officer may order, for cause, the manufacturer of any add-on part or modified part subject to the provisions of this article to submit a reasonable number of parts

typical of the manufacturer's production for testing and evaluation. In-use performance will also be evaluated. This will include Inspection and Maintenance requirements and compliance with onboard diagnostic system regulations. If, after a review of the results of any tests or evaluations conducted by the state board's staff and of any information submitted by the manufacturer, the executive officer finds that an add-on part or a modified part does not conform to the "Procedures for Exemption of Add-on and Modified Parts," the executive officer may invoke section 2225. NOTE: Authority cited: Sections 39600, 39601 and 43011, Health and Safety Code; and Section 27156, Vehicle Code. Reference: Sections 39002, 39003, 39500, 43000 and 43204, Health and Safety Code.

HISTORY

1. Amendment filed 7-6-81; effective thirtieth day thereafter (Register 81, No. 28).
2. Amendment filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).
3. Amendment of subsection (b) filed 7-17-90; operative 8-16-90 (Register 90, No. 35).

§ 2225. Enforcement Action.

(a) When this section is invoked pursuant to other sections of this article, the executive officer may issue a cease and desist order and may require the person to submit a plan for correcting any deficiencies found by the state board. The executive officer may order any of the actions contained in the plan, and/or may declare a part to be not in compliance with Vehicle Code Section 27156 unless he/she finds the plan adequate to correct the deficiencies found by the state board. The plan may be required to include such corrective actions as the cessation of sale of non-complying parts, the recall of any non-complying parts already sold, and corrective advertising to correct misleading information regarding the emission control capabilities of the device and to ensure compliance with California's laws. The executive officer may also seek fines for violations of Vehicle Code Section 27156, or other laws or regulations, as applicable.

(b) When this section is invoked by the executive officer on either his/her own initiative or in response to complaints received, an investigation may be made by the executive officer or his/her representative to gather evidence regarding continuing violations of this article by any person engaged in the business of advertising, offering for sale, selling, or installing an add-on or modified part.

(c) Any person against whom enforcement action (other than the filing of an action in court) is initiated pursuant to this section may request a public hearing to review the enforcement action.

(d) Nothing in this article shall prohibit the executive officer from taking any other action provided for by law, including the prosecution of an action in court.

NOTE: Authority cited: Sections 39515, 39516, 39600 and 39601, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43600, 43641 and 43644, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. Repealer of former Section 2225 and renumbering and amendment of former Section 2226 to Section 2225 filed 11-30-83; effective thirtieth day thereafter (Register 83, No. 49).

Chapter 4.2. Certification of Exhaust Emission Control Devices for Controlling Carbon Monoxide from Portable and from Mobile Internal Combustion Engines Used in Enclosed Structures

§ 2230. Requirements.

No exhaust emission control device for controlling carbon monoxide from portable and from mobile internal combustion engines used in enclosed structures shall be certified by the Air Resources Board unless such devices operate within the standards for said pollutant set by the Oc-

cupational Safety and Health Standards Board pursuant to Section 6701 of the Labor Code, and meet the criteria set forth in this Chapter. The standards for carbon monoxide set by the Occupational Safety and Health Standards Board for such devices appear in Title 8, California Code of Regulations, Section 5146.

The test procedures for determining compliance with these standards are set forth in "Test Procedures for Portable and Mobile Internal Combustion Engines Used Inside Buildings" dated September 13, 1967.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 6702 and 6703, Labor Code. Reference: Sections 6701, 6702 and 6703, Labor Code.

HISTORY

1. Change without regulatory effect renumbering chapter heading and renumbering and amending former section 2275 to section 2230 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

§ 2231. Other Criteria.

No device controlling exhaust emissions from portable and from mobile internal combustion engines used in enclosed structures shall be certified by the Air Resources Board unless it meets the following criteria:

(a) Such device shall operate so that, with engine maintenance which is characteristic of general usage by the users thereof, its emissions are within the limits established by the State Standards.

(b) Function or malfunction of the device shall not create a hazardous condition.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code; Sections 6702 and 6703, Labor Code. Reference: Sections 6701, 6702 and 6703, Labor Code.

HISTORY

1. Change without regulatory effect renumbering former section 2276 to section 2231 and adding NOTE filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

Chapter 4.4. Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks

§ 2235. Requirements.

New 1977 and subsequent model-year gasoline-fueled motor vehicles and 1993 and subsequent model-year methanol-fueled passenger cars, light-duty trucks, medium-duty vehicles and heavy-duty vehicles shall not be sold, offered for sale or registered in California unless such vehicles comply with the Air Resources Board's "Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks," dated March 19, 1976 as last amended January 22, 1990 or, in the case of motorcycles, are exempted pursuant to Chapter 1, Article 2, Section 1976(b).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43107 and 43835, Health and Safety Code. Reference: Sections 39003, 43000, 43013, 43018, 43101, 43104, 43106, 43204 and 43835, Health and Safety Code; and Sections 28111 and 28112, Vehicle Code.

HISTORY

1. Change without regulatory effect renumbering chapter heading and renumbering and amending former section 2290 to section 2235 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

Chapter 5. Standards for Motor Vehicle Fuels

Article 1. Standards for Gasoline

Subarticle 1. Gasoline Standards That Became Applicable Before 1996

§ 2250. Degree of Unsaturation for Gasolines Sold Before April 1, 1996.

(a) No person shall sell or supply within the South Coast Basin (as defined on January 1, 1976) as a fuel for motor vehicles as defined by the Vehicle Code of the State of California, a gasoline having a degree of un-

saturation greater than that indicated by a Bromine Number of 30 as determined according to the "Test Method for Determining Bromine Number of Gasoline," as adopted by the Air Resources Board on August 13, 1987 and incorporated herein by reference.

(b) For the purpose of this rule, the term "gasoline" means any fuel

which is commonly or commercially known or sold as gasoline, or any fuel sold to power a vehicle certified by the state board as a gasoline-powered vehicle without modifying the vehicle.

(c) This section shall not apply to gasoline sold or supplied on or after April 1, 1996, except for gasoline that is supplied from a small refiner's

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California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43831, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000-39003, 39010, 39500, 39515, 39516, 39606, 41511, 43000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Amendment filed 7-15-76 as procedural and organizational; designated effective 9-1-76 (Register 76, No. 29).
2. Amendment filed 3-3-83; effective thirtieth day thereafter (Register 83, No. 10).
3. Amendment filed 9-25-87; operative 10-25-87 (Register 87, No. 40).
4. Change without regulatory effect amending article heading filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
5. New subarticle 1. heading and subsection (c) and amendment of section heading and NOTE filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
6. Amendment of subarticle 1 heading filed 9-13-96; operative 10-13-96 (Register 96, No. 37).
7. Change without regulatory effect amending subarticle heading filed 1-6-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 2251. Reid Vapor Pressure for Gasoline.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39606, 43000, 43013, 43016, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Amendment filed 5-20-75 as procedural and organizational; effective upon filing (Register 75, No. 21).
2. Amendment filed 3-2-76 as procedural and organizational; effective upon filing (Register 76, No. 10).
3. Amendment of subsections (a) and (e) filed 7-15-76 as procedural and organizational; designated effective 9-1-76 (Register 76, No. 29).
4. Repealer and new section filed 7-1-80 as an emergency; effective upon filing. Certificate of Compliance included (Register 80, No. 27).
5. Amendment of NOTE filed 3-3-83; effective thirtieth day thereafter (Register 83, No. 10).
6. Amendment filed 5-6-91; operative 5-6-91 (Register 91, No. 24).
7. Change without regulatory effect amending section filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
8. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2251.1. Waiver of Reid Vapor Pressure Standard for Gasoline Produced in California.

NOTE: Authority cited: Sections 39600, 39601, Health and Safety Code. Reference: Sections 41511, 43101, Health and Safety Code.

HISTORY

1. New section filed 6-1-79 as an emergency; effective upon filing (Register 79, No. 22).
2. Amendment of subsection (c) and new subsection (f) filed 7-11-79 as an emergency; effective upon filing (Register 79, No. 28).
- * Amendment expiration date based upon emergency order filed 6-1-79.
3. Amendment of subsection (a) filed 9-12-79 as an emergency; effective upon filing (Register 79, No. 37). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 1-10-80.
4. Expired by own terms (Register 80, No. 5).

§ 2251.2. Waiver of Reid Vapor Pressure Standard for Gasoline Imported into California.

NOTE: Authority cited: Sections 39600, 39601, Health and Safety Code. Reference: Sections 41511, 43101, Health and Safety Code.

HISTORY

1. New section filed 6-1-79 as an emergency; effective upon filing (Register 79, No. 22).
2. Exhibit A incorporated by reference into Sections 2251.1 and 2251.2 filed 6-1-79 as an emergency; effective upon filing (Register 79, No. 22).
3. Amendment filed 9-12-79 as an emergency; effective upon filing (Register 79, No. 37). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 1-10-80.
4. Expired by own terms (Register 80, No. 5).

§ 2251.5. Reid Vapor Pressure of Gasoline Sold After January 1, 1992, and Before March 1, 1996.

(a) Regulatory Standards.

(1) Basic Regulatory Standard.

(A) Starting January 1, 1992, within each of the air basins during the regulatory period set forth in section (a)(1)(B), no person shall sell, offer for sale, dispense, supply, offer for supply, or transport California gasoline which has a Reid vapor pressure exceeding 7.80 pounds per square inch.

(B) Basic Regulatory Control Periods.

1. April 1 through October 31:

South Coast Air Basin and Ventura County
San Diego Air Basin
Southeast Desert Air Basin

2. May 1 through September 30:

Great Basin Valley Air Basin

3. May 1 through October 31:

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

4. June 1 through September 30:

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

5. June 1 through October 31:

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(2) Additional Regulatory Standards for Gasoline Sold, Supplied or Transferred from a Production or Import Facility.

(A) Starting January 1, 1992, no producer or importer shall sell, offer for sale, supply, or offer to supply from its California production facility or California import facility in an air basin during the regulatory period specified in section (a)(2)(B), California gasoline which has a Reid vapor pressure exceeding 7.80 pounds per square inch. Starting January 1, 1992, no person shall transport directly from a California production facility or California import facility in an air basin during the regulatory period set forth in section (a)(2)(B), California gasoline which has a Reid vapor pressure exceeding 7.80 pounds per square inch.

(B) Additional Regulatory Control Periods.

1. March 1 through March 31:

South Coast Air Basin and Ventura County

San Diego Air Basin

Southeast Desert Air Basin

2. April 1 through April 30:

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Great Basin Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

3. May 1 through May 31:

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(3) Special Provisions for Blends of Gasoline Containing Ethanol.

(A) Any blend of gasoline containing at least 10 percent ethanol by volume shall not result in a violation of this section (a) unless the gasoline used in the blend exceeds the standards set forth in this section (a).

(B) Section (a)(3)(A) shall be effective only so long as Health and Safety Code section 43830 establishes special provisions for the volatility of gasoline blends containing at least 10 percent ethanol by volume.

(C) Any sale, offer for sale, supply, or transport of gasoline containing at least 4.9 percent ethanol by volume, which occurs in October 1993, October 1994, or October 1995, shall not constitute a violation of section (a)(1) unless the gasoline has a Reid vapor pressure exceeding 8.80 pounds per square inch.

(D) 1. Any sale, offer for sale, or supply of gasoline containing at least 4.9 percent ethanol by volume from a final distribution facility during the 15 days preceding a transition period shall not constitute a violation of section (a)(1) as long as:

a. The gasoline has a Reid vapor pressure not exceeding 8.80 pounds per square inch, and

b. The person selling or supplying the gasoline demonstrates to the satisfaction of the executive officer, prior to the sale or supply, that it is reasonably necessary to add ethanol to the gasoline to enable the calibration of metered ethanol blending equipment prior to the start of the regulatory control period.

2. Any transaction involving gasoline after it has been transferred from a final distribution facility shall not constitute a violation of section (a)(1) if the person engaged in the transaction demonstrates by affirmative defense that the sale, offer for sale or supply of the gasoline from the final distribution facility met the criteria set forth in section (a)(3)(D)(1).

3. For the purposes of this section (a)(3)(D), "final distribution facility," "transition period," and "regulatory control period" shall have the same meaning set forth in Title 13, California Code of Regulations, sections 2258(b) and 2258(a)(2).

(4)(A) Section (a)(1) shall not apply to a transaction occurring in an air basin during the basic regulatory control period where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility when the station or facility is not subject to a basic regulatory control period.

(B) Section (a)(2) shall not apply to a transaction occurring in an air basin during the additional regulatory control period for producers and importers where the person selling, supplying, offering or transporting the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility located in an air basin not then subject to the basic regulatory control period or the additional control period for producers and importers.

(C) Section (a)(1) shall not apply to a transaction occurring in an air basin during the basic regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred more than fourteen days before the start of the basic regulatory control period.

(5) For the purposes of section (a)(1), each sale of California gasoline at retail, and each dispensing of California gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of section (a)(1).

(b) Definitions.

For the purposes of this section:

(1) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks or motor vehicles owned or operated by the person.

(2) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(3) "California production facility" means a facility in California at which gasoline is produced; it does not include a facility whose sole operation is to transfer gasoline or to blend additives into gasoline.

(4) "Ethanol" means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

(5) "Gasoline" means any fuel which is commonly or commercially known or sold as gasoline, or which is a mixture of more than 50 percent fuel commonly known or sold as gasoline and alcohol.

(6) "Importer" means any person who first accepts delivery in California of California gasoline.

(7) "Import facility" means the facility at which imported California gasoline is first received in California, including, in the case of California gasoline imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline is imported.

(8) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(9) "Produce" means to convert liquid compounds which are not gasoline into gasoline.

(10) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.

(11) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(c) Sampling and Test Methods.

(1) Compliance with the standards set forth in section (a)(1) and (2) shall be determined by use of an applicable sampling methodology set forth in 13 CCR section 2296, and by use of either (A) the American Society for Testing and Materials Method ASTM D 328-58 (which is incorporated by reference herein), deleting paragraph 4(b) concerning sampling or (B) the test method set forth in Section 2297.

(2) For purposes of section (a)(3), the ethanol content of gasoline shall be determined by: (A) use of American Society of Testing and Materials Test Method D 4815-94 (which is incorporated by reference herein) to determine the mass percent of ethanol in the gasoline, and (B) conversion of the concentration of ethanol from percent by mass to percent by volume according to Section 14.3 of ASTM D 4815-94. The volume of ethanol shall include the volume of any denaturant approved for that purpose by the United States Bureau of Alcohol, Tobacco and Firearms, provided those denaturants do not exceed 5 percent of the volume of alcohol (including denaturants).

(d) Variances.

(1) Any person who cannot comply with the requirements set forth in section (a)(1) or (2) before January 1, 1994 because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of section (a)(1) or (2) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in section (d)(1), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements in section (a)(1) or (2) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with section (a)(1) or (2) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance; and

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) No variance may be effective after December 31, 1993. Any variance order shall impose a substitute gasoline Reid vapor pressure limit as stringent as feasible under the circumstances, in no case to exceed 9.0 pounds per square inch. Any variance order shall specify a final compliance date by which the requirements in section (a)(1) or (2) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(8) The executive officer may, after holding a hearing without complying with the provisions of sections (d)(2) and (d)(3), issue an emergency variance to a person from the requirements of sections (a)(1) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of section (d)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of section (a)(1) or (2) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in section (d)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this section (d)(8), and shall provide advance telephone notice to any such person.

(9) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(10) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of section (a)(1) or (2) after holding a hearing in accordance with the provisions of sections (d)(2) and (d)(3).

(e) Sunset

This section shall not apply to gasoline sold or supplied on or after March 1, 1996.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43016, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 5-6-91; operative 5-6-91 (Register 91, No. 24).

2. Change without regulatory effect amending subsection (c) filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
3. Amendment of subsection (a)(3)(B) and new subsection (a)(3)(C) filed 10-14-92; operative 10-14-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 42).
4. Amendment of section heading and subsections (a), (a)(1)(B)(i), (a)(1)(B)(v), (a)(2)(B)(i), (a)(2)(B)(iii) and (a)(3)(B) and new subsection (a)(3)(C) filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
5. New subsections (a)(3)(D)-(D)(3) and amendment of subsections (c)(1)-(2) filed 9-1-94; operative 9-1-94 (Register 94, No. 35).
6. Repealer of subsection (e), subsection relettering and amendment of NOTE filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).
7. Amendment of subsections (c)(1)-(2) filed 8-7-95; operative 8-7-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 2252. Sulfur Content of Gasoline Represented as Unleaded Sold Before April 1, 1996.

(a) No person shall sell, offer for sale, or supply in California, as a fuel for motor vehicles, any gasoline represented as unleaded which has a sulfur content greater than 300 parts per million by weight.

(b) The maximum sulfur content limitations specified in subsection (a) shall be determined by ASTM Test Method 2622-87, or any other test method determined by the executive officer to give equivalent results.

(c) For the purpose of this section,

"Motor Vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(d)(1) Any person who cannot comply with the requirements set forth in subsection (a) because of extraordinary reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (d)(1), the executive officer shall hold a hearing to determine whether, and under what conditions and to what extent, a variance from the requirements established by subsection (a) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsections (a) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify final compliance date by which the requirements in subsection (a) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the sulfur content of unleaded gasoline or diesel

fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance from the requirements set forth in subsection (a) based on a plan for compliance which includes the installation of major additional equipment shall have a duration of more than three years.

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (d)(2) and (3), issue an emergency variance to a person from the requirements of subsection (a) upon a showing or reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of subsection (d)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (d)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this paragraph (d)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a) after holding a hearing in accordance with the provisions of subsections (d)(2) and (3).

(e) This section shall not apply to gasoline sold or supplied after April 1, 1996, except for gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Amendment of section heading and new subsection (o) filed 9-25-89; operative 10-25-89 (Register 89, No. 39). For prior history, see Register 86, No. 52.
2. Amendment of subsection (a) and repealer of subsection (c) filed 7-12-91; operative 8-12-91 (Register 91, No. 43).
3. Change without regulatory effect amending section heading and text and relocating subsections to section 2280 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
4. Amendment of section heading and subsection (b) and new subsection (c) filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

§ 2253. Average Lead Content of Gasoline Manufactured Before July 1, 1983.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

Control District, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000-39003, 39500, 39515, 39516, 41511, 43000, 43103 and 43011, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-26-76; effective thirtieth day thereafter (Register 76, No. 9).
2. New subsections (h)-(n) filed 5-22-79 as an emergency; effective upon filing (Register 79, No. 21).
3. Exhibit A incorporated by reference into subsection (h) filed 5-22-79 as an emergency; effective upon filing (Register 79, No. 21).
4. Amendment of subsections (i) and (j) filed 7-11-79 as an emergency; effective upon filing (Register 79, No. 28).
- * Amendment expiration date based upon emergency order filed 5-22-79.
5. Subsections (h)-(n) expired by own terms (Register 80, No. 2).
6. New subsections (h) and (i) filed 1-8-80 as an emergency; effective upon filing (Register 80, No. 2). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5-8-80.
7. Certificate of Compliance filed 2-1-80 (Register 80, No. 5).
8. Amendment of section heading and new subsection (j) filed 2-2-83; effective thirtieth day thereafter (Register 83, No. 6).
9. Change without regulatory effect repealing Section 2253 filed 9-26-88 (Register 88, No. 41).

§ 2253.1. Exclusion of Gasoline Imported into California from Lead Requirements.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: Sections 41511, 43013, and 43101, Health and Safety Code.

HISTORY

1. New section filed 6-14-79 as an emergency; effective upon filing (Register 79, No. 24).
2. Expired by own terms (Register 80, No. 5).

§ 2253.2. Lead in Gasoline Sold Before January 1, 1992.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil & Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000-39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil & Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-2-83; effective thirtieth day thereafter (Register 83, No. 6).
2. Amendment of subsections (c) and (m) filed 9-7-84; designated effective 10-1-84 pursuant to Government Code section 11346.2(d) (Register 84, No. 36).
3. New subsection (p) filed 7-12-91; operative 8-12-91 (Register 91, No. 43).
4. Editorial correction of subsection (k)(2) (Register 92, No. 5).
5. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2253.4. Lead in Gasoline.

(a) Regulatory Standard.

(1) [Reserved]

(2) [Reserved]

(3) Starting January 1, 1994, no person shall sell, offer for sale, supply, or offer for supply any California gasoline:

(A) which is not represented as unleaded, or

(B) which has been produced with the use of any lead additive, or

(C) which contains more than 0.050 gram of lead per gallon or more than 0.005 gram of phosphorus per gallon, except as provided in subsection (d).

(4) Starting January 1, 1992, no person shall transfer a consumer gasoline additive containing lead into the fuel tank of a motor vehicle, other than an exempt off-road motor vehicle.

(5) Starting January 1, 1992, no person shall sell or offer for sale a consumer gasoline additive containing lead unless the additive container bears a conspicuous legend that use of the additive in passenger cars and other on-road vehicles is unlawful and can result in substantial penalties, and unless the marketing of the additive is directed exclusively towards use in exempt off-road motor vehicles and nonvehicular sources.

(b) Definitions.

For the purposes of this section:

(1) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(2) "Consumer gasoline additive" means any gasoline additive which is designed or marketed to be dispensed into the gasoline tank used to fuel a gasoline engine.

(3) "Exempt off-road vehicle" means any special construction equipment as defined in sections 565 and 570 of the Vehicle Code, and any implement of husbandry as defined in sections 36000 et seq. of the Vehicle Code.

(4) "Gasoline" means any fuel which is commonly or commercially known or sold as gasoline, or which is a mixture of any fuel commonly known or sold as gasoline and alcohol.

(5) "Lead additive" means any substance containing lead or lead compounds.

(6) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(7) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles other than exempt off-road vehicles.

(8) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(c) Test Methods.

The lead content of gasoline shall be determined in accordance with American Society of Testing and Materials (ASTM) Method D3237-79, which is incorporated herein by reference. The phosphorous content of gasoline shall be determined in accordance with ASTM Method D3231-73, which is incorporated herein by reference.

(d) Exemptions.

Subsections (a)(1) and (3) shall not apply to California gasoline sold, offered from sale, supplied, or offered for supply by a person who demonstrates that:

(i) The gasoline is conspicuously identified as a fuel which may not lawfully be dispensed to motor vehicles other than exempt off-road vehicles; and

(ii) He or she has taken reasonable precautions to assure that the gasoline will not be sold or offered for sale at a retail outlet; and

(iii) Either the gasoline is being directly dispensed into the fuel tank of an exempt off-road vehicle, or the gasoline is the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that he or she will not sell, offer for sale, supply, or offer for supply the gasoline for use in motor vehicles other than exempt off-road vehicles.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil & Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 43000, 43013, 43016, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-12-91; operative 8-12-91 (Register 91, No. 43).
2. Change without regulatory effect amending subsection (a)(3) filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
3. Editorial correction of subsection (a)(1) (Register 95, No. 43).
4. Change without regulatory effect repealing subsections (a)(1) and (a)(2) filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2254. Manganese Additive Content.

(a) Except as provided in subparagraph (b), no person shall add manganese or any manganese compound, including the compound methylcyclopentadienyl manganese tricarbonyl (MMT), to gasoline represented as unleaded intended to be sold, offered for sale, or delivered for sale at retail in the State of California.

(b) The prohibitions set forth in subparagraph (a) shall not apply to any person who has applied for and received from the Executive Officer written approval to add manganese or any manganese compound, including MMT, to gasoline represented as unleaded for the purpose of conducting tests or research into the effect thereof on vehicle emissions, fuel economy, performance, or for other related research objectives.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution*

Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000-39003, 39500, 39515, 39516, 43000, 43013 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County APCD*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-1-77; effective thirtieth day thereafter (Register 77, No. 32).
2. Amendment filed 10-25-77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 44).
3. Amendment of NOTE filed 3-3-83; effective thirtieth day thereafter (Register 83, No. 10).
4. Amendment of subsections (a) and (b) filed 7-12-91; operative 8-12-91 (Register 91, No. 43).

§ 2255. Sulfur Content of Diesel Fuel.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101 of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 9-25-89; operative 10-25-89 (Register 89, No. 39).
2. Amendment of subsection(a) filed 10-9-90; operative 11-8-90 (Register 90, No. 45).
3. Change without regulatory effect renumbering former section 2255 to section 2281 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

§ 2256. Aromatic Hydrocarbon Content of Diesel Fuel.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101 of the Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 9-25-89; operative 10-25-89 (Register 89, No. 39).
2. Change without regulatory effect renumbering former section 2256 to section 2282 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

§ 2257. Required Additives in Gasoline.

(a) Regulatory Standard.

(1) On or after January 1, 1992, no person shall sell, offer for sale, supply, or offer for supply any California gasoline unless at the time of the transaction:

[i] the producer, importer, or distributor of the gasoline has been issued a currently effective certification for California gasoline pursuant to subsection (c), originally dated no earlier than July 1, 1996. Existing certifications dated between July 1, 1996 and July 16, 1999 that meet the standards described in subsection (c)(1)(A)(i) and (c)(1)(A)(ii) [including those which used test method ASTM D 5500-94] are exempted from subsection (c)(1)(A)(iii), and

[ii] the gasoline contains at least the minimum concentration of the additive or additives identified in the final application for certification.

(2) Subsection (a)(1) shall not apply to transactions where the person selling, supplying, or offering the gasoline demonstrates that:

[i] the gasoline has not yet been sold, offered, or supplied from the final distribution facility, and either

[ii] the person has taken reasonably prudent precautions to assure that he or she will bring the gasoline into satisfaction with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility, or

[iii] at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the gasoline stating that he or she is a distributor who has been issued a currently effective certification pursuant to subsection (c), and will cause the gasoline to satisfy the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility.

(3) Subsection (a)(1)[ii] shall not apply to the sale, supply, or offer of gasoline from a final distribution facility where the person selling, sup-

plying, or offering the gasoline demonstrates that the gasoline will be corrected to comply with section (a)(1)(ii) prior to the sale of gasoline from the retail outlet to be dispensed into motor vehicles. If such corrective action is taken, the producer, importer, or distributor of the gasoline must notify the Compliance Division of the Air Resources Board by telephone or in writing within 2 business days of the correction and must maintain records to document each occurrence in accordance with subsection (d).

(4) For the purposes of subsection (a)(1), each sale of gasoline at retail for use in a motor vehicle, and each supply of gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of subsection (a)(1).

(b) Definitions.

For the purposes of this section:

(1) "Additive" means any substance or mixture of substances that is intentionally added to gasoline for the purpose of reducing or preventing fuel injection system or intake valve deposits, and that is not intentionally removed prior to the gasoline's sale or use.

(2) "Bulk purchaser-consumer" means a person who purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(3) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(4) "Chemical composition" means the name, percentage by weight, and chemical identification of each compound in an additive.

(5) "Distributor" means any person who transports or stores or causes the transportation or storage of gasoline, produced or imported by another person, at any point between any producer's or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

(6) "Final distribution facility" means the stationary gasoline transfer point from which gasoline is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles.

(7) "Gasoline" means any fuel which is sold or intended for sale as a California motor vehicle fuel and is either: (a) commonly or commercially known or sold as gasoline, or (b) any fuel blend of gasoline as defined in (a) and alcohol in which the portion of gasoline is more than 50 percent of the total blend.

(8) "Gasoline production facility" means a facility in California at which gasoline is produced; it does not include a facility whose sole operation is to transfer gasoline or to blend additives into gasoline.

(9) "Importer" means any person who first accepts delivery of gasoline in California.

(10) "Import facility" means the facility at which imported gasoline is first received in California, including, in the case of gasoline imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline is imported.

(11) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(12) "Produce" means to convert liquid compounds which are not gasoline into gasoline.

(13) "Producer" means any person who produces California gasoline in California.

(14) "Retail outlet" means any establishment at which gasoline is sold or offered for sale for use in motor vehicles.

(15) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(c) Certification Requirements.

(1)(A) No gasoline formulation shall be certified under this subsection (c) unless the applicant for certification demonstrates each of the following to the executive officer's satisfaction:

(i) The gasoline formulation meets a maximum of 50 milligrams averaged over all intake valves when tested in accordance with ASTM D 5500-98, which is incorporated herein by reference. As an alternative, intake valve deposits may be tested in accordance with subsection (c)(1)(A)(iii).

(ii) The gasoline formulation does not result in a flow loss of more than five percent for any fuel injector when tested in accordance with ASTM D 5598-95a, which is incorporated herein by reference.

(iii) The gasoline formulation meeting the requirements of (c)(1)(A)(i), does not result in more than 1300 milligrams total deposit weight, averaged over all four combustion chambers, or, does not result in more than 140 percent total deposit weight from all four combustion chambers, relative to the gasoline formulation containing no additive, when tested in accordance with the Stationary Source Division's Test Method for Evaluating Intake Valve and Combustion Chamber Deposits in Vehicle Engines, dated March 12, 1999, which is incorporated herein by reference.

(B) The executive officer may approve alternative test procedures for demonstrating satisfaction with any of the performance criteria set forth in subsection (c)(1)(A) if an applicant or potential applicant demonstrates to the executive officer's satisfaction that a gasoline formulation which meets the performance criteria of the alternative test procedure would also meet the performance criteria specified in subsection (c)(1)(A).

(2) Any producer, importer, or distributor may apply to the executive officer for certification of a gasoline formulation in accordance with this subsection (c). The application shall be in writing and shall include, at a minimum, the following:

(A) The name and chemical composition of the additive or additives in the gasoline formulation, except that if the chemical composition is not known to either the applicant or to the manufacturer of the additive (if other than the applicant), the applicant may provide a full disclosure of the chemical process of manufacture of the additive in lieu of its chemical composition.

(B) The minimum concentration of each additive in the gasoline formulation in terms of gallons of additive per thousand gallons of gasoline.

(C) The results of tests conducted on the gasoline formulation pursuant to the test procedures set forth in subsection (c)(1), all data generated by the tests, the identity of the entity which conducted each test, and a description of the quality assurance and quality control procedures used during the testing.

(D) Data demonstrating that the fuel used for certification testing ("certification test fuel") is representative of the gasoline formulation for which certification is requested. Properties of the certification test fuel must be at least 80 percent of the maximum properties of the gasoline formulation to be certified for the following: aromatic hydrocarbon content, olefin content, sulfur content, and oxygen content. The T90 distillation temperature of the certification test fuel cannot be less than 40 °F below the gasoline formulation for which certification is requested. All other certification test fuel properties must be representative of typical commercial gasoline.

(E) Data demonstrating how the certification test fuel was produced including a list of blend stocks, such as reformat, oxygenates, cracked stocks, alkylate, isomerate, straight run stocks and any other blend stocks, along with the percentage of the total which each blend stock comprises. Data may also be requested which demonstrates that the certification test fuel blend stocks are representative of typical California refinery blend stocks used for the production of California gasoline.

(F) The theoretical mechanism of action (if known) of the additive in meeting any of the performance criteria set forth in subsection (c)(1)(A).

(G) Copies of all material pertaining to the additive or additives in the gasoline formulation, submitted by the applicant to the U.S. Environmental Protection Agency pursuant to 40 CFR sections 79.6, 79.10 and 79.11. If the applicant has submitted no such material, copies of all material pertaining to the additive or additives in the gasoline formulation, submitted by the additive manufacturer to the U. S. Environmental Protection Agency pursuant to 40 CFR sections 79.6, 79.20 and 79.21.

(H) A test method reasonably adequate for determining the presence and concentration of each additive in the gasoline, including test method

reproducibility. The test method may involve identification of the presence of a surrogate marker substance if the applicant demonstrates that such test method will adequately demonstrate the presence and concentration of the additive.

(3) Within 30 days of receipt of an application, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 30 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the application is complete, or that specified additional information or testing is still required before it can be deemed complete.

(4) If the executive officer finds that an application meets the requirements of this section and determines that the applicant has satisfactorily made the demonstrations identified in subsection (c)(1), then he or she shall issue an Executive Order certifying the gasoline fuel formulation. The executive officer shall act on a complete application within 30 days after the application is deemed complete.

(5) If the executive officer determines that the gasoline sold by a producer, importer or distributor contains the minimum concentration of additives identified in an applicable certification, but substantially fails to meet the performance criteria set forth in subsection (c)(1), the executive officer shall revoke or modify the prior certification as is necessary to assure that gasoline sold by the producer, importer or distributor meets the performance criteria set forth in subsection (c)(1). The executive officer shall not revoke or modify a prior certification order without first affording the applicant for the certification an opportunity for a hearing in accordance with title 17, California Code of Regulations, part III, chapter 1, subchapter 1, article 4 (commencing with section 60040). If the executive officer determines that a producer, importer or distributor would be unable to comply with this regulation as a direct result of a certification revocation or modification pursuant to this subsection, the executive officer may delay the effective date of such revocation or modification for such period of time as is necessary to permit the person to come into compliance in the exercise of all reasonable diligence.

(d) Recordkeeping.

(1) Each producer, importer, and distributor who has been issued a certification pursuant to subsection (c) must maintain records identifying each facility at which he or she adds an additive to California gasoline in order to comply with subsection (a)(1). For each such facility, the producer, importer or distributor must compile records showing on a monthly basis for each grade of gasoline:

[i] the volume of California gasoline supplied from the facility by the producer, importer or distributor,

[ii] the volume of California gasoline to which the producer, importer or distributor added the additive to comply with subsection (a)(1), and

[iii] the name and volume of each additive (or additive package) added to the California gasoline fuel. Records covering a month must be compiled no later than 30 days after the end of the month, and must be retained for at least two years after the end of the month.

(2) Any person required by subsection (d)(1) to compile and retain records must provide to the executive officer any such records within 20 days of a written request received from the executive officer or his/her designee before expiration of the period during which the records are required to be retained. Whenever such a person fails to provide records regarding a volume of California gasoline in accordance with this subsection (d)(2), the volume of California gasoline will be presumed to have been sold by the person in violation of subsection (a)(1).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101 of the Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code, and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 7-12-91; operative 8-12-91 (Register 91, No. 43).

2. Amendment filed 9-13-96; operative 10-13-96 (Register 96, No. 37).

3. Amendment filed 5-17-99; operative 7-16-99 (Register 99, No. 21).

§ 2258. Oxygen Content of Gasoline in the Wintertime.

(a) Regulatory Standard.

(1) Starting November 1, 1992, within each of the air basins during the regulatory control period set forth in section (a)(2), no person shall sell, offer for sale, supply, offer for supply, or transport California gasoline unless the gasoline has an oxygen content of not less than 1.8 percent by weight and not more than 2.2 percent by weight.

(2) Regulatory Control Periods.

(A) October 1 through February 29

South Coast Air Basin and Ventura County

(B) October 1 through January 31

Sacramento Valley Air Basin

San Joaquin Valley Air Basin

San Francisco Bay Area Air Basin

Lake Tahoe Air Basin

Great Basin Valley Air Basin

Mountain Counties Air Basin

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

North Central Coast Air Basin

San Luis Obispo County

(C) November 1 through February 29

San Diego Air Basin

Southeast Desert Air Basin

Santa Barbara County

(3) Section (a)(1) shall not apply to transactions involving gasoline not meeting the minimum oxygen content standard where the person selling, supplying, or offering the gasoline demonstrates by affirmative defense that: [i] the gasoline has not yet been supplied from the final distribution facility, and [ii] the documents accompanying such gasoline clearly state that it does not comply with the minimum oxygen content standard in section (a)(1), and either [iii] the person has taken reasonably prudent precautions to assure that he or she will bring the gasoline within the standards in section (a)(1) before it is supplied from the final distribution facility, or [iv] at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the gasoline stating that he or she will take reasonably prudent precautions to assure that the gasoline is brought within the standards of section (a)(1) before it is supplied from the final distribution facility.

(4) Section (a)(1) shall not apply to a transaction occurring in an air basin during the regulatory control period where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility when the station or facility is not subject to a basic regulatory control period.

(5) Section (a)(1) shall not apply to a transaction occurring in an air basin during the regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred more than fourteen days before the start of the regulatory control period.

(6)(A) The regulatory standards in section (a)(1) shall not apply to a transaction occurring in the air basin during a transition period, where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that he or she has made, prior to the transaction, specific arrangements with a gasoline distributor for the delivery of an oxygenated or nonoxygenated gasoline blend containing oxygenates in quantities that will result in gasoline in the stationary storage tanks at the facility having an oxygen content of

from 1.8 percent to 2.2 percent by weight by the end of the transition period.

(B) The regulatory standards in section (a)(1) shall not apply to a transaction occurring in an air basin during a transition period, where the transaction involves the sale, offer for sale, supply, offer for supply, or transport of gasoline to a retail gasoline outlet or bulk purchaser-consumer's facility and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the gasoline is being distributed pursuant to a prior arrangement to deliver oxygenated or nonoxygenated gasoline to bring the retail gasoline outlet or bulk purchaser-consumer's facility into compliance with the regulatory standards in section (a)(1) by the end of the transition period.

(7) Section (a)(1) shall not apply to a transaction involving the sale, offer for sale, supply, or offer for supply of gasoline to a stationary storage tank at a retail gasoline outlet, or the transfer of gasoline from a stationary storage tank at a retail gasoline outlet to a motor vehicle fuel tank, if the person selling, offering, or supplying the gasoline demonstrates by affirmative defense all of the following:

(A) The retail gasoline outlet is within Modoc, Lassen, Sierra, Nevada, Placer, El Dorado, Alpine, Mono, Inyo, or San Bernardino counties, and is not within the Lake Tahoe or Sacramento Valley Air Basins.

(B) The final distribution facility from which the gasoline is being or has been delivered is outside California.

(C) The gasoline is being or has been delivered to the stationary storage tank by a tank truck having a total capacity not exceeding 4500 gallons.

(D) The stationary storage tank at the retail gasoline outlet has a total capacity not exceeding 2500 gallons, and

(E) The retail gasoline outlet has a monthly throughput not exceeding 10,000 gallons.

(8) For the purposes of section (a)(1), each sale of California gasoline at retail, and each dispensing of California gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of section (a)(1).

(b) Definitions.

For the purposes of this section:

(1) "Bulk purchaser-consumer" means a person who purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(2) "California gasoline" means gasoline sold or intended for sale as a motor vehicle fuel in California.

(3) "Distributor" means any person engaged in the business of transporting and delivering gasoline to a retail gasoline outlet or bulk purchaser-consumer's facility.

(4) "Final distribution facility" means the stationary gasoline transfer point from which gasoline is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution facility where the cargo tank truck is used to transport gasoline and carries written documentation demonstrating that oxygenates, in quantities that will bring the gasoline into compliance with section 2258(a)(1), will be or have been blended directly into the cargo tank truck prior to delivery of the gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.

(5) "Gasoline means any fuel which is commonly or commercially known or sold as gasoline.

(6) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(7) "Northern California" means the area of California not contained within the South Central Coast, South Coast, Southeast Desert and San Diego Air Basins.

(8) "Southern California" means the area of California contained within the South Central Coast, South Coast, Southeast Desert and San Diego Air Basins.

(9) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(10) "Transition period" means:

a. the first 15 days of any October regulatory control period.

b. November 1 to November 15, 1992, and

c. November 1 through November 15 of 1993, 1994, or 1995 in the San Diego Air Basin, the Southeast Desert Air Basin, and Santa Barbara County.

(c) Sampling Procedures and Test Methods.

Compliance with the oxygen content standards in this regulation shall be determined by use of an applicable sampling methodology set forth in Title 13, California Code of Regulations, section 2296, and use of American Society for Testing and Materials Test Method ASTM D 4815-94, which is incorporated herein by reference. Another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results obtained with ASTM D 4815-94.

(d) Inability to Produce Conforming Gasoline in Extraordinary Circumstances.

In appropriate extreme and unusual circumstances (e.g., natural disaster or Act of God) which are clearly outside the control of the refiner, importer, or oxygenate blender and which could not have been avoided by the exercise of prudence, diligence, and due care, the executive officer may permit a refiner, importer, or oxygenate blender, for a brief period, to distribute gasoline which does not meet the requirements in section (a)(1) if:

(1) It is in the public interest to do so (e.g., distribution of the nonconforming gasoline is necessary to meet projected shortfalls which cannot otherwise be compensated for);

(2) The refiner, importer, or oxygenate blender exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(3) The refiner, importer, or oxygenate blender can show how the requirements for oxygenated gasoline will be expeditiously achieved;

(4) The refiner, importer, or oxygenate blender agrees to make up air quality detriment associated with the nonconforming gasoline, where practical; and

(5) The refiner, importer, or oxygenate blender pays to the Air Pollution Control Fund an amount equal to the economic benefit of the nonconformity minus the amount expended, pursuant to section (d)(4), in making up the air quality detriment.

(e) Effect of Supply Waiver Under Federal Clean Air Act.

(1) If the Administrator of the U.S. Environmental Protection Agency issues, pursuant to 42 U.S.C. section 7545(m)(3)(C), a waiver of the requirements of 42 U.S.C. section 7545(m)(2) applicable to a geographic area or areas of California, the requirements of section (a)(1) shall not apply in any air basin containing an area covered by the waiver, during the effective period of the waiver.

(2) If the Administrator of the U.S. Environmental Protection Agency issues, pursuant to 42 U.S.C. section 7545(m)(3)(C), a waiver of the requirements of 42 U.S.C. section 7545(m)(2) applicable to a geographic area or areas within Southern California, section (a)(1) shall not apply, during the effective period of the waiver, in any air basin in Southern California not containing any area required under 42 U.S.C. section 7545(m) to have a wintertime oxygenates program.

(3) If the Administrator of the U.S. Environmental Protection Agency issues, pursuant to 42 U.S.C. section 7545(m)(3)(C), a waiver of the requirements of 42 U.S.C. section 7545(m)(2) applicable to a geographic area or areas within Northern California, section (a)(1) shall not apply, during the effective period of the waiver, in any air basin in Northern California not containing any area required under 42 U.S.C. section 7545(m) to have a wintertime oxygenates program.

(f) Sunset. This section shall not apply to gasoline sold or supplied after February 29, 1996.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 10-14-92; operative 10-14-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 42).
2. Amendment of subsections (a)(2)(B)-(C) and (a)(6)(B), new subsections (a)(7)-(a)(7)(E) and subsection redesignation and amendment of subsections (b)(10)(C)-(c) filed 9-1-94; operative 9-1-94 (Register 94, No. 35).
3. Amendment of subsection (c) filed 8-7-95; operative 8-7-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 2259. Exemptions for Motor Vehicle Fuels Used in Test Programs.

(a)(1) Any person may request an exemption for fuel used in a test program by submitting an application to the executive officer that includes all the information listed in paragraphs (c), (d), (e), and (f) of this section.

(2) For the purpose of this section, "fuel requirement" means any requirement for a motor vehicle fuel established in Chapter 5 (Standards for Motor Vehicle Fuels) of Division 3, Title 13, California Code of Regulations.

(3) For the purpose of this section, "exemption" means an exemption from one or more fuel requirements that is granted by the executive officer for the purpose of research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration.

(4) For the purpose of this section, "test track" means a roadway that is closed to the general public, is used to test motor vehicles or motor vehicle fuels, and is not used to transport persons or property.

(b)(1) In order for an exemption to be granted, the applicant must demonstrate the following:

(A) The proposed test program has a purpose that constitutes an appropriate basis for exemption;

(B) The proposed test program necessitates the granting of an exemption;

(C) The proposed test program exhibits reasonableness in scope; and

(D) The proposed test program exhibits a degree of control consistent with the purpose of the program and the state board's monitoring requirements.

(2) Paragraphs (c), (d), (e), and (f) of this section describe what constitutes a sufficient demonstration for each of the four elements in paragraphs (b)(1)(A) through (D) of this section.

(3) Within 20 days of receipt of an application for an exemption, the executive officer shall advise the applicant in writing either that the application is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the application complete or that specified additional information is still required to make it complete. Within 20 days after the application is deemed complete, the executive officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(c) An appropriate purpose is limited to research, motor vehicle or engine emissions certification, fuel certification or registration, or fuel additive certification or registration. The exemption application must include a concise statement of the purpose(s) of the proposed test program.

(d) With respect to the necessity for an exemption, the applicant must identify each specific fuel requirement that would be violated by the test program, and demonstrate an inability to achieve the stated purpose in a practical manner without violating the identified fuel requirement(s). If any site of the proposed test program is located in an area that is classified as a nonattainment area for purposes of a state or federal ambient air quality standard, and the fuel requirement that would be violated is designed to reduce emissions of the pollutant, or a precursor of the pollutant, for which the area is classified as a nonattainment area, the applicant must

also demonstrate a practical inability to perform the test program in an area that is in attainment with respect to that pollutant.

(e) With respect to reasonableness, a test program must exhibit a duration of reasonable length, affect a reasonable number of vehicles or engines, and utilize a reasonable amount of noncomplying fuel. In this regard, the application for exemption must include:

(1) An estimate of the program's duration;

(2) An estimate of the maximum number of vehicles or engines involved in the program;

(3) The time or mileage duration of the test program;

(4) The range of the noncomplying properties of the fuel expected to be used in the program, and

(5) The quantity of fuel which exceeds the applicable standard that is expected to be used in the program.

(f) With respect to control, a program must be capable of affording the executive officer a monitoring capability. At a minimum, the application for exemption must also include:

(1) The technical nature of the test program;

(2) The site(s) of the program (including the street address, city, county, and zip code);

(3) The manner in which information on vehicles and engines used in the program will be recorded and made available to the executive officer;

(4) The manner in which results of the program will be recorded and made available to the executive officer;

(5) The manner in which information on the fuel used in the test program (including noncomplying properties, name, address, telephone number, and contact person of supplier, quantity, date received from the supplier) will be recorded and made available to the executive officer;

(6) The manner in which the distribution pumps will be labeled to insure proper use of the test fuel;

(7) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the request may be obtained; and

(8) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who will be responsible for recording and making the information specified in paragraphs (f)(3), (4), and (5) of this section available to the executive officer and the location in which such information will be maintained.

(g) An exemption shall be granted by the executive officer upon a demonstration that the requirements of paragraphs (b), (c), (d), (e) and (f) of this section have been met. The exemption will be granted in the form of memorandum of exemption signed by the applicant and the executive officer (or his delegate), which shall include such terms and conditions as the executive officer determines necessary to monitor the exemption and to carry out the purpose of this section. Any violation of such term or condition shall cause the exemption to be void.

(h) No fuel requirement shall apply to fuel used for an engine or vehicle dynamometer test, or to fuel used in the testing of motor vehicles or motor vehicle fuels on a test track.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).

Subarticle 2. Standards for Gasoline Sold Beginning March 1, 1996

§ 2260. Definitions.

(a) For the purposes of this subarticle, the following definitions apply:

(1) "Alternative gasoline formulation" means a final blend of gasoline that is either a PM alternative gasoline formulation or a test-certified alternative gasoline formulation.

(2) "Averaging compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.3(c).

(3) "ASTM" means the American Society of Testing and Materials.

(4) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains gasoline in bulk and then dispenses it into the fuel tanks or motor vehicles owned or operated by the person.

(5) "Bulk plant" means an intermediate gasoline distribution facility where delivery of gasoline to and from the facility is solely by truck.

(6) "California gasoline" means:

(A) Gasoline sold, intended for sale, or made available for sale as a motor vehicle fuel in California; and

(B) Gasoline that is produced in California, and that the producer knows or reasonably should know will be offered for sale or supply at an out-of-state terminal or bulk plant at which it will be identified as gasoline produced in California and suitable for sale as a motor vehicle fuel in California.

(6.5) "California reformulated gasoline blendstock for oxygenate blending, or 'CARBOB,'" means a petroleum-derived liquid which is intended to be, or is represented as, a product that will constitute California gasoline upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the product has been supplied from the production or import facility at which it was produced or imported.

(6.6) "CaRFG Phase 2" means California Phase 2 reformulated gasoline.

(6.7) "CaRFG Phase 3" means California Phase 3 reformulated gasoline.

(6.8) "CARBOB limits" means, for a final blend of CARBOB, CARBOB specifications for maximum Reid vapor pressure, sulfur content, benzene content, olefin content, aromatic hydrocarbon content, T50 and T90, and maximum and minimum oxygen content, expressed to the number of significant figures identified for each property in the section 2262 standards table, and for any other property identified in a certification order issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a), if applicable.

(7) "Designated alternative limit" means an alternative gasoline specification limit, expressed in the nearest part per million by weight for sulfur content, nearest hundredth percent by volume for benzene content, nearest tenth percent by volume for aromatic hydrocarbon content, nearest tenth percent for olefin content, and nearest degree Fahrenheit for T90 and T50, which is assigned by a producer or importer to a final blend of California gasoline pursuant to section 2264.

(8) "Ethanol" means ethyl alcohol which meets any additional requirements for ethanol or ethyl alcohol in Health and Safety Code section 43830.

(9) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(10) "Final blend" means a distinct quantity of gasoline or CARBOB which is introduced into commerce in California without further alteration which would tend to affect a regulated gasoline specification of the fuel.

(11) "Final distribution facility" means the stationary gasoline transfer point from which gasoline or CARBOB is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to the facility at which the gasoline will be dispensed into motor vehicles; except that a cargo tank truck is the final distribution facility where the cargo tank truck is used to transport CARBOB and gasoline and carries written documentation demonstrating that the designated type and amount or range of amounts of oxygenates designated by the producer or importer will be or have been blended directly into the cargo tank truck prior to delivery of the resulting gasoline from the cargo tank truck to the facility at which the gasoline will be dispensed into motor vehicles.

(12) "Flat limit compliance option" means, with respect to a specific gasoline property, the compliance option set forth in section 2262.3(b), section 2262.4(b)(1), or section 2262.5(c).

(13) "Further process" means to perform any activity on gasoline, including distillation, treating with hydrogen, or blending, for the purpose of bringing the gasoline into compliance with the standards in this subarticle.

(14) "Gasoline" means any fuel that is commonly or commercially known, sold or represented as gasoline, including any volatile mixture of predominantly liquid hydrocarbons that is sold or represented as suitable for use in an automotive spark-ignition engine.

(15) "Imported California gasoline" means California gasoline which is transported into California and does not meet the definition in section 2260(a)(6)(B).

(16) "Import facility" means the storage tank to which imported California gasoline or CARBOB is first delivered in California, including, in the case of gasoline or CARBOB imported by cargo tank and delivered directly to a facility for dispensing gasoline into motor vehicles, the cargo tank in which the gasoline or CARBOB is imported.

(17) "Importer" means any person who first accepts delivery in California of imported California gasoline.

(18) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(19) "Oxygenate" is any oxygen-containing, ashless, organic compound, such as an alcohol or ether, which, when added to gasoline increases the amount of oxygen in gasoline.

(19.3) "Oxygenate blending facility" means any facility (including a truck) at which oxygenate is added to gasoline or blendstock, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.

(19.6) "Oxygenate blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.

(20) "PM alternative gasoline formulation" means a final blend of gasoline that is subject to a set of PM alternative specifications assigned pursuant to section 2265(a).

(21) "PM alternative specifications" means the specifications for the following gasoline properties, as determined in accordance with section 2263 and expressed to the number of significant figures identified for each property in the section 2262 standards table: maximum Reid vapor pressure, maximum sulfur content, maximum benzene content, maximum olefin content, minimum and maximum oxygen content, maximum T50, maximum T90, and maximum aromatic hydrocarbon content.

(22) "PM averaging compliance option" means, with reference to a specific gasoline property, the compliance option for PM alternative gasoline formulations under which final blends of gasoline are assigned designated alternative limits in accordance with section 2264.

(23) "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

(24) "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

(25) "PM flat limit compliance option" means, with reference to a specific gasoline property, the compliance option under which each gallon of gasoline must meet the specification for the property contained in the PM alternative specifications.

(26)(A) "Produce" means, except as otherwise provided in section (a)(26)(B) or (a)(26)(C), to convert liquid compounds which are not gasoline into gasoline or CARBOB. When a person blends volumes of blendstocks which are not gasoline with volumes of gasoline acquired from another person, and the resulting blend is gasoline, the person conducting such blending has produced only the portion of the blend which was not previously gasoline. When a person blends gasoline with other

volumes of gasoline, without the addition of blendstocks which are not gasoline, the person does not produce gasoline.

(B) Where a person supplies gasoline to a refiner who agrees in writing to further process the gasoline at the refiner's refinery and to be treated as the producer of the gasoline, the refiner shall be deemed for all purposes under this article to be the producer of the gasoline.

(C) Where an oxygenate blender blends oxygenates into CARBOB which has already been supplied from a gasoline production facility or import facility, and does not alter the quality or quantity of the CARBOB or the resulting gasoline in any other manner except for the addition of deposit control additives or other similar additives, the oxygenate blender is not producing any portion of the resulting gasoline, and the producer or importer of the CARBOB is treated as the producer or importer of the full volume of the resulting gasoline.

(26.5) "Produced at a California production facility with the use of any oxygenate other than ethanol or MTBE" means produced at a California production facility in part by either (i) adding at the California production facility any oxygenate, other than ethanol or MTBE, in neat form to the California gasoline or to a blending component used in the gasoline; or (ii) using a blending component that contained greater than 0.10 weight percent total oxygen from oxygenates other than ethanol or MTBE when it was supplied to the California production facility.

(27) "Producer" means any person who owns, leases, operates, controls or supervises a California production facility.

(28) "Production facility" means a facility in California at which gasoline or CARBOB is produced. Upon request of a producer, the executive officer may designate, as part of the producer's production facility, a physically separate bulk storage facility which (A) is owned or leased by the producer, and (B) is operated by or at the direction of the producer, and (C) is not used to store or distribute gasoline or CARBOB that is not supplied from the production facility.

(28.5) "Qualifying small refiner" means a small refiner whose California refinery was used in 1998 and 1999 to produce and supply California gasoline meeting the CaRFG Phase 2 standards.

(29) "Qualifying volume" means, for each small refiner, a volume of gasoline determined in accordance with the following four steps, provided that the qualifying volume for Kern Oil & Refining Co.'s Bakersfield refinery shall not exceed 2,920,000 barrels per year (equal to 8000 barrels per day; 2,928,000 barrels per year in leap years):

(A) First, the barrel per calendar day "operating crude oil capacity" of the small refiner's refinery in March 1999 is identified, based on data which are reported to the executive officer from the California Energy Commission (CEC) and are derived from "Monthly Refinery Reports" (EIA 810) submitted to the CEC no later than June 30, 1999. If the CEC is unable to derive such data from the Monthly Refinery Reports for a particular small refiner, the executive officer shall determine the small refiner's operating crude oil capacity in March 1999 based on other publicly available and generally recognized sources.

(B) Second, this operating crude oil capacity is multiplied by 0.9794, representing the highest monthly refinery operating utilization rate in the California refining industry for January 1998 through March 1999, as compiled in the "Monthly Refinery Capacity Data Statewide" report of the CEC.

(C) Third, the resulting crude throughput volume is multiplied by the refinery's highest monthly ratio of gasoline produced to crude oil distilled in January 1998 through March 1999, based on data derived by the CEC from the Monthly Refinery Reports submitted to the CEC no later than June 30, 1999.

(D) Fourth, the resulting gasoline volume is multiplied by 365 to identify an annualized value. In the case of leap years, the gasoline volume is multiplied by 366 to identify the annualized value.

(29.5) "Racing vehicle" means a competition vehicle not used on public highways.

(30) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(31) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(32) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(32.5) "South Coast Area" means the counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura.

(33) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(34) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(35) "TC limits" means the set of specifications identified in a certification issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a).

(36) "Test-certified alternative gasoline formulation" means a final blend of gasoline that is subject to a set of specifications identified in a certification issued by the Executive Officer pursuant to the "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," incorporated by reference in section 2266(a).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New subarticle 2 and section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. New subsection (a)(6.5), amendment of subsections (a)(10)-(11) and (a)(16), new subsections (a)(19.3) and (a)19.6), and amendment of subsections (a)(26(A)), (a)(26)(C) and (a)(28) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
4. New subsections (a)(29.5) and (a)(32.5) filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
5. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
6. Amendment of subsection (a)(1), new subsection (a)(6.8), amendment of subsections (a)(20)-(21) and new subsections (a)(35)-(36) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
7. New subsection (a)(26.5) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
8. Amendment of subsection (a)(16) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

§ 2261. Applicability of Standards; Additional Standards.

(a) *Applicability of the CaRFG Phase 2 Standards.*

(1)(A) Unless otherwise specifically provided, the CaRFG Phase 2 cap limit standards set forth in section 2262, and the CaRFG Phase 2 cap limit compliance requirements in sections 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply:

1. starting April 15, 1996 to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:

- a. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or
- b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility, and

2. starting June 1, 1996 to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility.

(B) The remaining CaRFG Phase 2 standards and requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after March 1, 1996.

(2) The CaRFG Phase 2 cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser–consumer facility prior to April 15, 1996, or delivered to the retail outlet or bulk purchaser–consumer facility directly from a bulk plant prior to June 1, 1996.

(b) *Applicability of the CaRFG Phase 3 Standards.*

(1)(A) Unless otherwise specifically provided, the CaRFG Phase 3 cap limit standards set forth in section 2262, and the CaRFG Phase 3 cap limit compliance requirements in 2262.3(a), 2262.4(a), and 2262.5(a) and (b), shall apply starting December 31, 2003. The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262, and the CaRFG Phase 3 benzene and sulfur content cap limit compliance requirements in 2262.3(a), shall apply:

1. starting December 31, 2003 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and December 31, 2005 (for the 30 parts per million sulfur content cap limit), to all sales, supplies or offers of California gasoline from the production facility or import facility at which it was produced or imported.

2. starting February 14, 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and February 14, 2006 (for the 30 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline except for transactions directly involving:

a. the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility, or

b. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser–consumer facility, and

3. starting March 31, 2004 (for the benzene content cap limit and the 60 parts per million sulfur content cap limit) and March 31, 2006 (for the 30 parts per million sulfur content cap limit) to all sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility.

(B) The remaining CaRFG Phase 3 standards and compliance requirements contained in this subarticle shall apply to all sales, supplies, or offers of California gasoline occurring on or after December 31, 2003.

(2) The CaRFG Phase 3 benzene and sulfur content cap limit standards in section 2262 shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by gasoline delivered to the retail outlet or bulk purchaser–consumer facility prior to February 14, 2004 (for the benzene content limit and the 60 parts per million sulfur content limit) or February 14, 2006 (for the 30 parts per million sulfur content limit) or delivered to the retail outlet or bulk purchaser–consumer facility directly from a bulk plant prior to March 31, 2004 (for the benzene content limit and the 60 parts per million sulfur content limit) or March 31, 2006 (for the 30 parts per million sulfur content limit).

(3) *Early Compliance with the CaRFG Phase 3 Standards Before December 31, 2003.*

(A) Any producer or importer wishing to supply from its production or import facility, before December 31, 2003, any final blends of gasoline subject to the CaRFG Phase 3 standards instead of the CaRFG Phase 2 standards may notify the executive officer of its wish to do so. The notification shall include all of the following:

1. The approximate date by which it intends to begin supplying from its production or import facility gasoline complying with the CaRFG Phase 3 standards if permitted to do so;

2. A reasonably detailed demonstration of the producer's or importer's ability and plans to begin supplying from its production or import facility substantial quantities of one or more grades of gasoline meeting the CaRFG Phase 3 standards on or after the date specified;

(B)1. Within 15 days of receipt of a request under section 2261(b)(3)(A), the executive officer shall notify the producer or importer making the request either that the request is complete, or specifying what additional information is necessary to make the request complete.

2. Within 15 days of notifying the producer or importer that the request is complete, the executive officer shall either grant or deny the request. If the request is granted the executive officer shall specify the date on which producers and importers may start to supply from their production or import facilities final blends that comply with the CaRFG Phase 3 standards. The executive officer shall grant the request if he or she determines it is reasonably likely that the producer or importer making the request will start supplying substantial quantities of one or more grades of gasoline complying with the CaRFG Phase 3 standards reasonably soon after the date specified. If the executive officer denies the request, he or she shall provide the producer or importer with a written statement explaining the reason for denial.

3. Upon granting a request made under section 2261(b)(3)(A), the executive officer shall notify interested parties of the date on which (i) producers and importers will be permitted to start supplying final blends of gasoline complying with the CaRFG Phase 3 standards, and (ii) the CaRFG Phase 2 cap limits for RVP and aromatics will become 7.20 psi and 35.0 volume percent respectively for gasoline downstream of the production or import facility. This notification shall be made by posting the pertinent information on the state board's Internet site, providing electronic mail notification to all persons subscribing to the state board's Fuels–General Internet electronic mail list, and mailing notice to all persons registered as motor vehicle fuel distributors under Health and Safety Code section 43026.

4. With respect to all final blends supplied from a production or import facility from the day specified by the executive officer in granting a request made under section 2261(b)(3)(A) through December 30, 2003, any producer or importer may comply with the CaRFG Phase 3 standards that apply starting December 31, 2003 as an alternative to the CaRFG Phase 2 standards. Whenever a producer or importer is supplying a final blend subject to the CaRFG Phase 3 standards pursuant to this section 2261(b)(3)(B)4., any notification required by sections 2264.2 or 2265(a) shall indicate that the final blend is subject to the CaRFG Phase 3 standards. When it is sold or supplied from the production or import facility, no such final blend may contain MTBE in concentrations greater than 0.60 volume percent, or contain a total of more than 0.10 weight percent oxygen collectively from all of the oxygenates identified in section 2262.6(c)(4) that have not received a determination by the California Environmental Council as described in section 2262.6(c)(1).

(c) California gasoline sold or supplied on or after March 1, 1996, is also subject to section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline). California gasoline that is supplied from a small refiner's California refinery prior to March 1, 1998, and that qualifies for treatment under section 2272(a), shall also be subject to section 2250 (Degree of Unsaturation of Gasoline) and section 2252 (Sulfur Content of Gasoline).

(d) The standards contained in this subarticle shall not apply to a sale, offer for sale, or supply of California gasoline to a refiner if: (1) the refiner further processes the gasoline at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the gasoline, and (2) in the case of standards applicable only to producers or importers, the refiner to whom the gasoline is sold or supplied is the producer of the gasoline pursuant to section 2260(a)(26)(B).

(e) The prohibitions in sections 2262.3(b) and (c), 2262.4(b), and 2262.5(c) shall not apply to gasoline which a producer or importer demonstrates was neither produced nor imported by the producer or importer.

(f) This subarticle 2, section 2253.4 (Lead/Phosphorus in Gasoline), section 2254 (Manganese Additive Content), and section 2257 (Required Additives in Gasoline) shall not apply to gasoline where the person selling, offering or supplying the gasoline demonstrates as an affirmative defense that the person has taken reasonably prudent precautions to assure that the gasoline is used only in racing vehicles.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47). For prior history, see Register 92, No. 4.
2. Amendment filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
3. Amendment of subsection (b) and new subsection (e) filed 9–21–98; operative 9–21–98 pursuant to Government Code section 11343.4(d) (Register 98, No.

39).

4. Amendment of section and NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).
5. Amendment of subsection (f) filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
6. Amendment filed 12–24–2002; operative 12–24–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
7. Amendment of subsection (b)(3)(B)4. filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 2262. The California Reformulated Gasoline Phase 2 and Phase 3 Standards.

The CaRFG Phase 2 and CaRFG Phase 3 standards are set forth in the following table. For all properties but Reid vapor pressure (cap limit only) and oxygen content, the value of the regulated property must be less than or equal to the specified limit. With respect to the Reid vapor pressure cap limit and the oxygen content flat and cap limit, the limits are expressed as a range, and the Reid vapor pressure and oxygen content must be less than or equal to the upper limit, and more than or equal to the lower limit. A qualifying small refiner may comply with the small refiner CaRFG Phase 3 standards, in place of the CaRFG Phase 3 standards in this section, in accordance with section 2272.

The California Reformulated Gasoline Phase 2 and Phase 3 Standards

Property	Flat Limits		Averaging Limits		Cap Limits	
	CaRFG Phase 2	CaRFG Phase 3	CaRFG Phase 2	CaRFG Phase 3	CaRFG Phase 2	CaRFG Phase 3
Reid Vapor Pressure ¹ (pounds per square inch)	7.00	7.00 or 6.90 ²	Not Applicable	Not Applicable	7.00 ³	6.40–7.20
Sulfur Content (parts per million by weight)	40	20	30	15	80	60 ⁴ 30 ⁴
Benzene Content (percent by volume)	1.00	0.80	0.80	0.70	1.20	1.10
Aromatics Content (percent by volume)	25.0	25.0	22.0	22.0	30.0 ³	35.0
Olefins Content (percent by volume)	6.0	6.0	4.0	4.0	10.0	10.0
T50 (degrees Fahrenheit)	210	213	200	203	220	220
T90 (degrees Fahrenheit)	300	305	290 ⁵	295	330	330
Oxygen Content (percent by weight)	1.8 – 2.2	1.8 – 2.2	Not Applicable	Not Applicable	1.8 ⁶ – 3.5 0 ⁶ – 3.5	1.8 ⁶ –3.5 ⁷ 0 ⁶ – 3.5 ⁷
Methyl tertiary-butyl ether (MTBE) and oxygenates other than ethanol	Not Applicable	Prohibited as provided in § 2262.6	Not Applicable	Not Applicable	Not Applicable	Prohibited as provided in § 2262.6

¹ The Reid vapor pressure (RVP) standards apply only during the warmer weather months identified in section 2262.4.

² The 6.90 pounds per square inch (psi) flat limit applies only when a producer or importer is using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model, in which case all predictions for evaporative emissions increases or decreases made using the evaporative emissions model are made relative to 6.90 psi and the gasoline may not exceed the maximum RVP cap limit of 7.20 psi. Where the evaporative emissions model element of the CaRFG Phase 3 Predictive Model is not used, the RVP of gasoline sold or supplied from the production or import facility may not exceed 7.00 psi.

³ For sales, supplies, or offers of California gasoline downstream of the production or import facility starting on the date on which early compliance with the CaRFG Phase 3 standards is permitted by the executive officer under section 2261(b)(3), the CaRFG Phase 2 cap limits for Reid vapor pressure and aromatics content shall be 7.20 psi and 35.0 percent by volume respectively.

⁴ The CaRFG Phase 3 sulfur content cap limits of 60 and 30 parts per million are phased in starting December 31, 2003, and December 31, 2005, respectively, in accordance with section 2261(b)(1)(A).

⁵ Designated alternative limit may not exceed 310.

⁶ The 1.8 percent by weight minimum oxygen content cap only applies during specified winter months in the areas identified in section 2262.5(a).

⁷ If the gasoline contains more than 3.5 percent by weight oxygen from ethanol but no more than 10.0 volume percent ethanol, the maximum oxygen content cap is 3.7 percent by weight.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101, 43830 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31). For prior history see Register 92, No. 4.
2. Amendment of table footnotes filed 12–24–2002; operative 12–24–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
3. Amendments to Table (footnotes 2 and 7) filed 3–10–2005; operative 4–9–2005 (Register 2005, No. 10).
4. Amendment of table footnotes 1 and 2 filed 9–9–2005 as an emergency; operative 9–9–2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 9–9–2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting footnote 1 of the Standards Table identified CarFG Phase 3 flat and cap maximum RVP limits of 9.00 psi during the 2005 Hurricane Katrina RVP relaxation period identified in section 2262.4.
6. Editorial amendment of HISTORY 5 (Register 2006, No. 42).

§ 2262.1. Standards for Reid Vapor Pressure.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of subsection (b)(2)(A) filed 2–28–96; operative 2–28–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
3. Amendment of subsections (a)(2)(A)–(E) and (b)(2)(A)–(C) and new subsection (c)(4) filed 9–21–98; operative 9–21–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Renumbering of former section 2262.1 to section 2262.4 filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2262.2. Standards for Sulfur Content.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of subsections (b)–(c) and repealer of subsection (d) filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
3. Amendment filed 9–21–98; operative 9–21–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Repealer filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2262.3. Compliance With the CarFG Phase 2 and CarFG Phase 3 Standards for Sulfur, Benzene, Aromatic Hydrocarbons, Olefins, T50 and T90.

(a) Compliance with cap limits. No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which exceeds an applicable cap limit for sulfur, benzene, aromatic hydrocarbons, olefins, T50 or T90 set forth in section 2262.

(b) Compliance by producers and importers with the flat limits. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which exceeds an applicable flat limit for the properties of sulfur, benzene, aromatic hydrocarbons, olefins, T50, or T90 set forth in section 2262, unless the gasoline (1) is subject to the averaging compliance option for the property in accordance with section 2264.2(a), (2) has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), or (3) has been reported as a test-certified alternative gasoline formulation pursuant to section 2266(c).

(c) Optional compliance by producers and importers with the averaging limits. No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which is subject to the averaging compliance option for the properties of sulfur, benzene, aromatic hydrocarbons, olefins, T50 or T90 in accordance with section 2264.2(a) if any of the following occurs:

(1) The gasoline exceeds the applicable averaging limit for the property set forth in section 2262 and no designated alternative limit for the property has been established for the gasoline in accordance with the requirements of section 2264(a); or

(2) A designated alternative limit for the property has been established for the gasoline in accordance with the requirements of section 2264(a), and the gasoline exceeds the designated alternative limit for that property; or

(3) Where the designated alternative limit exceeds the averaging limit for the property, the exceedance is not fully offset in accordance with section 2264(c).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of subsections (b)–(c) and repealer of subsection (d) filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
3. Amendment filed 9–21–98; operative 9–21–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Repealer and new section filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).
5. Amendment of section heading and subsection (b) filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

§ 2262.4. Compliance With the CarFG Phase 2 and CarFG Phase 3 Standards for Reid Vapor Pressure.

(a) *Compliance with the cap limits for Reid vapor pressure.*

(1) No person shall sell, offer for sale, supply, offer for supply, or transport California gasoline which exceeds the applicable cap limit for Reid vapor pressure within each of the air basins during the regulatory period set forth in section (a)(2).

(2) *Regulatory Control Periods.*

(A) *April 1 through October 31 (May 1 through October 31 in 2003 and 2004):*

South Coast Air Basin and Ventura County
San Diego Air Basin
Mojave Desert Air Basin
Salton Sea Air Basin

(B) *May 1 through September 30:*

Great Basin Valley Air Basin

(C) *May 1 through October 31:*

San Francisco Bay Area Air Basin
San Joaquin Valley Air Basin
Sacramento Valley Air Basin
Mountain Counties Air Basin

Lake Tahoe Air Basin

(D) *June 1 through September 30:*

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(E) *June 1 through October 31:*

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(b) *Compliance by producers and importers with the flat limit for Reid vapor pressure.*

(1) *Reid vapor pressure standard for producers and importers.*

(A) In an air basin during the regulatory control periods specified in section (b)(2), no producer or importer shall sell, offer for sale, supply,

or offer for supply from its production facility or import facility California gasoline which has a Reid vapor pressure exceeding the applicable flat limit set forth in section 2262 unless the gasoline has been reported as a PM alternative gasoline formulation pursuant to section 2265(a) using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model.

(B) In an air basin during the regulatory control periods specified in section (b)(2), no producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has been reported as a PM alternative gasoline formulation pursuant to section 2265(a) using the evaporative emissions model element of the CaRFG Phase 3 Predictive Model if the gasoline has a Reid vapor pressure exceeding the PM flat limit for Reid vapor pressure in the identified PM alternative specifications.

(2) *Regulatory control periods for production and import facilities.*

(A) 1. *March 1 through October 31 (Except as otherwise provided in (A)2. and (A)3. below):*

South Coast Air Basin and Ventura County
San Diego Air Basin
Mojave Desert Air Basin
Salton Sea Air Basin

2. In the areas identified in section 2262.4(b)(2)(A)1., California gasoline that is supplied March 1 through March 31, 2003 from a production or import facility that is qualified under this subsection is not subject to the prohibitions of section 2262.4(b)(1), as long as the gasoline either is designated as subject to the CaRFG Phase 3 standards, or is subject to the CaRFG Phase 2 standards and also meets the prohibitions in sections 2262.6(a)(1) and 2262.6(c) regarding the use of oxygenates. In order for a production or import facility to be qualified, the producer or importer must notify the Executive Officer in writing by February 14, 2003 that it has elected to have the facility be subject to this subsection during March 2003.

3. In the areas identified in section 2262.4(b)(2)(A)1., California gasoline that is supplied March 1 through March 31, 2004 from a production or import facility that was not qualified under section 2262.4(b)(2)(A)2. is not subject to the prohibitions of section 2262.4(b)(1).

(B) *April 1 through September 30:*

Great Basin Valley Air Basin

(C) *April 1 through October 31:*

San Francisco Bay Area Air Basin

San Joaquin Valley Air Basin

Sacramento Valley Air Basin

Mountain Counties Air Basin

Lake Tahoe Air Basin

(D) *May 1 through September 30:*

North Coast Air Basin

Lake County Air Basin

Northeast Plateau Air Basin

(E) *May 1 through October 31:*

North Central Coast Air Basin

South Central Coast Air Basin (Excluding Ventura County)

(c) *Applicability.*

(1) Section (a)(1) shall not apply to a transaction occurring in an air basin during a regulatory control period in section (a)(2) where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility when the station or facility is not subject to a regulatory control period in section (a)(2).

(2) Section (b) shall not apply to a transaction occurring in an air basin during the applicable regulatory control period for producers and importers where the person selling, supplying, offering or transporting the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gas-

oline will be delivered to a retail service station or bulk purchaser-consumer's fueling facility located in an air basin not then subject to the regulatory control period for producers and importers set forth in section (b)(2).

(3) Section (a)(1) shall not apply to a transaction occurring in an air basin during the regulatory control period where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred more than fourteen days before the start of the regulatory control period.

(4) Gasoline that is produced in California, and is then transported to the South Coast Air Basin, Ventura County, or the San Diego Air Basin by marine vessel shall be subject to the regulatory control periods for production and import facilities identified in section 2262.4(b)(2)(A).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101, 43830 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment of subsections (b)-(c) and repealer of subsection (d) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Repealer of section and renumbering of former section 2262.1 to section 2262.4, including amendment of section heading, section and NOTE, filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
6. Amendment of subsections (b)(1) and (c)(4) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).
7. New subsections (a)(2)(F) and (b)(2)(F) filed 9-9-2005 as an emergency; operative 9-9-2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1-10-2006 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 9-9-2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting subsections (a)(2)(F) and (b)(2)(F) identified a Hurricane Katrina RVP relaxation period from 9-12-2005 through the end of the 2005 RVP season, during which a less stringent RVP standard of 9.00 psi applied pursuant to section 2262.
9. Editorial amendment of HISTORY 8 (Register 2006, No. 42).

§ 2262.5. Compliance With the Standards for Oxygen Content.

(a) *Compliance with the minimum oxygen content cap limit standard in specified areas in the wintertime.*

(1) Within the areas and periods set forth in section (a)(2), no person shall sell, offer for sale, supply, offer for supply, or transport California gasoline unless it has an oxygen content of not less than the minimum oxygen content cap limit in section 2262.

(2)(A) November 1 through February 29:

South Coast Area

Imperial County

(B) October 1 through October 31, (1996 through 2002 only):

South Coast Area

(b) *Compliance with the maximum oxygen content cap limit standard.*

No person shall sell, offer for sale, supply, or transport California gasoline which has an oxygen content exceeding the maximum oxygen content cap limit in section 2262, or which has an ethanol content exceeding 10.0 percent by volume.

(c) *Compliance by producers and importers with the flat limits for oxygen content.* No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which has an oxygen content less than flat limit for minimum oxygen content, or more than flat limit for maximum oxygen content, unless the gasoline has been reported as a PM alternative gasoline formulation pur-

suant to section 2265(a) or as an alternative gasoline formulation pursuant to section 2266(c), and complies with the standards contained in sections (a) and (b).

(d) *Restrictions on adding oxygenates to California gasoline after it has been supplied from the production or import facility.*

(1) *Basic Restriction.* No person may add oxygenates to California gasoline after it has been supplied from the production or import facility at which it was produced or imported, except where the person adding the oxygenates demonstrates that: [i] the gasoline to which the oxygenates are added has been reported as a PM alternative gasoline formulation pursuant to section 2265(a), or as an alternative gasoline formulation pursuant to section 2266(c), and has not been commingled with other gasoline, and [ii] both before and after the person adds the oxygenate to the gasoline, the gasoline has an oxygen content within the oxygen content specifications of the applicable PM alternative gasoline formulation or alternative gasoline formulation. Nothing in this section (d) prohibits adding oxygenates to CARBOB.

(2) *Bringing gasoline into compliance with the minimum oxygen content cap limit.* Notwithstanding section (d)(1), a person may add an oxygenate that is not prohibited under section 2262.6 to California gasoline that does not comply with an applicable minimum oxygen content cap limit under sections 2262 and 2262.5(a), where the person obtains the prior approval of the executive officer based on a demonstration that adding the oxygenate is necessary to bring the gasoline into compliance with the minimum oxygen content cap limit.

(e) *Application of prohibitions.*

(1) Section (a) shall not apply to a transaction occurring in the areas and periods shown in (a)(2) where the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that, prior to the transaction, he or she has taken reasonably prudent precautions to assure that the gasoline will not be delivered to a retail service station or bulk purchaser-consumer's fueling facility in the areas and periods shown in (a)(2).

(2)(A) Section (a) shall not apply to a transaction occurring in the South Coast Area in October 2000, 2001, 2002, or 2003, where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred no later than September 16 of that year.

(B) Section (a) shall not apply to a transaction occurring in November either in Imperial County or, starting in 2004, in the South Coast Area, where the transaction involves the transfer of gasoline from a stationary storage tank to a motor vehicle fuel tank and the person selling, supplying, or offering the gasoline demonstrates as an affirmative defense that the last delivery of gasoline to the stationary storage tank occurred no later than October 17 of that year.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment of subsection (c) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. Amendment of subsections (a)(2)(C) and (d), repealer of subsection (e)(1) and subsection relettering filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
4. Editorial correction of subsection (a)(2)(B) (Register 97, No. 10).
5. Amendment of subsections (a)-(a)(2)(C) and (e)(1), and new subsection (e)(2) filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
6. Amendment of subsection (b) filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).
7. Amendment of subsections (a)(2)(A)-(B), new subsection (a)(2)(C) and subsection relettering filed 9-8-99; operative 9-8-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 37).

8. Amendment of section heading, section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
9. Amendment of subsections (a)(2)(A)-(B), repealer of subsections (a)(2)(C)-(D), new subsection (e)(2)(A) and redesignation and amendment of former subsection (e)(2) as new subsection (e)(2)(B) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
10. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
11. Amendment of subsection (b) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

§ 2262.6. Prohibition of MTBE and Oxygenates Other Than Ethanol in California Gasoline Starting December 31, 2003.

(a) *Basic MTBE prohibitions.*

(1) Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply California gasoline which has been produced at a California production facility in part by either (i) adding at the California production facility any methyl tertiary-butyl ether (MTBE) in neat form to the California gasoline or to a blending component used in the gasoline; or (ii) using a blending component that contained greater than 0.60 volume percent MTBE when it was supplied to the California production facility.

(2) No person shall sell, offer for sale, supply or offer for supply California gasoline which contains MTBE in concentrations greater than: 0.60 volume percent starting December 31, 2003, 0.30 volume percent starting July 1, 2004, 0.15 volume percent starting December 31, 2005, and 0.05 volume percent starting July 1, 2007.

(b) *Phase-in of MTBE prohibitions.*

(1) *Phase-in of MTBE prohibitions starting December 31, 2003, and 2005.* In the first year in which a prohibition applies under section 2262.6(a) starting on December 31, the prohibition shall be phased in as follows:

(A) Starting December 31, for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting the following February 14, for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or
2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting the following March 31, for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(2) *Phase-in of MTBE prohibitions starting July 1, 2004 and 2007.* In the first year in which a prohibition applies under section 2262.6(a) starting on July 1, the prohibition shall be phased in as follows

(A) Starting July 1, for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting the following August 15, for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or
2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting the following October 1, for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(3) *Phase-in for low-throughput fueling facilities.* The prohibitions in section (a) starting respectively on December 31, 2003, July 1, 2004, December 31, 2005, and July 1, 2007, shall not apply to transactions directly

involving the fueling of motor vehicles at a retail outlet or bulk purchaser–consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the standard was caused by gasoline delivered to the retail outlet or bulk purchaser–consumer facility prior to the date on which the delivery became subject to the prohibition pursuant to the phase–in provisions in section (b).

(c) *Use of oxygenates other than ethanol or MTBE in California gasoline on or after December 31, 2003.*

(1) Starting December 31, 2003, no person shall sell, offer for sale,

supply or offer for supply California gasoline which has been produced at a California production facility with the use of any oxygenate other than ethanol or MTBE unless a multimedia evaluation of use of the oxygenate in California gasoline has been conducted and the California Environmental Policy Council established by Public Resources Code section 71017 has determined that such use will not cause a significant adverse impact on the public health or the environment.

(2) Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply California gasoline which contains a total of

[The next page is 259.]

more than 0.10 weight percent oxygen collectively from all of the oxygenates identified in section (c)(4), other than oxygenates not prohibited by section (c)(1).

(3) Starting July 1, 2004, no person shall sell, offer for sale, supply or offer for supply California gasoline which contains a total of more than 0.06 weight percent oxygen collectively from all of the oxygenates identified in section (c)(4), other than oxygenates not prohibited by section (c)(1).

(4) *Covered oxygenates.* Oxygen from the following oxygenates is covered by the prohibitions in section 2262.6(c)(1), (2) and (3):

Methanol

Isopropanol

n-Propanol

n-Butanol

iso-Butanol

sec-Butanol

tert-Butanol

Tert-pentanol (*tert*-amylalcohol)

Ethyl *tert*-butylether (ETBE)

Diisopropylether (DIPE)

Tert-amylmethylether (TAME)

(5) The prohibitions in section 2262.6(c)(1) and (2), and in section 2262.6(c)(3), shall be phased in respectively as follows:

(A) Starting December 31, 2003 and July 1, 2004 respectively for all sales, supplies, or offers of California gasoline by a producer or importer from its production facility or import facility.

(B) Starting February 14, 2004 and August 15, 2004 respectively for all other sales, supplies, offers or movements of California gasoline except for transactions directly involving:

1. the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. the delivery of gasoline from a bulk plant to a retail outlet or bulk purchaser-consumer facility.

(C) Starting March 31, 2004 and September 30, 2004 respectively for all remaining sales, supplies, offers or movements of California gasoline, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(6) *Phase-in for low-throughput fueling facilities.* The prohibitions in section 2262.6(c)(1) and (2), and in section 2262.6(c)(3), starting respectively on December 31, 2003 and July 1, 2004, shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the gasoline demonstrates as an affirmative defense that the exceedance of the standard was caused by gasoline delivered to the retail outlet or bulk purchaser-consumer facility prior to the date on which the delivery became subject to the prohibition pursuant to the phase-in provisions in section 2262.6(c)(5).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Repealer and new section filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
5. Amendment of section heading and section filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
6. Amendment filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
7. Amendment of subsections (c)(2)-(3) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

§ 2262.7. Standards for Aromatic Hydrocarbon Content.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. Amendment filed 9-21-98; operative 9-21-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 39).
4. Repealer filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

§ 2262.9. Requirements Regarding Denatured Ethanol Intended For Use as a Blend Component in California Gasoline.

(a) Standards.

(1) *Standards for denatured ethanol.* Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply denatured ethanol intended for blending with CARBOB or California gasoline that fails to comply with any of the following standards:

(A) *Standards for properties regulated by the CaRFG Phase 3 standards.*

1. A sulfur content not exceeding 10 parts per million;
2. A benzene content not exceeding 0.06 percent by volume; and
3. An olefins content not exceeding 0.5 percent by volume; and
4. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.

(B) *Standards based on ASTM D 4806-99.* All test methods and standards identified in the title and the table below are incorporated herein by reference.

Specification	Value	Test method
Ethanol, vol.%, min.	92.1	ASTM D 5501-94(1998)E1
Methanol, vol.%, max.	0.5	
Solvent-washed gum, mg/100 ml, max.	5.0	ASTM D 381-00, air jet apparatus
Water content, vol.%, max.	1	ASTM E 203-96 or E 1064-00
Denaturant content, vol.%, min.	1.96	
vol.%, max.	4.76	
The only denaturants shall be natural gasoline, gasoline components, or unleaded gasoline.		
Inorganic Chloride content, mass ppm (mg/l), max.	40 (32)	Modification of ASTM D512-89(1999), Procedure C ¹
Copper content, mg/kg, max.	0.1	Modification of ASTM D1688-95, Test Method A ²
Acidity (as acetic acid), mass % (mg/l), max.	0.007 (56)	ASTM D 1613-96 (1999)
pHe	6.5 - 9.0	ASTM D 6423-99
Appearance	Visibly free of suspended or precipitated contaminants (clean and bright)	Determined at indoor ambient temperature unless otherwise agreed upon between the supplier and purchaser

Note 1: The modification of ASTM D 512-89(1999), Procedure C consists of using 5 ml of sample diluted with 20 ml of water in place of the 25 ml sample specified in the standard procedure. The water shall meet ASTM D 1193-99, Type II. The volume of the sample prepared by this modification will be slightly larger than 25 ml. To allow for the dilution factor, report the chloride ion present in the fuel ethanol sample as the chloride ion present in the diluted sample multiplied by five.

Note 2: The modification of ASTM D 1688-95, Test Method A (atomic absorption) consists of mixing reagent grade ethanol (which may be denatured according to the U.S. Bureau of Alcohol, Tobacco, and Firearms (BATF) of the U.S. Treas-

sure Department Formula 3A or 30, as set forth in 27 CFR sections 21.35 and 21.57, as in effect April 1, 2001) in place of water as the solvent or diluent for the preparation of reagents and standard solutions. However, this must not be done to prepare the stock copper solution described in 11.1 of ASTM D 1688-95. Because a violent reaction may occur between the acid and the ethanol, use water, as specified, in the acid solution part of the procedure to prepare the stock copper solution. Use ethanol for the rinse and dilution only.

(2) *Exemption.*

(A) *Inapplicability of basic standards.* The standards in section (a)(1)(A) do not apply to a quantity of denatured ethanol sold, offered for sale, supplied, or offered for supply by a person who demonstrates as an affirmative defense that:

1. The person has complied with section (c)(1)(B); and
2. He or she has taken reasonably prudent precautions to assure that the denatured ethanol will only be added to CARBOB which has been designed to be lawfully oxygenated with denatured ethanol having the properties identified in the document provided pursuant to section (c)(1)(B).

(B) *Substitute standards.* Starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply denatured ethanol that is intended for blending with CARBOB or California gasoline and is exempt pursuant to section (a)(2)(A), if the denatured ethanol fails to comply with any of the properties identified in the document provided pursuant to section (c)(1)(B).

(3) *Standards for products represented as appropriate for use as a denaturant in ethanol.*

(A) Except as otherwise provided in section (a)(3)(B), starting December 31, 2003, no person shall sell, offer for sale, supply or offer for supply a product represented as appropriate for use as a denaturant in ethanol intended for blending with CARBOB or California gasoline, if the denaturant has:

1. A benzene content exceeding 1.10 percent by volume; or
2. An olefins content exceeding 10.0 percent by volume; or
3. An aromatic hydrocarbon content exceeding 35.0 percent by volume.

(B) A person may sell, offer for sale, supply or offer for supply a product that is represented as only suitable for use as an ethanol denaturant in ethanol intended for blending with CARBOB or California gasoline if the denatured ethanol contains no more than a specified percentage of the denaturant that is less than 4.76 percent. In this case, the product must be prominently labeled as only lawful for use as a denaturant where the denatured ethanol contains no more than the specified percentage of the denaturant, and the seller, supplier or offeror must take reasonably prudent precautions to assure that the denaturant will not be used in concentrations greater than the specified percentage in ethanol intended for blending with CARBOB or California gasoline. If these conditions are met, the standards in section (a)(3)(A) for the denaturant will be adjusted by multiplying the stated values by $(4.76 \div \text{max.}\%)$, where "max.%" is the maximum percentage of denaturant specified for the denatured ethanol.

(b) *Test Methods.*

(1) In determining compliance with the denatured ethanol standards in section (a)(1)(A):

(A) The sulfur content of denatured ethanol shall be determined by ASTM D 5453-93, which is incorporated herein by reference.

(B) The aromatic hydrocarbon, benzene and olefins content of denatured ethanol shall be determined by sampling the denaturant and using the methods specified in section 2263 to determine the content of those compounds in the denaturant. The result will then be multiplied by 0.0476, except that where it is demonstrated that the denatured ethanol contains less than 4.76 percent denaturant, the result will be multiplied by the decimal fraction representing the percent denaturant.

(2) In determining compliance with the denaturant standards in section (a)(3), the aromatic hydrocarbon, benzene and olefins content of the de-

naturant shall be determined by the methods specified in section 2263 for determining the content of those compounds in gasoline.

(c) *Documentation required for the transfer of denatured ethanol intended for use as a blend component in California gasoline.*

(1)(A) Starting December 31, 2003, and except as provided in section (c)(1)(B), on each occasion that any person transfers custody or title of denatured ethanol intended for use as a blend component in California gasoline, the transferor shall provide the transferee a document that prominently states that the denatured ethanol complies with the standards for denatured ethanol intended for use as a blend component in California gasoline.

(B) Starting December 31, 2003, on each occasion that any person transfers custody or title of denatured ethanol that is intended to be added to CARBOB designated for blending with denatured ethanol exceeding any of the standards in section (a)(1)(A), the transferor shall provide the transferee a document that prominently identifies the maximum sulfur, benzene, olefin and aromatic hydrocarbon content of the denatured ethanol, and states that the denatured ethanol may only be lawfully added to CARBOB that is designated for blending with denatured ethanol having such properties.

(2) Starting December 31, 2003, any person who sells or supplies denatured ethanol intended for use as a blend component in California gasoline from the California facility at which it was imported or produced shall provide the purchaser or recipient a document that identifies:

(A) The name and address of the person selling or supplying the denatured ethanol, and identification of the person as the producer or importer of the denatured ethanol; and

(B) With respect to imported denatured ethanol, the name, location and operator of the facility(ies) at which the ethanol was produced and at which the denaturant was added to the ethanol. As an alternative, the document provided to the purchaser or recipient may identify the date and time the ethanol was supplied from its import or production facility, and state that the person selling or supplying the denatured ethanol from the California facility at which it was imported or produced maintains at the facility a list of the name, location, and operator of all of the facility(ies) at which the ethanol was produced and at which the denaturant was added to the ethanol. In this case, the person shall for at least two years maintain such information, and records identifying the entities that produced the ethanol and added the denaturant in each batch of denatured ethanol imported to the facility; during that two year period, the person shall make the information and records, available to the Executive Officer within five days after a request for the material.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43101 and 43830.8, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
2. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
3. Amendment of subsections (a)(1), (a)(1)(A)2.-3., (a)(3)(A)1.-3. and (c)(2)(A)-(B) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

§ 2263. Sampling Procedures and Test Methods.

(a) *Sampling Procedures.* In determining compliance with the standards set forth in this subarticle 2, an applicable sampling methodology set forth in 13 C.C.R. section 2296 shall be used.

(b) *Test Methods.*

(1) In determining compliance with the gasoline standards set forth in this subarticle 2, including those in the sections identified in Table 1, the test methods presented in Table 1 shall be used. All identified test methods are incorporated herein by reference.

Table 1

Section	Gasoline Specification	Test Method ^a
2262	Reid Vapor Pressure	ASTM D 323–58 ^b or 13 C.C.R. Section 2297
2262	Sulfur Content	ASTM D 2622–94 ^c , d or ASTM D 5453–93
2262	Benzene Content	ASTM D 5580–00 ^e
2262	Olefin Content	ASTM D 1319–95 ^f (Through December 31, 2001) ASTM D 6550–00 ^{g,h,i} (Starting January 1, 2002)
2262	Oxygen Content	ASTM D 4815–99
2262	T90 and T50	ASTM D 86–99 ^{a,e}
2262	Aromatic Hydrocarbon Content	ASTM D 5580–00 ^j
2262.5(b)	Ethanol Content	ASTM D 4815–99
2262.6	MTBE Content	ASTM D 4815–99
2262.6(c)	Oxygen from oxygenates identified in section 2262.6(c)(4)	ASTM D 4815–99

^a Do not report values below the limit of detection (LOD) specified in the test method. Where a test method does not specify a LOD, do not report values below the lower limit of the scope of the test method.

^b Delete paragraph 4(b) concerning sampling.

^c Make the following modifications to paragraph 9.1:

Low Level Sulfur Calibration Procedure

Reagents

Thiophene, at least 99% purity

2-Methylthiophene, at least 98% purity

Toluene, reagent grade

2,2,4-Trimethylpentane, reagent grade

Preparation of Stock Standard

Weigh standard materials thiophene (~0.7290 gm) and 2-methylthiophene (~0.7031 gm) separately into a tared volumetric flask and record the individual mass to 0.1 mg. Add "mixed solvent" containing 25% toluene and 75% iso-octane (by volume) into the flask to a net weight of approximately 50 gm and record the weight. This "Stock Standard" contains approximately 10 mg/gm sulfur. The actual sulfur concentration can be calculated as follows:

Sulfur from thiophene (gm) =

Weight of thiophene * 32.06% purity / 84.14

Sulfur from 2-methylthiophene (gm) =

Weight of 2-methylthiophene * 32.06% purity / 98.17

Sulfur concentration of Stock Standard (gm/gm) =

(sulfur from thiophene + sulfur from 2-methylthiophene) / net weight of the stock standard

Multiply the sulfur concentration by 1000 to convert the unit to mg/gm.

Preparation of Calibration Standards

Pipet 2.5 ml of the Stock Standard to 250 ml flask and dilute with the "mixed solvent" to the mark. The "Diluted Standard" contains approximately 100 mg/kg sulfur. Prepare 5, 10, 20, 30, 50, 75 ppm calibration standards by pipetting 5, 10, 20, 30, 50, 75 ml of the Diluted Standard into a 100 ml flask, respectively, and diluting with the "mixed solvent" to the mark. The actual concentration of the calibration standard should be determined from the stock standard. The standards with concentration ranging from 5 to 100 ppm and the "mixed solvent" are to be used for calibrating the instrument.

^d Replace ASTM D 2622–94 reproducibility values with the following:

Sulfur Content, ppm	Reproducibility
10 to 30	40.5% × Sulfur Content (ppm)
>30	19.2% × Sulfur Content (ppm)

^e The reproducibility of benzene is as follows:

Reproducibility = 0.1409 (X^{1.133}), where X = vol %

^f Add the following reproducibility statement for oxygenate-containing samples:

	Range	Reproducibility
Olefins	0.3 – 33	0.819(X) ^{0.6}

X = Volume %

^g Replace ASTM D6550–00 reproducibility equation with the following:

Reproducibility = 0.32 X^{0.5}

where X is between 0.3 and 25 mass % olefin

^h The conversion from mass % olefin to volume % olefin is defined as follows: volume % olefin = 0.857 * mass % olefin

ⁱ Replace the last sentence in ASTM D6550–00 section 1.1 with the following: The application range is from 0.3 to 25 mass % total olefins.

^j The reproducibility of total aromatic hydrocarbon is as follows:

Reproducibility = 1.4 volume %

(c) *Equivalent Test Methods*. Whenever this section provides for the use of a specified test method, another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results with the specified method.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Repealer of designation of subsection (b)(1), amendment of Table 1 and repealer of subsections (b)(2)–(2)(C) filed 9–1–94; operative 9–1–94 (Register 94, No. 35).
3. Amendment of Table 1 filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
4. Redesignation of first paragraph of subsection (b) as (b)(1), amendment of Table 1, new Table 1 footnote a and footnote relettering, repealer of former footnote b, and new footnotes c–g, filed 2–26–96; operative 2–26–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
5. Editorial correction of subsection (b)(1) — Table (Register 2000, No. 31).
6. Amendment of section and NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).
7. Amendment filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
8. Amendment of subsection (b)—Table 1 filed 8–29–2001; operative 9–28–2001 (Register 2001, No. 35).
9. Amendment filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
10. Amendment of subsection (b)(1) filed 3–10–2005; operative 4–9–2005 (Register 2005, No. 10).

§ 2263.7. Multiple Notification Requirements.

Where a producer or importer is subject to multiple notification requirements pursuant to sections 2264(a)(2)(A), 2264.2(a)(2), 2264.2(b)(2), 2265(a)(2), 2266(c) or 2266.5(b), the producer shall combine the notifications to the extent practicable.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2–28–96; operative 2–28–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
2. Amendment of NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2264. Designated Alternative Limits.

(a) Assignment of a designated alternative limit.

(1) A producer or importer that has elected to be subject to an averaging limit specified in section 2262 may assign a designated alternative limit to a final blend of California gasoline produced or imported by the producer or importer by satisfying the notification requirements in this section (a). In no case shall a designated alternative limit be less than the sulfur, benzene, olefin or aromatic hydrocarbon content, or T90 or T50, of the final blend shown by the sample and test conducted pursuant to

section 2270, or section 2266.5(a), as applicable. If a producer or importer intends to assign designated alternative limits for more than one gasoline specification to a given quantity of gasoline, the party shall identify the same final blend for all designated alternative limits for the gasoline.

(2)(A) The producer or importer shall notify the executive officer of the estimated volume (in gallons), the designated alternative limit, the blend identity, and the location of each final blend receiving a designated alternative limit. This notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend. A producer or importer may revise the reported estimated volume, as long as notification of the revised volume is received by the executive officer no later than 48 hours after completion of the physical transfer of the final blend from the production or import facility. If notification of the revised volume is not timely received by the executive officer, the reported estimated volume shall be deemed the reported actual volume.

(B) For each final blend receiving a designated alternative limit exceeding an applicable averaging limit in section 2262, the producer or importer shall notify the executive officer of the date and time of the start of physical transfer from the production or import facility, within 24 hours after the start of such physical transfer. For each final blend receiving a designated alternative limit less than an applicable averaging limit in section 2262, the producer or importer shall notify the executive officer of the date and time of the completion of physical transfer from the production or import facility, within 24 hours after the completion of such physical transfer.

(3) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(3) have been met, timely notification shall be deemed to have occurred.

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section (a)(2) and (c) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (a)(2) and (c). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) Whenever the final blend of a producer or importer includes volumes of gasoline the party has produced or imported and volumes the party has neither produced nor imported, the producer's or importer's designated alternative limit shall be assigned and applied only to the volume of gasoline the party has produced or imported. In such a case, the producer or importer shall report to the executive officer in accordance with section (a) both the volume of gasoline produced and imported by the party, and the total volume of the final blend. The party shall also additionally report the sulfur content, benzene content, olefin content, aromatic hydrocarbon content, T90, and T50, as applicable, of the portion of the final blend neither produced nor imported by the party, determined as set forth in section 2270(b), or section 2266.5(a)(2), as applicable.

(b) Additional prohibitions regarding gasoline to which a designated alternative limit has been assigned.

(1) No producer or importer shall sell, offer for sale, or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit exceeding an applicable averaging limit in section 2262, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to section (a).

(2) No producer or importer shall sell, offer for sale or supply California gasoline in a final blend to which the producer or importer has assigned a designated alternative limit less than an applicable averaging limit in section 2262, where the total volume of the final blend sold, offered for sale, or supplied is less than the volume reported to the executive officer pursuant to section (a).

(c) Offsetting exceedances of an applicable averaging limit.

(1) With respect to each property for which a producer or importer has elected to be subject to the averaging limit in section 2262, within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for the property exceeding the applicable averaging limit in section 2262, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below the applicable averaging limit in section 2262 to fully offset the extent to which the gasoline exceeded the applicable averaging limit in section 2262. In the case of benzene, olefins, or aromatic hydrocarbons, the total volume of benzene, olefins, or aromatic hydrocarbons in excess of the averaging limit must be offset within the specified time period; the total mass of sulfur and the degree gallons of T50 and T90 in excess of the averaging limit must be similarly offset.

For example, within 90 days before or after the start of physical transfer from a production or import facility of any final blend of California gasoline to which a producer has assigned a designated alternative limit for olefin exceeding 4.0 percent by volume, the producer or importer shall complete physical transfer from the same production or import facility of California gasoline in sufficient quantity and with a designated alternative limit sufficiently below 4.0 percent by volume to offset the volume of the olefins in excess of a limit of 4.0 percent by volume.

(2) A producer or importer may enter into a protocol with the Executive Officer under which the producer or importer is allowed to have up to six separate averaging banks at a single production or import facility, applicable to operationally distinct products (e.g. different grades of gasoline or oxygenated and nonoxygenated). The offset requirements will apply independently for each separate averaging bank. Once averaging is selected for a particular product, the compliance scheme for that product may only be changed if the change meets the applicable criteria and conditions in sections 2264.2 and 2265(c) with respect to that product. The protocol shall specify how the requirements in section (a)(2) and (c)(1) will be applied to the producer's or importer's particular operations and the separate averaging banks. In order to enter into the protocol, the Executive Officer must determine that application of the requirements under the protocol will not be less stringent or enforceable than application of the express terms of sections (a)(2) and (c). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(d) Designated alternative limits for PM alternative gasoline formulations. The producer or importer of a final blend of California gasoline that is subject to the PM averaging compliance option for one or more properties may assign a designated alternative limit to the final blend by satisfying the notification requirements of section 2264(a). The producer or importer of such a final blend shall be subject to all of the provisions of this section 2264, except that, with respect to that final blend, the PM averaging limit (if any) for for each property subject to the PM averaging compliance option shall replace any reference in this section 2264 to the averaging limit specified in section 2262.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).

2. Amendment of subsections (a)(1)–(5), (b)(1)–(2), and (h) and new subsection (i) filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
3. Amendment of subsections (a)(1) and (a)(4)–(5) and new subsection (j) filed 2–28–96; operative 2–28–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
4. Editorial correction of subsection (j) (Register 97, No. 17).
5. Change without regulatory effect providing correct placement of subsection (j) filed 4–24–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 17).
6. Amendment of section and NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).
7. Amendment of subsection (a)(4), redesignation and amendment of former subsection (c) as new subsection (c)(1) and new subsection (c)(2) filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

§ 2264.2. Election of Applicable Limit for Gasoline Supplied From a Production or Import Facility.

(a) Election of the averaging compliance option.

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect pursuant to this section 2264.2(a) to have the final blend subject to the averaging compliance option for one or more of the following properties: sulfur, benzene, olefins, aromatic hydrocarbons, T90 or T50. Once a producer or importer has made such an election for a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the averaging compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(b) to have a final blend at the facility subject to the flat limit compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(2) In order to elect to have a final blend subject to the averaging option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the information identified in section 2264(a)(2)(A), within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(b) Election of flat limit compliance option.

(1) A producer or importer selling or supplying a final blend of gasoline from its production or import facility may elect to have the final blend subject to the flat limit compliance option in accordance with this section 2264.2(b). No such election may be made if there are outstanding requirements to provide offsets for the gasoline property at the facility pursuant to section 2264(c).

(2) In order to elect to have a final blend subject to the flat limit compliance option for a gasoline property, the producer or importer shall notify the executive officer of such election and of the blend identity and the location of the final blend, within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(3) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property, all final blends subsequently sold or supplied from the production or import facility shall be subject to the flat limit compliance option for that property until the producer or importer either (A) elects in accordance with section 2264.2(a) to have a final blend at the facility subject to the averaging compliance option for that property, or (B) elects in accordance with section 2265(a) to sell or supply a final blend at the facility as a PM alternative gasoline formulation, or (C) elects in accordance with section 2266(c) to sell or supply a final blend at the facility as an alternative gasoline formulation.

(4) Once a producer or importer has made an election under this section 2264.2(b) with respect to a gasoline property of a final blend at a production or import facility, the producer or importer may not use any previously assigned designated alternative limit for that property to provide offsets pursuant to section 2264(c) for any final blend sold or supplied from the production or import facility subsequently to the election.

(c) *Inapplicability to elections for PM alternative gasoline formulations.*

Any election for a final blend to be subject to a PM averaging compliance option or a PM flat limit compliance option shall be made in accordance with section 2265 rather than this section 2264.2.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
2. Amendment of subsections (b)(1) and (b)(4) and amendment of NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2264.4. Extensions of the 90–Day Offset Period Under the Averaging or PM Averaging Compliance Options in 1996 and 1997.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 6–2–95; operative 7–3–95 (Register 95, No. 22).
2. Repealer filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2265. Gasoline Subject to PM Alternative Specifications Based on the California Predictive Model.

(a) Election to sell or supply a final blend as a PM alternative gasoline formulation.

(1) In order to sell or supply from its production facility or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to PM alternative specifications, a producer or importer shall satisfy the requirements of this section (a).

(2) The producer or importer shall evaluate the candidate PM alternative specifications for gasoline subject to the CaRFG Phase 2 standards in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995 and last amended December 11, 1998, which is incorporated herein by reference. The producer or importer shall evaluate the candidate PM alternative specifications for gasoline subject to the CaRFG Phase 3 standards in accordance with the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as corrected November 18, 2004, which is incorporated herein by reference (the two documents incorporated by reference in this section 2265(a)(2) are collectively referred to as the "Predictive Model Procedures"). If the PM alternative specifications meet the criteria for approval in the applicable Predictive Model Procedures, the producer shall notify the executive officer of: (A) The identity and location of the final blend; (B) the PM alternative specifications that will apply to the final blend, including for each specification whether it applies as a PM flat limit or a PM averaging limit; and (C) the numerical values for percent change in emissions for oxides of nitrogen, hydrocarbons, and potency-weighted toxic air contaminants as determined in accordance with the applicable Predictive Model Procedures. The notification shall be received by the executive officer before the start of physical transfer of the gasoline from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(3) Once a producer or importer has notified the executive officer pursuant to this section 2265(a) that a final blend of California gasoline is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of California gasoline subsequently sold or supplied from that production or import facility shall be subject to the same PM alternative specifications until the producer or importer either (A) designates a final blend at that facility as a PM alter-

native gasoline formulation subject to different PM alternative specifications. (B) elects in accordance with section 2264.2 to have a final blend at that facility subject to flat limit compliance options and/or averaging compliance options, or (C) elects in accordance with section 2266(c) to sell a final blend at that facility as an alternative gasoline formulation.

(4) The executive officer may enter into a written protocol with any individual producer or importer for the purposes of specifying how the requirements in section (a)(2) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (a)(2). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(5) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in section (a)(2) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (a)(5) have been met, timely notification shall be deemed to have occurred.

(b) *Prohibited activities regarding PM alternative gasoline formulations.*

(1) No producer or importer shall sell, offer for sale, supply, or offer for supply from its production or import facility California gasoline which is reported pursuant to section 2265(a) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:

(A) The identified PM alternative specifications do not meet the criteria for approval in the applicable Predictive Model Procedures; or

(B) The producer was prohibited by section 2265(c) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or

(C) The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications (see section 2262.4(b) in the case of specifications for Reid vapor pressure); or

(D) With respect to any property for which the producer or importer has identified a PM averaging limit.

1. the gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a); or

2. a designated alternative limit for the property has been established for the gasoline in accordance with section 2264(a), and either of the following occur:

a. The gasoline exceeds the designated alternative limit for the property, or

b. Where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable provisions in section 2264(c).

(2) Where a producer or importer has elected to sell or supply a final blend of California gasoline as a PM alternative gasoline formulation in accordance with this section 2265, the final blend shall not be subject to section 2262.3(b) and (c), section 2262.4(b), and section 2262.5(c).

(c) Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations.

(1) A producer or importer may not elect to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation if the producer or importer is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to section 2264(c).

(2) Once a producer or importer has elected to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more properties, the producer or importer may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to section 2264(c). However, this

section (c)(2) shall not preclude a producer or importer under the circumstances described above from electing another PM alternative gasoline formulation where:

(A) the only changes are that either:

1. PM flat limits for one or more properties are changed to PM averaging limits, or

2. a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit, and

(B) there are no changes to the PM alternative specifications for the remaining properties, and

(C) the new PM alternative formulation meets the criteria for approval in the applicable Predictive Model Procedures.

(3) Once a producer or importer has elected to sell or supply from its production or import facility a final blend of California gasoline as a PM alternative gasoline formulation, the producer or importer may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to section 2264(c) for any final blend sold or supplied from the production or import facility subsequent to the election.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 6-2-95; operative 7-3-95 (Register 95, No. 22).

2. Amendment of subsection (c)(2) and new subsections (c)(A)-(C) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).

3. Amendment of subsection (a)(2) filed 3-31-99; operative 3-31-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 14).

4. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

5. Amendment of subsection (a)(2) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

6. Amendment of subsections (b) and (b)(1)(C) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

7. Amendment of subsection (a)(2) filed 3-10-2005; operative 4-9-2005 (Register 2005, No. 10).

§ 2266. Certified Gasoline Formulations Resulting in Equivalent Emission Reductions Based on Motor Vehicle Emissions Testing.

(a) Certification of test-certified alternative gasoline formulations. Following application by a producer or importer, the executive officer may certify, and identify alternative specifications for, a test-certified alternative gasoline formulation pursuant to the Air Resources Board's "California Procedures for Evaluating Alternative Specifications for Gasoline Using Vehicle Emissions Testing," as last amended April 25, 2001, which is incorporated herein by reference.

(b) Prohibited activities regarding test-certified alternative gasoline formulations.

(1) No producer or importer shall sell, offer for sale, supply, or offer for supply from its production facility or import facility California gasoline which has been reported pursuant to section (c) as a test-certified alternative gasoline formulation, if it fails to conform with any of the alternative specifications identified in the certification order for the formulation, as determined in accordance with the test methods identified in the certification order.

(2) A producer or importer who has reported a final blend of gasoline as a test-certified alternative gasoline formulation shall not be subject to section 2262.3(b) or (c), section 2262.4(b), and section 2262.5(c).

(c) Notification regarding sales and supplies of a test-certified alternative gasoline formulation. A producer or importer intending to sell or supply a final blend of California gasoline from its production facility or import facility as a test-certified alternative gasoline formulation shall notify the executive officer in accordance with this section (c). The notification shall identify the final blend and the identification name of the test-

certified alternative gasoline formulation. The notification shall be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be a specific test-certified alternative gasoline formulation may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol would provide at least as much notice to the executive officer as notification pursuant to the express terms of this section (c).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment of subsection (b)(2) and amendment of NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
3. Amendment of section heading and section filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

§ 2266.5. Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending.

(a) *Application of the California gasoline standards to CARBOB.*

(1) *Applicability of standards and requirements to CARBOB.* All of the standards and requirements in sections 2261, 2262, 2262.3, 2262.4, 2262.5(a), (b), (c) and (e), 2262.6, 2264, 2264.2, 2265, 2266, 2267, 2268, 2270, 2271 and 2272 pertaining to California gasoline or transactions involving California gasoline also apply to CARBOB or transactions involving CARBOB. Whenever the term "California gasoline" is used in the sections identified in the preceding sentence, the term means "California gasoline or CARBOB." Whenever the term "gasoline" is used in section 2265(b)(1), the term means "California gasoline or CARBOB."

(2) *Determining whether a final blend of CARBOB complies with the standards for California gasoline.*

(A) *General.*

1. *Applicability.* This section (a)(2) governs the determination of whether a final blend of CARBOB complies with the standards for California gasoline that apply when the gasoline is sold or supplied from the production or import facility at which it was produced or imported. Section (a)(6) governs the determination of whether downstream CARBOB that has already been supplied from its production or import facility complies with the applicable cap limits for California gasoline.

2. Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

3. If the producer or importer has not complied with all applicable provisions of this section 2266.5, the properties of the final blend for purposes of the producer's or importer's compliance with the limits for sulfur, benzene, aromatic hydrocarbons, olefins, T50, T90, and oxygen required by sections 2262.3, 2262.5, 2265 and 2266 shall be determined without using the CARBOB Model or adding oxygenate to the gasoline, and compliance with the flat limits for Reid vapor pressure and oxygenates required by sections 2262.4, 2262.6, 2265 and 2266 shall be determined in accordance with section (a)(2)(B) or (a)(2)(C) as applicable.

(B) *Determining whether a final blend of CARBOB complies with the standards for California gasoline by use of the CARBOB Model.*

1. A producer or importer may elect to have the CARBOB model used in determining whether a final blend designated as CARBOB complies with the standards applicable to California gasoline, by providing the notice in section (b)(1)(C). In this case, the CARBOB limits for the final

blend shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001. The CARBOB's compliance with the assigned CARBOB limit for a property shall constitute compliance with the corresponding finished gasoline limit — be it a section 2262 flat limit, PM flat limit, TC limit, or (if no designated alternative limit has been established) section 2262 or PM averaging limit. In addition, where the producer or importer has elected to use the CARBOB model for a given final blend that is not being transferred from its production or import facility during the Reid vapor pressure control period for that facility set forth in section 2262.4(a), the final blend must have a Reid vapor pressure no lower than the value used in the T50 CARBOB model.

2. Notwithstanding section (a)(2)(B)1., where a final blend of CARBOB is sampled and analyzed by a state board inspector in accordance with section 2263 using the methodology in (a)(2)(C), the results may be used to establish a violation of applicable standards for California gasoline.

(C) *Determining whether a final blend of CARBOB complies with the standards for California gasoline by oxygenate blending and testing.* Except as otherwise provided in section (a)(2)(B), the properties of a final blend of CARBOB shall be determined for purposes of compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Where the producer or importer has in accordance with section (b)(1)(E) designated a range for oxygen from denatured ethanol of 1.8 wt.% to 2.2 wt.% (or a range that is within 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), denatured ethanol equal to 5.7 vol.% of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt.% to 2.9 wt.% (or is within 2.5 wt.% and 2.9% and includes 2.7 wt.%), denatured ethanol equal to 7.7 vol.% of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt.% to 3.7 wt.% (or is within 3.3 wt.% and 3.7 wt.% and includes 3.5 wt.%), denatured ethanol equal to 10.0 vol.% of the blended volume shall be added. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt.%, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

$$\text{Vol. \% Denatured Ethanol} = 620 \div [(218.8 \div \text{wt. \% oxygen}) - 0.40]$$

Where the producer or importer has in accordance with section (b)(1)(E) designated a range of amounts of oxygen that is greater than 0.4 wt.%, or an oxygenate other than denatured ethanol, the oxygenate shall be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(D) *Characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.*

1. *Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is used.* Except as provided in section (a)(2)(D)3., where a producer or importer has elected to use the CARBOB Model for a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the following default denatured ethanol specifications shall be specified for the CARBOB Model:

Sulfur content:	10 parts per million
Benzene content:	0.06 volume percent
Olefin content:	0.5 volume percent
Aromatic hydrocarbon content:	1.7 volume percent

2. *Default denatured ethanol characteristics on or after December 31, 2003 when the CARBOB Model is not used.* Except as provided in section (a)(2)(D)3., where a producer or importer has not elected to use the CARBOB Model, denatured ethanol used as the oxygenate must have the following properties in determining whether CARBOB complies with the

standards applicable to California gasoline when it is supplied from the production facility or import facility on or after December 31, 2003:

Sulfur content:	3–10 parts per million
Benzene content:	0–0.06 volume percent
Olefin content:	0–0.5 volume percent
Aromatic hydrocarbon content:	0–1.7 volume percent

3. *Producer–or importer–specified characteristics of denatured ethanol used in determining whether a final blend of CARBOB complies with the standards for California gasoline.*

a. With respect to a final blend of CARBOB supplied from its production or import facility prior to December 31, 2003, the producer or importer must specify the properties of the oxygenate used in determining whether the final blend of CARBOB complies with the applicable California gasoline standards, by providing the notice in section (b)(1)(D). With respect to a final blend of CARBOB supplied from its production or import facility on or after December 31, 2003, the producer or importer may elect to specify the properties of the oxygenate in accordance with the preceding sentence. Where the producer or importer has elected to use the CARBOB model in connection with the final blend, the maximum value for each property identified in the section (b)(1)(D) notification shall be used for the CARBOB Model. Where the producer or importer has not elected to use the CARBOB model in connection with the final blend, the oxygenate used in oxygenate blending and testing in accordance with section (a)(2)(C)1. must not exceed the maximum value for each property identified in the section (b)(1)(D) notification; that oxygenate's specifications for each property may be under the maximum value for each property identified in the section (b)(1)(D) notification by no more than the following:

Sulfur content:	5 parts per million
Benzene content:	0.06 volume percent
Olefin content:	0.1 volume percent
Aromatic hydrocarbon content:	1.0 volume percent

b. *Maintaining oxygenate samples for use in compliance testing.* A producer or importer who is specifying the properties of the oxygenate used in a final blend of CARBOB in accordance with the preceding section (a)(2)(D)3.a. must maintain at the production or import facility, while the final blend is at the facility, oxygenate meeting the required specifications in quantities that are sufficient to enable state board inspectors to use the oxygenate in compliance determinations.

(E) *Protocol for determining whether a final blend of CARBOB complies with the standards for California gasoline.* The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying a alternative method for determining whether a final blend of CARBOB complies with the standards for California gasoline, as long as the executive officer reasonably determines that application of the protocol is not less stringent or enforceable than application of the express terms of section (a)(2)(A)–(D). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(3) *Calculating the volume of a final blend of CARBOB.* Where a producer or importer has designated a final blend as CARBOB and has complied with all applicable provisions of this section 2266.5, the volume of the final blend shall be calculated for all purposes under section 2264 by adding the minimum designated amount of the oxygenate having the smallest volume designated by the producer or importer. If the producer or importer has not complied with any applicable provisions of this section 2266.5, the volume of the final blend for purposes of the refiner or producer's compliance with sections 2262, 2262.3, 2262.4, 2262.5, 2262.6, 2265 and 2266 shall be calculated without adding the amount of oxygenate to the CARBOB.

(4) *Specifications for a final blend of CARBOB when the CARBOB model is not being used.* A producer or importer who has not elected to use the CARBOB model pursuant to section (a)(2)(B) with regard to a final blend of CARBOB may not sell, offer for sale, supply or offer for sale that final blend of CARBOB from its production facility or import facility where the sulfur, benzene, olefin or aromatic hydrocarbon content of the CARBOB, when multiplied by (1 minus the designated maximum volume percent, expressed as a decimal fraction, that the oxygenate

will represent after it is added to the CARBOB), results in a sulfur, benzene, olefin or aromatic hydrocarbon content value exceeding the applicable limit for that property.

(5) *Assignment of designated alternative limits for CARBOB and for the oxygenated California gasoline where the producer or importer has elected to use the CARBOB model.*

(A) *Applicability.* This section (a)(5) applies where a producer or importer has elected to have the CARBOB model apply in connection with a final blend of CARBOB which is also subject to an averaging compliance option or a PM averaging compliance option for one or more properties.

(B) *Assignment of CARBOB designated alternative limit.* The producer or importer may assign a CARBOB designated alternative limit for the final blend of CARBOB by satisfying the notification requirements of section (a)(5)(D). In no case shall a CARBOB designated alternative limit be less than the sulfur, benzene, olefin or aromatic hydrocarbon content, or T90 or T50, of the final blend shown by the sample and test of the CARBOB conducted pursuant to section 2270. The CARBOB designated alternative limit shall be treated as the designated alternative limit under section 2262.3(c)(2), and a violation of section 2262.3(c)(2) will exist when the CARBOB exceeds the CARBOB designated alternative limit.

(C) *Determining the designated alternative limit for the final blend after the CARBOB is oxygenated.* Whenever a producer or importer has assigned a designated alternative limit for a final blend of CARBOB, the designated alternative limit for the final blend after the CARBOB is oxygenated shall be determined in accordance with the "Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB)," as adopted April 25, 2001. This will be the final blend's designated alternative limit for purposes of compliance with sections 2262.3(c)(3) and 2264(b) and (c).

(D) *Notification.* The producer or importer shall notify the executive officer of the CARBOB designated alternative limit, the designated alternative limit for the final blend after it is oxygenated, and all other information identified in section 2264(a)(2)(A), within the time limits set forth in section 2264(a)(2)(A) and subject to section 2264(a)(3) and (4).

(6) *Determining whether downstream CARBOB complies with the cap limits for California gasoline.*

(A) *Determining whether downstream CARBOB complies with the cap limits for California gasoline through the use of CARBOB cap limits derived from the CARBOB Model.* Whenever downstream CARBOB designated for ethanol blending has already been supplied from its production or import facility, the CARBOB's compliance with the cap limits for California gasoline may be determined by applying the CARBOB cap limits in the following table:

Property	CARBOB Cap Limits	
	CaRFG2	CaRFG3
Reid Vapor Pressure ¹ (pounds per square inch)	5.78	5.99
Sulfur Content (parts per million by weight)	89	66 ² 32 ²
Benzene Content (percent by volume)	1.33	1.22
Aromatics Content (percent by volume)	33.1	38.7
Olefins Content (percent by volume)	11.1	11.1
T50 (degrees Fahrenheit)	232 ³ 237 ³	232 ³ 237 ³
T90 (degrees Fahrenheit)	335	335

¹ The Reid vapor pressure standards apply only during the warmer weather months identified in section 2262.4.

² The CaRFG Phase 3 CARBOB cap limits for sulfur are phased in starting December 31, 2003, and December 31, 2005, in accordance with section 2261(b)(1)(A).

³ The first number applies to CARBOB that is subject to the Reid vapor pressure standard pursuant to section 2262.4, and the second number applies to CARBOB that is not subject to the Reid vapor pressure standard.

(B) *Determining whether downstream CARBOB complies with the cap limits for California gasoline by oxygenate blending and testing.* Whenever downstream CARBOB designated for oxygenate blending has already been supplied from its production or import facility, the CARBOB's compliance with the cap limits for California gasoline may be determined by adding the specified type and amount of oxygenate to a representative sample of the CARBOB and determining the properties and characteristics of the resulting gasoline in accordance with an applicable test method identified in section 2263(b) or permitted under section 2263(c). Denatured ethanol used as the oxygenate must have the properties set forth in section (a)(2)(D)2. Where the designated range for oxygen from denatured ethanol is 1.8 wt.% and 2.2 wt.% (or is within 1.8 wt.% and 2.2 wt.% and includes 2.0 wt.%), denatured ethanol equal to 5.7 vol.% of the blended volume shall be added; where the designated range for oxygen from denatured ethanol is 2.5 wt.% and 2.9 wt.% (or is within 2.5 wt.% and 2.9 wt.% and includes 2.7 wt.%), denatured ethanol equal to 7.7 vol.% of the blended volume shall be added; and where the designated range for oxygen from denatured ethanol is 3.3 wt.% to 3.7 wt.% (or is within 3.3 wt.% and 3.7 wt.% and includes 3/5 wt.%), denatured ethanol equal to 10.0 vol.% of the blended volume shall be added. In all other cases where the designated range for oxygen from denatured ethanol is no greater than 0.4 wt.%, the amount of denatured ethanol added shall be the volume percent that results in an oxygen content at the midpoint of the range of oxygen, based on the following equation:

$$\text{Vol.\% Denatured Ethanol} = 620 \div [(218.8 \div \text{wt.\% oxygen}) - 0.40]$$

Where the designated a range of amounts of oxygen is greater than 0.4 wt.%, or an oxygenate other than denatured ethanol is designated, the oxygenate shall be added in an amount that results in an oxygen content within 0.2 wt.% of the designated minimum oxygen level.

(C) *Protocols.* A person may enter into a protocol with the executive officer for the purpose of identifying more stringent specifications for the denatured ethanol used pursuant to section (a)(6)(B), or different CARBOB cap limits under section (a)(6)(A), if the executive officer reasonably determines that the specifications or cap limits are reasonably premised on the person's program to assure that the denatured ethanol added to the CARBOB by oxygenate blenders will meet the more stringent specifications.

(b) *Notification to ARB regarding the supply of CARBOB from the facility at which it was produced or imported.*

(1) A producer or importer supplying a final blend of CARBOB from the facility at which the producer or importer produced or imported the CARBOB must notify the executive officer of the information set forth below, along with any information required under section 2265(a)(2) (for a PM alternative gasoline formulation) or 2266(c) (for a test-certified alternative gasoline formulation). The notification must be received by the executive officer before the start of physical transfer of the final blend of CARBOB from the production or import facility, and in no case less than 12 hours before the producer or importer either completes physical transfer or commingles the final blend.

(A) The identity and location of the final blend;

(B) The designation of the final blend as CARBOB;

(C) If the producer or importer is electing to use the CARBOB model to determine whether the final blend complies with the standards applicable to California gasoline when it is supplied from the production facility or import facility, a statement of that election and

1. Each of the CARBOB limits that will apply to the final blend for properties not subject to the averaging compliance option or the PM averaging compliance option; and

2. For any property subject to the averaging compliance option or the PM averaging compliance option, the averaging or PM averaging limit for the CARBOB (the CARBOB is subject to this limit only if no designated alternative limit is assigned to the CARBOB pursuant to section 2266.5(a)(5)(B));

(D) If the producer or importer is specifying, pursuant to section (a)(2)(D)3., the properties of the oxygenate to be added downstream by

the oxygenate blender, a statement of that election, the type of oxygenate, and the oxygenate's specifications for the following properties:

Maximum sulfur content (nearest part per million by weight)

Maximum benzene content (nearest hundredth of a percent by volume)

Maximum olefin content (nearest tenth of a percent by volume)

Maximum aromatic hydrocarbon content (nearest tenth of a percent by volume)

(E) The designation of each oxygenate type or types and amount or range of amounts to be added to the CARBOB, and the applicable flat limit, PM alternative specification, or TC alternative specification for oxygen. The amount or range of amounts of oxygenate to be added shall be expressed as a volume percent of the gasoline after the oxygenate is added, in the nearest tenth of a percent. For any final blend of CARBOB except one that is subject to PM alternative specifications or TC alternative specifications, the amount of oxygenate to be added must be such that the resulting California gasoline will have a minimum oxygen content no lower than 1.8 percent by weight and a maximum oxygen content no greater than 2.2 percent by weight. For a final blend of CARBOB that is subject to PM alternative specifications, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content PM alternative specification for the final blend. For a final blend of CARBOB that is subject to TC alternative specifications, the amount or range of amounts of oxygenate to be added must be such that the resulting California gasoline has an oxygen content that meets the oxygen content alternative specification for the final blend.

(2) *Applicability of notification to subsequent final blends.* The notification a producer or importer provides pursuant to section (b)(1)(B), (C), (D) and (E) for a final blend of CARBOB shall apply to all subsequent final blends of CARBOB or California gasoline supplied by the producer or importer from the same production or import facility until the producer or importer designates a final blend at that facility as either (i) California gasoline rather than CARBOB, or (ii) CARBOB subject to a new notification made pursuant to section (b)(1).

(3) *Allowance of late notifications.* If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in (b)(1) above, the producer or importer may notify the executive officer of the required data as soon as reasonably possible and may provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this section (b)(3) have been met, timely notification shall be deemed to have occurred.

(4) *Protocols.* The executive officer may enter into a written protocol with any individual producer or importer for the purpose of specifying how the requirements in section (b)(1) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of section (b)(1). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(c) [Reserved]

(d) *Documentation required when CARBOB is transferred.*

(1) *Required Documentation.* On each occasion when any person transfers custody or title of CARBOB, the transferor shall provide the transferee a document that prominently:

(A) States that the CARBOB does not comply with the standards for California gasoline without the addition of oxygenate,

(B) Identifies the applicable flat limit, PM alternative specification, or TC alternative specification for oxygen, and

(C) Identifies, consistent with the notification made pursuant to section (b), the oxygenate type or types and amount or range of amounts that must be added to the CARBOB to make it comply with the standards for California gasoline. Where the producer or importer of the CARBOB has

elected to specify the properties of the oxygenate pursuant to section (b)(1)(D), the document must also prominently identify the maximum permitted sulfur, benzene, olefin and aromatic hydrocarbon contents — not to exceed the maximum levels in the section (b)(1)(D) notification — of the oxygenate to be added to the CARBOB.

(2) *Compliance by pipeline operator.* A pipeline operator may comply with this requirement by the use of standardized product codes on pipeline tickets, where the code(s) specified for the CARBOB is identified in a manual that is distributed to transferees of the CARBOB and that sets forth all of the required information for the CARBOB.

(e) *Restrictions on transferring CARBOB.*

(1) *Required agreement by transferee.* No person may transfer ownership or custody of CARBOB to any other person unless the transferee has agreed in writing with the transferor that either:

(A) The transferee is a registered oxygenate blender and will add oxygenate of the type(s) and amount (or within the range of amounts) designated in accordance with section (b) before the CARBOB is transferred from a final distribution facility, or

(B) The transferee will take all reasonably prudent steps necessary to assure that the CARBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in accordance with section (b) to the CARBOB before the CARBOB is transferred from a final distribution facility.

(2) *Prohibited sales of CARBOB from a final distribution facility.* No person may sell or supply CARBOB from a final distribution facility where the type and amount or range of amounts of oxygenate designated in accordance with section (b) has not been added to the CARBOB.

(f) *Restrictions on blending CARBOB with other products.*

(1) *Basic prohibition.* No person may combine any CARBOB that has been supplied from the facility at which it was produced or imported with any other CARBOB, gasoline, blendstock or oxygenate, except:

(A) *The specified oxygenate.*

1. The CARBOB may be blended with oxygenate of the type and amount (or within the range of amounts) specified by the producer or importer at the time the CARBOB was supplied from the production or import facility.

2. Where ethanol is the specified oxygenate and specifications for the ethanol are identified in the product transfer document for the CARBOB pursuant to section 2266.5(d)(1)(C), only ethanol meeting those specifications may be combined with the CARBOB.

3. Where ethanol is the specified oxygenate and specifications for the ethanol are not identified, only ethanol meeting the standards in section 2262.9(a) may be combined with the CARBOB.

(B) *Identically-specified CARBOB.* The CARBOB may be blended with other CARBOB for which the same oxygenate type, and the same amount (or range of amounts) of oxygen, was specified by the producer or importer at the time the CARBOB was supplied from the production or import facility. However, where specifications for the denatured ethanol to be added to the CARBOB have been established pursuant to section 2266.5(a)(2)(D)3, it may only be blended with other CARBOB for which the same denatured ethanol specifications have been set.

(C) *CARBOB specified for different oxygen level.* Where a person is changing from an initial to a new type of CARBOB stored in a storage tank at a terminal or bulk plant, and the conditions below are met; in this case, the CARBOB in the tank after the new type of CARBOB is added will be treated as that new type of CARBOB.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the different types of CARBOB;

2. The initial and new CARBOBs are designated for blending with different amounts (or ranges of amounts) of oxygen, and the change in oxygen content will not exceed 1.1 weight percent of the oxygenated gasoline blend;

3. The volume of the new CARBOB that is added to the tank is at least four times as large as the volume of the initial CARBOB in the tank, and

4. The sulfur content of the new CARBOB added to the tank is no more than 12 parts per million.

(D) *California gasoline not subject to RVP standard.* Where a person is changing from California gasoline to CARBOB as the product stored in a storage tank at a terminal or bulk plant and the conditions below are met; in this case the product in the tank, pipe or manifold after the new product is added will be treated as the new type of product.

1. The change in service is for legitimate operational reasons and is not for the purpose of combining the California gasoline and CARBOB and

2. The resulting blend of product in the tank is supplied from the terminal or bulk plant during a time that it is not subject to the standards for Reid vapor pressure under section 2262.4.

(E) *Limited amounts of California gasoline containing ethanol.* A person may add California gasoline containing ethanol to CARBOB at a terminal or bulk plant if all of the following conditions are met, in which case the resulting mixture will continue to be treated as CARBOB.

1. The gasoline is added to the CARBOB for one of the following operational reasons:

a. The gasoline resulted from oxygenating CARBOB at the terminal or bulk plant during calibration of oxygenate blending equipment; or

b. The gasoline resulted from the unintentional over- or under-oxygenation of CARBOB during the loading of a cargo tank truck at the terminal or bulk plant; or

c. The gasoline was pumped out of a gasoline storage tank at a motor vehicle fueling facility for legitimate operational reasons.

2. The non-oxygenate portion of the gasoline complies with the applicable cap limits for CARBOB in section 2266.5(a)(6).

3. The resulting mixture of CARBOB has an oxygen content not exceeding 0.1 percent by weight.

a. The oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the volume of the denatured ethanol in the gasoline being added based on direct calibrated meter readings of the denatured ethanol if available, [iv] calculating weight percent oxygen of the gasoline being added from volume percent denatured ethanol based on the following formula:

$$(\text{wt. \% oxygen}) \approx 218.8 / \{ [620 / (\text{vol. \% deEtOH})] + 0.40 \},$$

and [v] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

b. If the meter readings described in section 2266.5(f)(1)(E)3.a.[iii] are not available, the oxygen content of the mixture may be determined arithmetically by [i] using the volume of the CARBOB prior to mixing based on calibrated tank readings, [ii] using the volume of the gasoline added based on calibrated meter readings, [iii] using the oxygen content of the gasoline in weight percent based on sampling and testing of the gasoline for denatured ethanol content in accordance with methods specified in section 2263, and [iv] accounting for any oxygen in the CARBOB tank due to previous additions of gasoline to the tank.

c. In making the determination described in section 2266.5(f)(1)(E)3.a. or b., the oxygen content of the mixture shall be calculated based on the following formula:

$$(\text{wt. \% oxygen}) \approx [(\text{volume CARBOB}) * (\text{wt. \% oxygen in CARBOB}) + (\text{volume gasoline}) * (\text{wt. \% oxygen in gasoline})] / [(\text{volume CARBOB}) + (\text{volume gasoline})].$$

4. Prior to the mixing, the operator of the terminal or bulk plant notifies the executive officer of the following:

a. The identity and location of the facility at which the mixing will take place;

b. The operational reason for adding the gasoline into the CARBOB;

c. The projected percentage oxygen content of the mixture.

5. The terminal or bulk plant operator maintains for two years records documenting the information identified in section 2266.5(f)(1)(E)4, and makes them available to the executive officer upon request.

(2) *Protocols.*

(A) *Protocols covering the changeover in service of a storage tank.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the

person may lawfully combine CARBOB with California gasoline or other CARBOB during a changeover in service of a storage tank for a legitimate operational business reason. The executive officer may only enter into such a protocol if he or she reasonably determines that commingling of the two products will be minimized as much as is reasonably practical. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) *Protocols for blending transmix into CARBOB.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into CARBOB which has been supplied from its production or import facility. The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the CARBOB gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(C) *Protocols In Other Situations.* Notwithstanding section (f)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully add California gasoline or other CARBOB to CARBOB in a storage tank at a terminal or bulk plant in situations other than those identified in sections 2266.5(f)(1)(C), (D), or (E), or (f)(2)(A) or (B). The executive officer may enter into such a protocol only if he or she reasonably determines that alternatives to the activity are not practical and the blending will not significantly affect the properties of the CARBOB into which the gasoline or CARBOB is added. The protocol shall include any of the conditions in section 2266.5(f)(1)(E) that the executive officer determines are necessary and appropriate. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(g) *Requirements for oxygenate blenders.*

(1) *Registration and Certification.*

(A) *Registration.* Any oxygen blender must register with the executive officer by March 1, 1996, or at least 20 days before blending oxygenates with CARBOB, whichever occurs later. Thereafter, an oxygenate blender must register with the executive officer annually by January 1. The registration must be addressed to the attention of the Chief, Compliance Division, California Air Resources Board, P.O. Box 2815, Sacramento, CA, 95812.

(B) *Required contents of registration.* The registration must include the following:

1. The oxygen blender's contact name, telephone number, principal place of business which shall be a physical address and not a post office box, and any other place of business at which company records are maintained.

2. For each of the oxygen blender's oxygenate blending facilities, the facility name, physical location, contact name, and telephone number.

(C) *Issuance of certificate.* The executive officer shall provide each complying oxygen blender with a certificate of registration compliance no later than June 30. The certification shall be effective from no later than July 1, through June 30 of the following year. The certification shall constitute the oxygen blender's certification pursuant to Health and Safety Code section 43026.

(D) *Submittal of updated information.* Any oxygen blender must submit updated registration information to the executive officer at the address identified in section (g)(1)(A) within 30 days of any occasion when the registration information previously supplied becomes incomplete or inaccurate.

(2) *Requirement to add oxygenate to CARBOB.* Whenever an oxygenate blender receives CARBOB from a transferor to whom the oxygenate blender has represented that he/she will add oxygenate to the CARBOB, the oxygenate blender must add to the CARBOB oxygenate of the type(s) and amount (or within the range of amounts) identified in the documentation accompanying the CARBOB. If the documentation identifies the permitted maximum sulfur, benzene, olefin and aromatic hydrocarbon

contents of the oxygenate, the oxygenate blender must add an oxygenate that does not exceed the maximum permitted levels.

(3) *Additional requirements for terminal blending.* Any oxygenate blender who makes a final blend of California reformulated gasoline by blending any oxygenate with any CARBOB in any gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bulk purchaser-consumer facilities, shall, for each such final blend, determine the oxygen content and volume of the final blend prior to its leaving the oxygen blending facility, by collecting and analyzing a representative sample of gasoline taken from the final blend, using methodology set forth in section 2263.

(h) *Downstream blending of California gasoline with nonoxygenate blendstocks.*

(1) *Basic prohibition.* No person may combine California gasoline which has been supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person can affirmatively demonstrate that (1) the blendstock that is added to the California gasoline meets all of the California gasoline standards without regard to the properties of the gasoline to which the blendstock is added, and (2) the person meets with regard to the blendstock all requirements in this subarticle applicable to producers of California gasoline.

(2) *Exceptions.*

(A) *Protocols.* Notwithstanding section (h)(1), the executive officer may enter into a written protocol with any person to identify conditions under which the person may lawfully blend transmix into California gasoline which has been supplied from its production or import facility. The executive officer may only enter into such a protocol if he or she reasonably determines that alternatives to the blending are not practical and the blending will not significantly affect the properties of the California gasoline into which the transmix is added. Any such protocol shall include the person's agreement to be bound by the terms of the protocol.

(B) *Blending to meet a cap limit.* Notwithstanding, section (h)(1) or 2262.5(d), a person may add nonoxygenate or oxygenated blendstock to California gasoline that does not comply with one or more of the applicable cap limits contained in section 2262, where the person obtains the prior approval of the executive officer based on a demonstration that adding the blendstock is a reasonable means of bringing the gasoline into compliance with the cap limits.

(i) *Restrictions during the RVP season on blending gasoline containing ethanol with California gasoline not containing ethanol.*

(1) *Basic prohibition.* Within each air basin during the Reid vapor pressure cap limit periods specified in section 2262.4(a)(2), no person may combine California gasoline produced using ethanol with California gasoline produced without using ethanol, unless the person can affirmatively demonstrate that: (A) the resulting blend complies with the cap limit for Reid vapor pressure set forth in section 2262, or (B) the person has taken reasonably prudent precautions to assure that the gasoline is not subject to the Reid vapor pressure cap limit either because of sections 2261(d) or (f) or 2262.4(c)(1) or (c)(3), or because the gasoline is no longer California gasoline.

(2) *Exception.* Section 2266.5(i)(1) does not apply to combining California gasolines that are in a motor vehicle's fuel tank.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018, 43021 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
2. Editorial correction of subsection (a)(1) (Register 2000, No. 31).
3. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).

4. Amendment filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
5. Amendment filed 12–24–2002; operative 12–24–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
6. Amendment of subsection (h)(2) and redesignation and amendment of former subsections (h)(2)–(3) to subsections (h)(2)(A)–(B) filed 5–1–2003; operative 5–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).
7. Amendment filed 3–10–2005; operative 4–9–2005 (Register 2005, No. 10).
8. Amendment of table footnotes 1 and 3 filed 9–9–2005 as an emergency; operative 9–9–2005 (Register 2005, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2006 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 9–9–2005 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2006, No. 35). The repealed emergency language affecting footnotes 1 and 3 of the subsection (a)(6)(A) table identified less stringent limits for RVP during the 2005 Hurricane Katrina RVP relaxation period identified in section 2262.4.
10. Editorial amendment of HISTORY 9 (Register 2006, No. 42).

§ 2267. Exemptions for Gasoline Used in Test Programs.

The executive officer shall consider and grant test program exemptions from the requirements of this subarticle in accordance with section 2259.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018, 43101 and 43831, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of section heading, section and NOTE filed 2–15–95; operative 2–15–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).
3. Amendment of NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2268. Liability of Persons Who Commit Violations Involving Gasoline That Has Not Yet Been Sold or Supplied to a Motor Vehicle.

(a) For the purposes of this subarticle, each sale of California gasoline at retail, and each dispensing of California gasoline into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such gasoline in violation of any applicable section of this subarticle.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).

§ 2269. Submittal of Compliance Plans.

(a) Each producer shall, by September 1, 2000, submit to the executive officer a plan showing the producer's schedule for achieving compliance with the CARFG Phase 3 standards set forth in this subarticle. Each producer shall, by September 1, 2001, September 1, 2002, and September 1, 2003 submit an update of the plan. Each compliance plan and update shall include the projected sequence and dates of all key events pertaining to planning, financing, and construction of necessary refinery modifications.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11–16–92; operative 12–16–92 (Register 92, No. 47).
2. Amendment of section and NOTE filed 8–3–2000; operative 9–2–2000 (Register 2000, No. 31).
3. Amendment filed 12–24–2002; operative 12–24–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

§ 2270. Testing and Recordkeeping.

(a)(1) The requirements of this section (a) shall apply to each producer and importer that has elected to be subject to an averaging limit in section 2262, or to a PM averaging limit. The references to sulfur content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for sulfur, or to a PM averaging limit for sulfur. The references to benzene content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for benzene, or to a PM averaging limit for benzene. The references to olefin content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for olefin content, or to a PM averaging limit for olefin content. The reference to T90 shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for T90, or to a PM averaging limit for T90. The references to T50 shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for T50, or to a PM averaging limit for T50. The references to aromatic hydrocarbon content shall apply to each producer or importer that has elected to be subject to the section 2262 averaging limit for aromatic hydrocarbon content, or to a PM averaging limit for aromatic hydrocarbon content.

(2) Each producer shall sample and test for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 in each final blend of California gasoline which the producer has produced, by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodologies specified in section 2263. If a producer blends gasoline components directly to pipelines, tankships, railway tankcars or trucks and trailers, the loading(s) shall be sampled and tested for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, identity of blend sampled, container or other vessel sampled, final blend volume, sulfur, aromatic hydrocarbon olefin and benzene content, T50 and T90. All gasoline produced by the producer and not tested as California gasoline by the producer as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 exceeding the applicable averaging limit standards specified in section 2262, or exceeding the comparable PM averaging limits if applicable, unless the importer demonstrates that the gasoline meets those standards and limits.

(3) Each importer shall sample and test for the sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 in each final blend of California gasoline which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, by collecting and analyzing a representative sample of the gasoline, using the methodologies specified in section 2263. The importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the final blend, sulfur content, aromatic hydrocarbon, olefin and benzene content, T50 and T90. All gasoline imported by the importer and not tested as California gasoline by the importer as required by this section shall be deemed to have a sulfur, aromatic hydrocarbon, olefin and benzene content, T50 and T90 exceeding the applicable averaging limits standards specified in section 2262, or exceeding the comparable PM averaging limit(s) if applicable, unless the importer demonstrates that the gasoline meets those standards and limit(s).

(4) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this section within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of California gaso-

line in accordance with the requirements of this section, the final blend of gasoline shall be presumed to have been sold by the producer or importer in violation of the applicable averaging limit standards in section 2262, or the PM averaging limit(s), to which the producer or importer has elected to be subject.

(5) The executive officer may enter into a protocol with any producer or importer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of sections (a)(2) or (a)(3). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the averaging limit standards in section 2262, the averaging limit compliance requirements in section 2262.3(c), and the PM averaging limit(s). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(b)(1) For each final blend which is sold or supplied by a producer or importer from the party's production facility or import facility, and which contains volumes of gasoline that party has produced and imported and volumes that the party neither produced nor imported, the producer or importer shall establish, maintain and retain adequately organized records containing the following information:

(A) The volume of gasoline in the final blend that was not produced or imported by the producer or importer, the identity of the person(s) from whom such gasoline was acquired, the date(s) on which it was acquired, and the invoice representing the acquisition(s).

(B) The sulfur, benzene, aromatic hydrocarbon, olefin and benzene content, T50 and T90 of the volume of gasoline in the final blend that was not produced or imported by the producer or importer, determined either by (A) sampling and testing, by the producer or importer, of the acquired gasoline represented in the final blend, or (B) written results of sampling and test of the gasoline supplied by the person(s) from whom the gasoline was acquired.

(2) A producer or importer subject to this section (b) shall establish such records by the time the final blend triggering the requirements is sold or supplied from the production or import facility, and shall retain such records for two years from such date. During the period of required

retention, the producer or importer shall make any of the records available to the executive officer upon request.

(c) In the event a producer or importer sells, offers for sale, or supplies, in California, gasoline which the producer claims is not California gasoline, such gasoline shall be presumed to exceed the standards that would be applicable pursuant to this subarticle if it was California gasoline. The producer or importer shall maintain, for two years from the date of any sale or supply of such gasoline, records demonstrating that the gasoline was not California gasoline, or that it complied with all of the standards of this subarticle 2, when it was sold or supplied by the producer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43013.1, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment of subsections (a)(1)-(5) and new subsection (c) filed 6-2-95; operative 7-3-95 (Register 95, No. 22).
3. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
4. Amendment of subsection (a)(3) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
5. Amendment of subsection (a)(1) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

§ 2271. Variances.

(a) *Applications for variances.* Any person who cannot comply with the standards or compliance requirements set forth in sections 2262, 2262.3, 2262.4, 2262.5 or 2262.6 because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. Except for emergency variances as provided in section (h), the application shall be accompanied by a fee of \$6700.00 to cover the costs of processing the variance. If the applicant withdraws the application before the variance hearing is held, \$4100.00 of the fee shall be refunded. The application shall set forth:

- (1) The applicable section(s) from which the variance is sought;
- (2) The specific grounds upon which the variance is sought;

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(3) The proposed date(s) by which compliance with the provisions of the applicable section(s) will be achieved; and

(4) A compliance plan reasonably detailing the method by which compliance will be achieved. That proposed compliance plan shall include increments of progress (i.e., specific events and dates) that describe periodic, measurable steps toward compliance during the proposed term of the variance.

(b)(1) *Notices and public hearings for variances.* Upon receipt of an application for a variance containing the information required in section (a), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements of the applicable section(s) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(2) *Treatment of confidential information.* Information submitted to the executive officer by a variance applicant may be claimed as confidential. Information claimed as confidential shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations (CCR), sections 91000 to 91022 except that: (A) at the time the information is submitted, the submitter must provide accompanying documentation in support of the claim of confidentiality, including the documentation identified in section 91022(c), and (B) for the purposes of this section 2271, the time period specified in section 91022(e)(2) is 10 days instead of 21 days. The executive officer may consider such confidential information in reaching a decision to grant or deny a variance.

(c) *Public participation in the variance process.* At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to submit written and oral testimony at the hearing and their testimony shall be considered.

(d) *Necessary findings for granting variances.* The decision to grant or deny a variance shall be based solely upon substantial evidence in the record of the variance proceeding. No variance shall be granted unless the executive officer makes all of the following findings:

(1) That, because of reasons beyond the reasonable control of the applicant, requiring compliance with the applicable section(s) would result in an extraordinary economic hardship;

(2) That the public interest in mitigating the extraordinary hardship by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance; and

(3) That the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(e) *Factors to be considered in making the necessary findings for granting variances.*

In making the findings specified in section (d), the factors set forth below shall be considered. It is the responsibility of the applicant to provide the information necessary to adequately evaluate these factors.

(1) Regarding the finding specified in section (d)(1):

(A) To demonstrate that noncompliance is "beyond the reasonable control of the applicant," the applicant must demonstrate that reasonably diligent and timely efforts to achieve compliance have been made. Where a variance is sought from initial compliance with the CaRFG Phase 3 requirements, the applicant shall show that timely capital expenditures and efforts to obtain the permits for necessary refinery modifications have been made, and that the applicant has been reasonably diligent in attempting to follow the periodic compliance plans required by section 2269, "Submittal of Compliance Plans." Where a variance is sought due to a breakdown, the applicant shall demonstrate that the breakdown could not have been prevented or mitigated by the application of standard industrial practices. "Standard industrial practices" means elements of de-

sign, methods of operation, and levels of oversight and maintenance that are regarded as generally accepted practice in the applicant's type of business.

(B) To demonstrate that requiring compliance would result in an "extraordinary economic hardship," the applicant must make a substantial showing that no alternative to a variance would eliminate or mitigate the need for a variance. Potential alternatives that the applicant shall address include the following: 1. obtaining complying gasoline from outside sources, or obtaining blending materials that would allow production of complying gasoline, and 2. using the applicable California Predictive Model (as specified in Title 13, CCR, section 2265) to maximize the production of complying gasoline, or to minimize the degree of noncompliance, through the use of a PM alternative gasoline formulation. The applicant shall compare the economics of operations without a variance, for the period over which the variance is proposed, with the economics of operations after the variance compliance plan has been implemented (e.g., the economic hardship during the term of the variance shall be measured against the eventual cost of long-term compliance.) The operations may include facets of the applicant's business other than gasoline operations, if those facets are directly affected by the ability to conduct the gasoline business. An applicant may also address any supply shortages that could result from the failure to grant a variance and the economic affects of such shortages on the persons who do, or could, receive gasoline from the applicant.

(2) Regarding the finding specified in section (d)(2):

(A) The executive officer shall consider the potential effects of issuing or denying the variance on the applicant's customers, the producers of complying fuel, the general public, and upon air quality. The executive officer shall also consider whether granting the variance will place the applicant at a cost advantage over other persons, including those persons who produce complying gasoline.

(B) To evaluate the potential effect upon air quality, the excess emissions from granting the variance shall be estimated as follows:

1. *Exhaust emissions:* The fractional change in emissions from using the variance gasoline shall be estimated with the California Predictive Model (model). Inputs to the model shall be the limits to be placed on the regulated properties of the variance gasoline by the variance conditions and the limits set forth in section 2262 that correspond in form (flat or averaging) to the variance limits. For each air basin in which the variance gasoline will be sold, the estimate of excess exhaust emissions shall be the fractional change in emissions (output by the model), times the estimated fraction of gasoline use in the air basin represented by the variance gasoline, times the inventory of exhaust emissions from gasoline-powered vehicles in the air basin.

2. *Evaporative hydrocarbon emissions:* Excess evaporative emissions shall be estimated for a limit greater than 7.0 pounds per square inch (psi) on the Reid vapor pressure (RVP) of variance gasoline. This estimate shall apply only for the period when RVP is limited to 7.0 psi. The true vapor pressure corresponding to the RVP limit for variance gasoline shall be divided by the true vapor pressure corresponding to RVP at 7.0 pounds per square inch. For each air basin in which the variance gasoline will be sold, the estimate of excess evaporative emissions shall be that ratio, minus 1.0, times the estimated fraction of gasoline use in the air basin represented by the variance gasoline, times the inventory of emissions due to the evaporation of gasoline from all sources in the air basin.

(3) Regarding the finding specified in section (d)(3):

The applicant shall demonstrate why the proposed compliance plan is the most expeditious way to achieve compliance, and the applicant shall demonstrate sufficient control over the implementation of the plan to make the plan practical. In the case of a proposed variance that would begin on December 31, 2003, the compliance plan shall identify and provide a date for each key step that remains to be accomplished for attaining compliance. As applicable, these steps shall include financing, engineering plans, ordering and contracts, receipt of major equipment, commencement and completion of construction, and testing.

(f) *Conditions and fees in variance orders.* In imposing fees and conditions in variance orders, the executive officer shall take into account the potential for such fees and conditions to place the applicant at a cost advantage over other persons, including those persons who produce complying gasoline.

(1) *Conditions.*

(A) Any variance order shall specify a final compliance date by which the requirements of the applicable section(s) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code. Such conditions may include, but are not limited to, reporting requirements, limitations on the gasoline specifications, and the elements of the variance compliance plan as proposed by the applicant, with any modifications made by the executive officer.

(B) Any variance order granting a variance from 2262.4 shall impose a substitute gasoline Reid vapor pressure limit as stringent as feasible under the circumstances, in no case to exceed 9.0 pounds per square inch. For areas where, and in seasons when, federal regulations require a lesser maximum Reid vapor pressure limit, a variance order shall not impose a Reid vapor pressure limit that is less stringent than the federal limit.

(C) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(D) The variance order shall limit the amount of variance gasoline sold or supplied from the applicant's production or import facility during each 30-day period of the variance, or during such other time period as the executive officer may specify. In determining the limit on the amount of variance gasoline, the Executive Officer shall consider available data on the applicant's production of complying gasoline. The limit shall not exceed the applicant's capacity to produce complying gasoline.

(E) The variance order shall specify that once a quantity of variance gasoline has been sold or supplied by the applicant in accordance with the variance, subsequent transactions involving that variance gasoline by another producer, distributor, retailer, end user, or other person shall also be exempt from the applicable requirements.

(2) *Fees.* A fee of \$0.15 shall be levied on the applicant for each gallon of gasoline sold or released for sale under variance during the term of the variance. The fee shall be paid by the applicant periodically, in advance of the sale or release of variance gasoline in each period. The executive director shall specify the payment schedule in the variance order.

(g) *Duration of variances.*

(1) A variance shall be granted only for the minimum period necessary for the applicant to attain compliance with the applicable regulations. Except for a variance related to a physical catastrophe, no variance shall have a duration of more than 120 days; however, a variance may be extended for up to 90 additional days if the applicant demonstrates that the requirements of sections (d) and (e) are met. In order to receive an extension of a variance, the applicant must submit an application as specified in section (a), and a hearing must be held as specified in sections (b) and (c).

(2) *Variances related to a physical catastrophe.* Notwithstanding the provisions of section (g)(1), a refiner may be granted a variance with a duration of more than 120 days, or a variance extension of more than 90 days, if the applicant demonstrates that the additional time is necessary due to a physical catastrophe, and the requirements of sections (d) and (e)

are met. In order to receive a variance or variance extension, the applicant must submit an application as specified in section (a) and a hearing must be held as specified in sections (b) and (c). As used in this section, "physical catastrophe" means a sudden unforeseen emergency beyond the reasonable control of the refiner, causing the severe reduction or total loss of one or more critical refinery units that materially impact the refiner's ability to produce complying gasoline. "Physical catastrophe" does not include events which are not physical in nature such as design errors or omissions, financial or economic burdens, or any reduction in production that is not the direct result of qualifying physical damage.

(h) *Emergency variances.*

(1) The executive officer may, after holding a hearing without complying with the provisions of sections (b) and (c), issue an emergency variance to a person from the requirements of the applicable section(s) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. The applicant for an emergency variance shall pay a fee of \$2500.00. Section (f) shall apply to emergency variances, except that a variance order is not required to specify a final compliance date by which the requirements of the applicable sections(s) will be achieved.

(2) No emergency variance may have a duration of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of the applicable section(s) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in section (d) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to section (h), and shall provide advance telephone notice to any such person as soon as practicable, considering the nature of the emergency.

(i) *Situations in which variances shall cease to be effective.* A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition of the variance.

(j) *Modification and revocation of variances.* Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements the applicable section(s) after holding a hearing in accordance with the provisions of sections (b) and (c).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43013.1, 43013.2, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 40000, 41511, 43000, 43013, 43013.1, 43013.2, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Change without regulatory effect amending subsections (a), (a)(3)-(a)(4) and (d)(1)-(d)(3) filed 8-5-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 32).
3. Amendment of section and NOTE filed 2-15-96 as an emergency; operative 2-15-96 (Register 96, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-14-96 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2-15-96 order transmitted to OAL 4-4-96 and filed 5-16-96 (Register 96, No. 20).
5. Amendment of section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
6. Amendment of subsection (e)(3) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

§ 2272. CaRFG Phase 3 Standards for Qualifying Small Refiners.

(a) *CaRFG Phase 3 standards for qualifying small refiners.* In place of the CaRFG Phase 3 standards set forth in section 2262, a qualifying small refiner may elect to have a final blend of California gasoline supplied from the small refiner's refinery subject to the "small refiner CaRFG Phase 3 standards," which are identical to the CaRFG Phase 3 standards in section 2262 except that: (i) the flat limit for benzene content is 1.00 percent by volume (vol.%) instead of 0.80 vol.%, (ii) the flat limit

for aromatics content is 35.0 vol.% instead of 25.0 vol.%, (iii) the flat limit for T50 is 220° F. instead of 213° F., and (iv) the flat limit for T90 is 312° F. instead of 305° F. This election may only be made if the small refiner has been issued a currently effective certification pursuant to section (b) and the gasoline qualifies for treatment under section (c).

(b) *Certification of small refiners.*

(1) A small refiner wishing to produce gasoline subject to this section shall submit to the executive officer an application for certification on the Air Resources Board's ARB/SSD/CPB Form 00-3-1, for each of the small refiner's California refineries. The application shall be executed by a responsible corporate officer under penalty of perjury.

(2) The small refiner's application shall set forth: [A] the crude oil capacity of the refinery since January 1, 1978; [B] the crude oil capacities of all the refineries in California and the United States which are owned or controlled by, or under common ownership or control with, the small refiner since September 1, 1988; [C] data demonstrating that the refinery has the capacity to produce liquid fuels by distilling petroleum; and [D] a demonstration that the small refiner's California refinery was used in 1998 and 1999 to produce and supply California gasoline meeting the CaRFG Phase 2 standards.

(3) Within 30 days of receipt of the application, the executive officer shall grant or deny it in writing. The executive officer shall grant the application if he or she determines that: [A] the application contains all of the information identified in sections (b)(1) and (2) above, and [B] the applicant meets the definition of small refiner. Any denial of an application shall include a statement of the reasons for denial.

(c) *Criteria for qualifying gasoline.* Gasoline shall only be subject to treatment under this section if the small refiner demonstrates all of the following:

(1) The gasoline was produced by the small refiner at the small refiner's California refinery.

(2) The gasoline was supplied from the small refiner's California refinery in a calendar quarter in which 25 percent or more of the gasoline that was produced by the small refiner and that was supplied from the refinery in the calendar quarter was refined at the small refinery from crude oil. The volume of oxygenates in the gasoline shall not be counted in making this calculation. The period from December 31, 2003 through March 31, 2004 shall be treated as a calendar quarter under this section (c)(2).

(3) For the period December 31, 2003, through December 31, 2004, and for each subsequent calendar year, the gasoline was supplied from the small refiner's California refinery before the full qualifying volume of gasoline produced by the small refiner had been supplied from the refinery during that period or year. In calculating the volume of gasoline supplied from the refinery, the volume of oxygenates in the gasoline shall not be counted. Gasoline that is designated by the small refiner as subject to all of the CaRFG Phase 3 standards in section 2262, and is reported to the executive officer pursuant to a protocol entered into by the small refiner and the executive officer, shall not be counted against the qualifying volume.

(4) At the time the gasoline was supplied from the small refiner's refinery, the small refiner met the definition of a small refiner.

(5) The excess emissions of hydrocarbons, oxides of nitrogen, and potency-weighted toxics are offset pursuant to section 2282, title 13, California Code of Regulations. The excess emissions from gasoline subject to the small refiner CaRFG Phase 3 standards are: 0.0206 pounds of exhaust hydrocarbons per barrel, 0.0322 pounds of oxides of nitrogen per barrel, and the potency-weighted toxic emissions equivalent of 0.0105 pounds of benzene per barrel.

(d) *Compliance with applicable federal RFG requirements.* Any small refiner subject to this section shall comply with all applicable requirements of the federal reformulated gasoline regulations in 40 CFR Part 80 Subpart D, commencing with § 80.40.

(e) *Additional reporting requirements for small refiners.*

(1) In addition to the requirements of section 2270, each small refiner who qualifies for treatment under this section shall submit to the execu-

tive officer reports containing the information set forth below for each of the small refiner's California refineries, starting on the date on which a qualifying small refiner supplies from its refinery gasoline subject to the small refiner CaRFG Phase 3 standards. The reports shall be executed in California under penalty of perjury, and must be received within the time indicated below. December 31, 2003 through January 31, 2004 shall be treated as a month.

(A) The quantity of all gasoline, produced by the small refiner, that is supplied from the small refinery in each month, within 15 days after the end of the month, the quantity of all such gasoline that is California gasoline subject to the small refiner CaRFG3 standards, and the quantity of all such gasoline that is California gasoline not subject to the small refiner CaRFG3 standards;

(B) The identity and volume of each oxygenate contained in the gasoline described in section (e)(1)(A) above, within 15 days after the end of the month;

(C) For each calendar quarter, a statement whether 25 percent or more of the gasoline that was produced by the small refinery and that was supplied from the refinery in the calendar quarter was refined at the small refinery from crude oil, within 15 days after the close of such quarter;

(D) The date, if any, on which the small refiner completes treatment from its small refinery in the period December 31, 2003 through December 31, 2004, and in each subsequent calendar year, of the small refiner's qualifying volume of gasoline produced by the small refiner, calculated as described in section (c)(3), within 5 days after such date;

(E) Within 10 days after project completion, any refinery addition or modification which would affect the qualification of the refiner as a small refiner pursuant to the definition in section 2260(a)(22); and

(F) Any change of ownership of the small refiner or the small refiner's refinery, within 10 days after such change of ownership.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 40000, 41511, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-92; operative 12-16-92 (Register 92, No. 47).
2. Amendment of subsections (c)(2)-(3) filed 2-28-96; operative 2-28-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 9).
3. Amendment of section heading, section and NOTE filed 8-3-2000; operative 9-2-2000 (Register 2000, No. 31).
4. Amendment of subsection (c)(5) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
5. Amendment filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).
6. Amendment of subsection (e)(1)(B) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 2273. Labeling of Equipment Dispensing Gasoline Containing MTBE.

(a) MTBE labeling requirement. All devices dispensing gasoline containing methyl tertiary butyl ether (MTBE) at filling stations, garages or other outlets where petroleum products are sold or offered for retail shall be marked with a conspicuous label at all times the product is offered for retail sale.

(1) The label shall state that the gasoline being dispensed "Contains MTBE. The State of California has determined that the use of this chemical presents a significant risk to the environment."

(2) The label shall be contrasting in color to the gasoline dispensing equipment and have capitalized lettering using not less than one-eighth inch high letters, except that "MTBE" shall have lettering using not less than five-eighths inch high letters with a stroke of not less than one-eighth inch in width and "Contains" shall have lettering using not less than one-quarter inch high letters.

(3) The label shall be placed on the gasoline dispensing equipment's vertical surface, on each side with gallonage and price meters.

(4) The label shall be conspicuous and legible to a customer when viewed from the driver's position inside the car.

(5) The label shall be capable of withstanding extremes of weather conditions for at least one year and shall be resistant to gasoline, oil, grease, solvents, detergents, and water. Damaged labels that are not legible shall be replaced.

(b) Residual levels of MTBE.

(1) The labeling requirements in section 2273(a) do not apply to equipment dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 0.6 percent by volume, as determined by American Society of Testing and Materials (ASTM) Test Method D 4815-99, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) The labeling requirements in section 2273(a) do not apply where the equipment is dispensing gasoline from a storage tank containing gasoline having an MTBE content of less than 3.0 percent by volume, as determined by a test method identified in section 2273(b)(1), and the operator of the retail outlet demonstrates that the conditions in either section 2273(b)(2)(A), (B), (C) or (D) have occurred.

(A) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE as specified in the following table.

<i>The percent of the total gasoline storage tank capacity that is emptied prior to refilling</i>	<i>The consecutive number of times the gasoline storage tank must be drained and refilled</i>
90%	2
80%	3
70%	3
60%	4
50%	6
40%	8
30%	11
20%	19
10%	60

(B) The gasoline storage tank has been consecutively drained and refilled to at least 95 percent of capacity with gasoline containing less than 0.6 volume percent MTBE according to the following equation.

$$N = -(0.222) + \log C_0 / \log (V_L / V_T)$$

Where:

N = The number of times the gasoline storage tank must be drained and refilled. If the resultant number is not an integer, it shall be rounded up to the nearest integer.

C₀ = The initial concentration, in volume percent, of MTBE in the gasoline storage tank.

V_L = The volume of gasoline (in gallons) left in the gasoline storage tank after each draining.

V_T = 95% of the capacity (in gallons) of the gasoline storage tank.

(C) The following equation has been applied to consecutive drainings and fillings of the gasoline in the storage tank, and the equation shows an MTBE content of less than 0.6 percent by volume. The initial MTBE concentration (C₀) of the gasoline in the storage tank when the equation is first applied shall be deemed to be 15 volume percent unless the MTBE content is determined in accordance with a testing methodology identified in section 2273(b)(1). For purposes of the equation, [i] the MTBE concentration of gasoline containing less than 0.6 volume percent MTBE shall be deemed to be zero, and [ii] the MTBE concentration of gasoline delivered with an invoice or other documentation stating that the gasoline contains MTBE shall be deemed to be 15 volume percent or, if the concentration of MTBE is stated on the documentation, that stated concentration. The executive officer shall make available upon request a computer program that may be used in applying the equation.

$$C = C_0(V_L / (V_L + V_D)) + C_D(V_D / (V_L + V_D))$$

Where:

C = The final concentration, in volume percent, of MTBE in the gasoline storage tank after the fuel delivery.

C₀ = The initial concentration, in volume percent, of MTBE in the gasoline storage tank before the fuel delivery.

C_D = The concentration, in volume percent, of MTBE in the fuel being delivered to the gasoline storage tank.

V_L = The volume of gasoline (in gallons) left in the gasoline storage tank prior to fuel delivery.

V_D = The volume of gasoline (in gallons) delivered to the gasoline storage tank.

(D) The gasoline has been consecutively drained and refilled in accordance with an alternative protocol which the executive officer has previously found in writing provides assurances of MTBE removal equivalent to the conditions in section 2273(b)(2)(A), (B), and (C).

(c) Responsibility for compliance. The operator of the retail gasoline outlet shall be responsible for compliance with the labeling requirements in section 2273(a).

(d) Deliveries of gasoline to retail outlets.

(1) Any person delivering gasoline to a retail gasoline outlet from December 16, 1999 through December 30, 2003 shall provide to the outlet operator or responsible employee, at the time of delivery of the fuel, an invoice, bill of lading, shipping paper, or other documentation which states whether the gasoline does or does not contain 0.6 percent by volume or more MTBE, and which may identify the volumetric amount of MTBE in the gasoline. For purposes of determining compliance with this section 2273(d), the volumetric MTBE content of gasoline shall be determined by ASTM Test Method D 4815-99, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) No person shall deliver gasoline containing 0.6 percent by volume or more MTBE to a storage tank at a retail gasoline outlet unless at the time of the delivery either:

(A) All pumps dispensing gasoline from the storage tank are labeled as containing MTBE, or

(B) The party delivering the gasoline, or on whose behalf the delivery is being made, can demonstrate that it has received and is maintaining a nonsuperseded written notification from the operator of the retail gasoline outlet that all of the outlet's gasoline dispensing equipment, or all of the outlet's dispensing equipment dispensing gasoline of the grade being delivered, is labeled as containing MTBE.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 11-16-99; operative 12-16-99 (Register 99, No. 47).
2. Amendment of subsections (b)(1) and (d)(1) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
3. Amendment of subsections (a)(1) and (d)(1) filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 2273.5. Documentation Provided with Delivery of Gasoline to Retail Outlets.

Any person delivering gasoline to a retail gasoline outlet shall provide to the outlet operator or responsible employee, at the time of delivery of the fuel, an invoice, bill of lading, shipping paper, or other documentation which states whether the gasoline does or does not contain ethanol, and which may identify the volumetric amount of ethanol in the gasoline. If neither the outlet operator nor a responsible employee is at the outlet at the time of delivery, the documentation may be left at a reasonably secure location at the outlet.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n v.*

Orange County Air Pollution Control District, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 5-1-2003; operative 5-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 18).

§ 2275. Requirements.

HISTORY

1. Amendment filed 6-6-75 as procedural and organizational; effective upon filing (Register 75, No. 23).
2. Change without regulatory effect renumbering and relocating chapter heading and renumbering and amending former section 2275 to section 2230 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
3. Editorial correction deleting chapter heading and amending HISTORY 2. (Register 92, No. 50).

§ 2276. Other Criteria.

HISTORY

1. Change without regulatory effect renumbering former section 2276 to section 2231 and adding NOTE filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).

Article 2. Standards for Diesel Fuel

§ 2280. Sulfur Content of Motor Vehicle Diesel Fuel Sold in the South Coast Air Basin or Ventura County Before October 1, 1993.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect adding new article heading, and relocating and amending former subsections of section 2252 to new section 2280 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
2. Change without regulatory effect repealing section filed 3-18-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 12).

§ 2281. Sulfur Content of Diesel Fuel.

(a) Regulatory Standard.

(1) *500 parts per million sulfur standard.* On or after October 1, 1993, no person shall sell, offer for sale, or supply any vehicular diesel fuel which has a sulfur content exceeding 500 parts per million by weight. Once the 15 parts per million sulfur content standard becomes applicable to an activity in accordance with the phase-in schedule in subsection (a)(3), the 500 parts per million sulfur content standard shall no longer apply to that activity.

(2) *15 parts per million sulfur standard.* Starting June 2006 in accordance with the phase-in schedule in subsection (a)(3), no person shall sell, offer for sale, supply or offer for supply any vehicular diesel fuel having a sulfur content exceeding 15 parts per million by weight.

(3) *2006 phase-in schedule.* The 15 parts per million sulfur standard in section (a)(2) shall apply in place of the 500 parts per million sulfur standard in section (a)(1):

(A) Starting June 1, 2006 to all sales, supplies or offers of vehicular diesel fuel from the production facility or import facility at which it was produced or imported.

(B) Starting July 15, 2006 to all sales, supplies, or offers of vehicular diesel fuel except for transactions directly involving:

1. The fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. The delivery of vehicular diesel fuel from a bulk plant to a retail outlet or purchaser-consumer facility.

(C) Starting September 1, 2006 to all sales, supplies, offers or movements of vehicular diesel, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility.

(4) *Phase-in of 2006 standard at low-throughput facilities.* The 15 parts per million sulfur standard in section (a)(2) shall not apply to transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, where the person selling, offering, or supplying the diesel fuel demonstrates as an affirmative defense that the exceedance of the pertinent standard was caused by diesel fuel delivered to the retail outlet or bulk purchaser-consumer facility prior to July 15, 2006, or delivered to the retail outlet or bulk purchaser-consumer facility directly from a bulk plant prior to September 1, 2006.

(5) *Applicability of standards to California nonvehicular diesel fuel.*

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2281 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2281 as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2281 starting January 1, 2006, and make all California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2281 starting January 1, 2007.

(6) Subsections (a)(1) and (2) shall not apply to a sale, offer for sale, or supply of diesel fuel to a refiner where the refiner further processes the diesel fuel at the refiner's refinery, prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(b) Definitions.

For the purposes of this section:

(0.2) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains diesel fuel in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(0.5) "Bulk plant" means an intermediate diesel fuel distribution facility where delivery of diesel fuel to and from the facility is solely by truck.

(0.8) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(1) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons — organic compounds consisting exclusively of the elements carbon and hydrogen — that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(2) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(3) "Further process" means to perform any activity on diesel fuel, including distillation, desulfurization, or blending, for the purpose of bringing the diesel fuel into compliance with the standard in subsection (a)(1).

(3.5) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(4) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(5) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel.

(6) "Producer" means any person who produces vehicular diesel fuel in California.

(7) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(8) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(9) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 50,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 50,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(10) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(11) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(12) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

(c) Test Method.

(1) *Test Method for 500 ppm sulfur standard.* The sulfur content of diesel fuel limitation of 500 parts per million specified in subsection (a)(1) shall be determined by ASTM Test Method D 2622-94, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(2) *Test Method for 15 ppm sulfur standard.* The sulfur content of diesel fuel limitation of 15 parts per million specified in subsection (a)(2) shall be determined by ASTM Test Method D 5453-93, which is incorporated herein by reference, or any other test method determined by the executive officer to give equivalent results.

(d) Presumed Sulfur Content of Diesel Fuel Represented As Being for Nonvehicular Use.

(1) All diesel fuel which has been identified or represented as a fuel which may not be dispensed into motor vehicles in California, and which would otherwise be subject to the 500 parts per million by weight sulfur content standard in subsection (a)(1), shall be deemed to have a sulfur content exceeding 500 parts per million by weight, as determined by a test method identified in subsection (c)(1), unless the fuel is tested in accordance with a method identified in subsection (c)(1) and is shown to have a sulfur content of 500 parts per million by weight or less.

(2) All diesel fuel which has been identified or represented as a fuel which may not be dispensed into motor vehicles in California, and which would otherwise be subject to the 15 parts per million by weight sulfur content standard in subsection (a)(2), shall be deemed to have a sulfur content exceeding 15 parts per million by weight, as determined by a test method identified in subsection (c)(2), unless the fuel is tested in accordance with a method identified in subsection (c)(2) and is shown to have a sulfur content of 15 parts per million by weight or less.

(e) Variances.

(1) Any person who cannot comply with the requirements set forth in subsection (a)(1) or (a)(2) as applicable because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a)(1) or (a)(2) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (e)(1), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements in subsection (a)(1) or (a)(2) as applicable is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsection (a)(1) or (a)(2) as applicable would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify a final compliance date by which the requirements in subsection (a)(1) or (a)(2) as applicable will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the sulfur content of diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms and conditions of the variance. Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) No variance from the requirements set forth in subsection (a)(1) or (a)(2) as applicable based on a plan for compliance which includes the installation of major additional equipment shall be issued to a producer where installation of the equipment was not included in a compliance plan or first update submitted pursuant to subsection (f). No such variance shall have a duration of more than three years.

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (e)(2) and (e)(3), issue an emergency variance to a person from the requirements of subsections (a)(1) or (a)(2) as applicable upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer

may waive the requirements of subsection (e)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a)(1) or (a)(2) as applicable within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (e)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this paragraph (e)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a)(1) or (a)(2) as applicable after holding a hearing in accordance with the provisions of subsections (e)(2) and (e)(3).

(g) Submittal of Compliance Plan. Each producer shall, by September 1, 2004, submit to the executive officer a plan showing the producer's schedule for achieving compliance with subsection (a)(2). Each producer shall, by July 1, 2005, submit an update of the plan.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018, and 43101 of the Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 39667, 41511, 43000, 43016, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering former section 2255 to section 2281 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
2. New subsections (h)–(h)(5) filed 10-21-93 as an emergency; operative 10-21-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-94 or emergency language will be repealed by operation of law on the following day.
3. Repeal of subsections (h)(1)–(h)(5) by operation of Government Code section 11346.1(f) (Register 94, No. 18).
4. Amendment of subsection (c) filed 7-25-97; operative 8-24-97 (Register 97, No. 30).
5. Amendment filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).
6. New subsection (a)(5)(A) designator and new subsection (a)(5)(B) filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

§ 2282. Aromatic Hydrocarbon Content of Diesel Fuel.

(a) Regulatory Standard.

(1) On or after October 1, 1993, except as otherwise provided in this subsection (a), no person shall sell, offer for sale, or supply any vehicular diesel fuel unless:

(A) The aromatic hydrocarbon content does not exceed 10 percent by volume; or

(B) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d), and:

1. The aromatic hydrocarbon content does not exceed the designated alternative aromatic hydrocarbon limit, and

2. Where the designated alternative aromatic hydrocarbon limit exceeds 10 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d); or

(C) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsection (g)(6); or

(D) The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (h)(2), and meets all of the designated equivalent limits set forth in subsection (h)(1); or

(E) The vehicular diesel fuel is exempt under subsection (e) and:

1. The aromatic hydrocarbon content does not exceed 20 percent by volume; or

2. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (d) and

a. The aromatic hydrocarbon content does not exceed the designated alternative limit, and

b. Where the designated alternative limit exceeds 20 percent by volume, the excess aromatic hydrocarbon content is fully offset in accordance with subsection (d), treating all references in subsection (d) to 10 percent by volume as references to 20 percent by volume; or

3. The vehicular diesel fuel has been reported in accordance with all of the requirements of subsection (g)(7), and meets all of the specifications for a certified diesel fuel formulation identified in an applicable Executive Order issued pursuant to subsections (g)(6) and (g)(8).

(2) Applicability of standards to California nonvehicular diesel fuel.

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2282 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2282 as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2282 starting January 1, 2006, and make all California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2282 starting January 1, 2007.

(3) Subsection (a)(1) shall not apply to a sale, offer for sale, or supply of vehicular diesel fuel to a refiner where the refiner further processes the diesel fuel at the refiner's refinery prior to any subsequent sale, offer for sale, or supply of the diesel fuel.

(b) Definitions.

For the purposes of this section:

(0.5) "Aromatic hydrocarbon" has the same meaning as "total aromatic hydrocarbons."

(0.7) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(1) "Chemical composition" means the name and percentage by weight of each compound in an additive and the name and percentage by weight of each element in an additive.

(2) "Designated alternative limit" means an alternative aromatic hydrocarbon limit, expressed in percent aromatic hydrocarbon content by volume, which is assigned by a producer or importer to a final blend of vehicular diesel fuel pursuant to subsection (d).

(3) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons — organic compounds consisting exclusively of the elements carbon and hydrogen — that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(4) "Exempt volume" means:

(A) Except as otherwise provided in subsection (b)(4)(B), 65 percent of the average of the three highest annual production volumes of distillate fuel reported for a small refiner's California refinery in the period 1983 to 1987, inclusive, to the California Energy Commission (CEC) as required by the Petroleum Industry Information Reporting Act of 1980 (Public Resources Code Sections 25350 et seq.); provided that for any small refiner that reported no distillate fuel production for two or more

years in the 1983–1987 period and that has installed hydrotreating processes which allow the production of diesel fuel with a sulfur content of 500 parts per million or less, exempt volume may be calculated as 65 percent of the average annual production volumes of distillate fuel reported for the small refiner's California refinery for 1989 and 1990.

(B) In the case of a small refiner who, in an application or amended application submitted pursuant to subsection (e)(2), notifies the executive officer of its election to be subject to this subsection (b)(4)(B), a volume determined in accordance with the following four steps:

1. First, the barrel per calendar day "operable crude oil capacity" of the small refiner's refinery for 1991 and 1992 is identified, based on data which are reported to the Executive Officer from the CEC and are derived from "Monthly Refining Reports" (EIA 810, Revised 1/89) submitted to the CEC no later than June 20, 1994. If the CEC is unable to derive such data from the "Monthly Refining Reports" for a particular small refiner, the executive officer shall determine the small refiner's operable crude oil capacity for 1991 and 1992 based on other publicly available and generally recognized sources.

2. Second, this operable crude oil capacity is multiplied by 0.9011, representing the overall refinery utilization rate (crude oil run divided by operable crude oil capacity) in the California refining industry for 1991 and 1992, as derived from reports of crude oil run and operable capacity in the "Quarterly Oil Reports" issued by the CEC.

3. Third, the resulting crude throughput volume is multiplied by the average of the refinery's two highest ratios of distillate produced to crude oil distilled in the period 1988 through 1992, based on distillate production data recorded by the CEC from MO-7 reporting forms (Revised 11-87) submitted to the CEC no later than June 30, 1994 and from crude oil run data derived by the CEC from "Monthly Refining Reports" submitted to the CEC no later than June 30, 1994, and is further multiplied by 365 to identify an annualized value.

4. Fourth, the resulting annual volume of distillate production is multiplied by a fraction determined in accordance with this subsection (b)(4)(B)4., which represents the average proportion of small refiners' distillate production that has been sold as diesel fuel for use in motor vehicles in California from 1988 through 1992. The fraction shall be based on the activities of all small refiners who during October 1, 1993 through June 30, 1994 lawfully produced and supplied vehicular diesel fuel. With respect to each such small refiner, the executive officer shall calculate a single fraction representing the average of the refiner's two highest annual ratios of [a] diesel fuel produced by the small refiner and sold for use in California motor vehicles to [b] distillate produced, over the period 1988 through 1992. In calculating these ratios, distillate production shall be based on distillate production data recorded by the CEC from MO-7 reporting forms (Revised 11-87) submitted to the CEC no later than June 30, 1994, and the volume of diesel fuel produced by the small refiner and sold for use in California motor vehicles shall be derived from sales data certified by authorized representatives of the small refiners and such other information from the small refiners deemed necessary by the executive officer. The executive officer shall then combine the single fractions for each such small refiner. The annual distillate production volume identified pursuant to subsection (b)(4)(B)3. shall be multiplied by the fraction that represents the average of the single fractions for each small refiner.

(5) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(6) "Final blend" means a distinct quantity of diesel fuel which is introduced into commerce in California without further alteration which would tend to affect the fuel's aromatic hydrocarbon content.

(7) "Formulation" means the composition of a diesel fuel represented by a test fuel submitted pursuant to subsection (g).

(8) "Further process" means to perform any activity on diesel fuel, including distillation, treating with hydrogen, or blending, for the purpose of bringing the diesel fuel into compliance with the standards in subsection (a)(1).

(9) "Hydrotreatment process" means a type of hydrotreating process in which hydrogen is used in the presence of heat, pressure, and catalysts to saturate aromatic hydrocarbons in order to produce low-aromatic hydrocarbon content diesel fuel.

(10) "Importer" means any person who first accepts delivery in California of vehicular diesel fuel.

(11) "Import facility" means the facility at which imported diesel fuel is first received in California, including, in the case of diesel fuel imported by cargo tank and delivered directly to a facility for dispensing diesel fuel into motor vehicles, the cargo tank in which the diesel fuel is imported.

(12) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(13) "Motor vehicle" has the same meaning as defined in Section 415 of the Vehicle Code.

(14) "Polycyclic aromatic" (also referred to as "polynuclear aromatic hydrocarbons" or "PAH") means an organic compound containing two or more aromatic rings.

(15)(A) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel. When a person blends volumes of blendstocks which are not diesel fuel with volumes of diesel fuel acquired from another person, and the resulting blend is diesel fuel, the person conducting such blending has produced only the portion of the blend which was not previously diesel fuel. When a person blends diesel fuel with other volumes of diesel fuel, without the addition of blendstocks which are not diesel fuel, the person does not produce diesel fuel.

(B) Subsection (b)(15)(A) notwithstanding, for the purposes of subsection (e) only, a small refiner who blends volumes of blendstocks which are not diesel fuel, or volumes of diesel fuel having an aromatic hydrocarbon content exceeding 20 percent by volume, with diesel fuel acquired from another person, in order to make diesel fuel having an aromatic hydrocarbon content not exceeding 20 percent by volume, shall be deemed to have produced the entire volume of the resulting blend and the person who initially converted non-diesel compounds into the acquired diesel fuel has also produced the volume of acquired diesel fuel.

(16) "Producer" means any person who produces vehicular diesel fuel in California.

(17) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(18) "Refinery" means a facility that produces liquid fuels by distilling petroleum. A small refiner's refinery includes all bulk storage and bulk distribution facilities jointly owned or leased with the facility that produces liquid fuels by distilling petroleum.

(19) "Small refiner" means any refiner who owns or operates a refinery in California that:

(A) Has and at all times had since January 1, 1978, a crude oil capacity of not more than 55,000 barrels per stream day;

(B) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in California with a total combined crude oil capacity of more than 55,000 barrels per stream day; and

(C) Has not been at any time since September 1, 1988, owned or controlled by any refiner that at the same time owned or controlled refineries in the United States with a total combined crude oil capacity of more than 137,500 barrels per stream day.

(20) "Straight-run California diesel fuel" means diesel fuel produced from crude oil which is commercially available in California by distillation, without the use of cracking or other chemical conversion processes.

(21) "Stream day" means 24 consecutive hours of actual operation of a refinery.

(22) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(23) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed

into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

(c) Test Method. Compliance with the aromatic hydrocarbon content limitations specified in this section 2282 shall be determined by ASTM Test Method D 5186-96, which is incorporated herein by reference. The following correlation equation shall be used to convert the SFC results in mass percent to volume percent.

Correlation Equation: Aromatic Hydrocarbons expressed in % by volume = $0.916 \times (\text{Aromatic Hydrocarbons expressed in \% by weight}) + 1.33$

(d) Designated Alternative Limit Designated Alternative Aromatic Hydrocarbon Limit.

(1) A producer or importer may assign a designated alternative limit in accordance with this subsection (d) to a final blend of vehicular diesel fuel produced or imported by the producer or importer. In no case may the designated alternative limit be less than the aromatic hydrocarbon content of the final blend shown by the sample and test conducted pursuant to subsection (f).

(2) The producer or importer shall notify the executive officer of the volume (in gallons) and the designated alternative limit of the final blend. This notification shall be received by the executive officer before the start of physical transfer of the diesel fuel from the production or import facility, and in no case less than 12 hours before the producer either completes physical transfer or commences the final blend.

(3) Within 90 days before or after the start of physical transfer of any final blend of vehicular diesel fuel to which a producer or importer has assigned a designated alternative limit exceeding 10 percent, the producer or importer shall complete physical transfer from the production or import facility of vehicular diesel fuel in sufficient quantity and with a designated alternative limit sufficiently below the limit specified in subsection (a)(1)(A) to offset the volume of aromatic hydrocarbons in the diesel fuel reported in excess of the limit.

(4) If, through no intentional or negligent conduct, a producer or importer cannot report within the time period specified in subsection (d)(2), then the producer or importer shall notify the executive officer of the required data as soon as reasonably possible and shall provide a written explanation of the cause of the delay in reporting. If, based on the written explanation and the surrounding circumstances, the executive officer determines that the conditions of this subsection (d)(4) are met, timely notification shall be deemed to have occurred.

(5) The executive officer may enter into a protocol with any individual producer or importer for the purposes of specifying how the requirements in subsections (d)(2) and (3) shall be applied to the producer's or importer's particular operations, as long as the executive officer reasonably determines that application of the regulatory requirements under the protocol is not less stringent or enforceable than application of the express terms of subsections (d)(2) and (3). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(6) No person shall sell, offer for sale, or supply vehicular diesel fuel, in a final blend to which a producer or importer has assigned a designated alternative limit exceeding 10 percent aromatics content, where the total volume of the final blend sold, offered for sale, or supplied exceeds the volume reported to the executive officer pursuant to subsection (d)(2) or (5).

(7) No person shall sell, offer for sale or supply vehicular diesel fuel, in a final blend to which a producer or importer has assigned a designated

alternative limit less than 10 percent aromatics content, where the total volume of the final blend sold, offered for sale, or supplied is less than the volume reported to the executive officer pursuant to subsection (d)(2) or (5).

(8) Whenever the final blend of a producer includes volumes of diesel fuel the producer has produced and volumes it has not produced, the producer's designated alternative limit shall apply only to the volume of diesel fuel the producer has produced. In such a case, the producer shall report to the ARB in accordance with subsection (d)(2) both the volume of diesel fuel produced and the total volume of the final blend.

(e) Small Refiner Diesel Fuel.

(1) The provisions of subsection (a)(1)(A), (B), and (C) shall not apply to the diesel fuel that is produced by a small refiner at the small refiner's California refinery and that is first consecutively supplied from the refinery as vehicular diesel fuel in each calendar year, up to the small refiner's exempt volume (up to one quarter of the small refiner's exempt volume for the period from October 1, 1993–December 31, 1993). Diesel fuel which is designated by the small refiner as not exempt under this section (e), and which is reported to the executive officer pursuant to a protocol entered into between the small refiner and the executive officer, shall not be counted against the exempt volume and shall not be exempt under this subsection (e). This exemption shall not apply to any diesel fuel supplied from a small refiner's refinery in any calendar quarter in which less than 25 percent of the diesel fuel supplied from the refinery was produced from the distillation of crude oil at the refinery. The foregoing notwithstanding in the case of any small refiner that pursuant to subsection (a)(4) has not been subject to subsection (a)(1) until October 1, 1994, all vehicular diesel fuel produced by the small refiner at the small refiner's California refinery and supplied from the refinery from October 1, 1994 through December 31, 1994, shall be exempt from the provisions of subsection (a)(1)(A), (B) and (C), up to the quarterly volume limits imposed by the executive officer in connection with issuance of suspension orders pursuant to section 2281(g). These quarterly volume limits are as follows: Kern Oil & Refining, 714,100 barrels; Paramount Petroleum, 1,064,700 barrels; and Powerline Oil Company, 1,419,600 barrels.

(2) To qualify for an exemption under this subsection (e), a refiner shall submit to the executive officer an application for exemption executed in California under penalty of perjury, on the Air Resources Board's ARB/SSD/CPB Form 89-9-1, for each of the small refiner's California refineries. The application shall specify the crude oil capacity of the refinery at all times since January 1, 1978, the crude oil capacities of all the refineries in California and the United States which are owned or controlled by, or under common ownership or control with, the small refiner since September 1, 1988, data demonstrating that the refinery has the capacity to produce liquid fuels by distilling petroleum, and copies of the reports made to the California Energy Commission as required by the Petroleum Industry Reporting Act of 1980 (Public Resources Code sections 25350 et seq.) showing the annual production volumes of distillate fuel at the small refiner's California refinery for 1983 through 1987. Within 90 days of receipt of the application, the executive officer shall grant or deny the exemption in writing. The exemption shall be granted if the executive officer determines that the applicant has demonstrated that s/he meets the provisions of subsection (b)(19), and shall identify the small refiner's exempt volume. The exemption shall immediately cease to apply at any time the refiner ceases to meet the definition of small refiner in subsection (b)(19).

(3) In addition to the requirements of subsection (f) below, each small refiner who is covered by an exemption shall submit to the executive officer reports containing the information set forth below for each of the small refiner's California refineries. The reports shall be executed in California under penalty of perjury, and must be received within the time indicated below:

(A) The quantity, ASTM grade, aromatic hydrocarbon content, and batch identification of all diesel fuel, produced by the small refiner, that is supplied from the small refinery in each month as vehicular diesel fuel, within 15 days after the end of the month;

(B) For each calendar quarter, a statement whether 25 percent or more of the diesel fuel transferred from the small refiner's refinery was pro-

duced by the distillation of crude oil at the small refiner's refinery, within 15 days after the close of such quarter;

(C) The date, if any, on which the small refiner completes transfer from its small refinery in a calendar year of the maximum amount of vehicular diesel fuel which is exempt from subsection (a)(1)(A) and (B) pursuant to subsection (e), within 5 days after such date;

(D) Within 10 days after project completion, any refinery addition or modification which would affect the qualification of the refiner as a small refiner pursuant to subsection (b)(19); and

(E) Any change of ownership of the small refiner or small refiner's refinery, within 10 days after such change of ownership.

(4) Whenever a small refiner fails to provide records identified in subsection (e)(3)(A) or (B) in accordance with the requirements of those subsections, the vehicular diesel fuel supplied by the small refiner from the small refiner's refinery in the time period of the required records shall be presumed to have been sold or supplied by the small refiner in violation of section (a)(1)(A).

(5) Offsetting Excess Emissions From Gasoline Subject to the Small Refiner CaRFG Phase 3 Standards.

(A) Annual elections. No later than December 22 of each calendar year starting with 2002, a small refiner who is also a qualifying small refiner as defined in the CaRFG regulations (section 2260(a)(28.5)) may by notification to the executive officer make the following elections:

1. Whether the small refiner elects to produce gasoline subject to the small refiner CaRFG Phase 3 standards in section 2272(a) in the coming year;

2. If electing to produce small refiner CaRFG Phase 3, whether the refiner elects the option of accepting a reduced exempt volume in the coming year to offset the excess emissions;

3. If electing to produce small refiner CaRFG Phase 3 but not to accept a reduced exempt volume, the refiner must elect for the coming year either (i) to produce offset small refiner diesel fuel with an exempt volume determined in accordance with section (b)(4), or (ii) to produce cleaner offset small refiner diesel fuel with an exempt volume expanded by 25 percent and restrictions on sales of high-aromatics California nonvehicular diesel fuel.

(B) Effect of election.

1. Election not to produce small refiner CaRFG Phase 3. If a small refiner does not elect to produce gasoline subject to the small refiner CaRFG Phase 3 standards for a particular year, no gasoline sold or supplied from the small refiner's refinery in that year will qualify for the small refiner CaRFG Phase 3 standards in section 2272(a).

2. Election to accept a reduced exempt volume for small refiner diesel fuel. If a small refiner elects to accept a reduced exempt volume under section (f)(5)(A), the executive officer shall assign a substitute exempt volume for the year that is reduced sufficiently to offset the excess emissions of hydrocarbons, oxides of nitrogen, and potency-weighted toxics that would result from production of the small refiner's full qualifying volume of gasoline subject to the CaRFG Phase 3 standards. In the case of Kern Oil and Refining Co., its reduced exempt volume of small refiner diesel fuel would be 825,995 barrels per year (equal to 2263 bpd; 828,258 barrels per year in leap years) in place of 2,337,825 barrels per year (equal to 6405 bpd; 2,344,230 in leap years).

3. Election to retain the preexisting exempt volume and produce offset small refiner diesel fuel. If the small refiner elects to be subject to the exempt volume determined in accordance with section (b)(4), the executive officer shall adjust the aromatics and cetane number of the standards applicable to the small refiner sufficient to offset the potential increased emissions identified pursuant to section 2272(c)(5). In the case of Kern Oil and Refining Co., its exempt volume for the year would be 2,337,825 barrels per year (equal to 6405 bpd; 2,344,230 barrels per year in leap years). Any small refiner diesel fuel it sells or supplies as a certified alternative formulation equivalent to a 20 percent aromatics reference fuel must have an aromatic hydrocarbon content that is 2 percentage points lower, and a cetane number that is 0.5 higher, than is specified for the alternative formulation. Any small refiner diesel fuel it sells or supplies which is not designated as a certified alternative formulation must have

an aromatic hydrocarbon content not exceeding 18 percent, or be subject to the designated alternative limit provisions in subsection (d) with all designated alternative limits above 18 percent by volume fully offset in accordance with subsection (d).

4. Election of expanded exempt volume with requirement for cleaner offset small refiner diesel fuel. If the small refiner elects to produce offset small refiner diesel fuel with an expanded exempt volume, its exempt volume for the year will be 125 percent of its exempt volume determined in accordance with section (b)(4). The executive officer shall adjust the aromatics and cetane number of the standards applicable to the potential volume of small refiner sufficient to offset the potential increased emissions identified pursuant to section 2272(c)(5). The small refiner will be prohibited during the year from selling or supplying diesel fuel that it has produced and is intended for nonvehicular applications in California unless the fuel meets the U.S. EPA's standards for diesel fuel for use in motor vehicles in 40 CFR sec. 80.29 as it existed July 1, 2000. In the case of Kern Oil and Refining Co., its exempt volume for the year would be 2,922,190 barrels per year (equivalent to 8006 bpd; 2,930,196 in leap years). Any small refiner diesel fuel it sells or supplies in the year as a certified alternative formulation equivalent to a 20 percent aromatics reference fuel must have an aromatic hydrocarbon content that is 3.5 percentage points lower, and a cetane number that is 0.5 higher, and an additive content that is 0.02 percentage points higher, than is specified for the alternative formulation. Any small refiner diesel fuel it sells or supplies which is not designated as a certified alternative formulation shall have an aromatic hydrocarbon content not exceeding 14 percent.

5. Additional requirement to sell or supply ultra-low sulfur diesel fuel. In addition to the requirements in section (f)(5)(B)1. through (f)(5)(B)4., a small refiner that elects to produce gasoline subject to the CaRFG Phase 3 standards for a year must sell or supply in that year up to 100 bpd of diesel fuel having a sulfur content not exceeding 30 ppm and an aromatic hydrocarbon content not exceeding 20 percent, to the extent there are buyers wishing to acquire that diesel fuel on commercially reasonable terms.

(C) Early opt-in to produce small refiner CaRFG Phase 3. To the extent that the sale or supply of gasoline subject to the CaRFG Phase 3 standards before December 31, 2002 is permitted by section 2261(b)(3), a qualifying small refiner may elect to have to option of producing gasoline subject to the small refiner CaRFG Phase 3 standards for a full year or the remainder of a year prior to December 31, 2002. In that case, section (e)(5)(B)2.-5. would apply on a pro rata basis to the portion of the year on and after the effective date of the election, and the preexisting requirements would apply on a pro rata basis to the portion of the year prior to the effective date of the election.

(f) Testing and Recordkeeping.

(1) Each producer shall sample and test for aromatic hydrocarbon content each final blend of vehicular diesel fuel which the producer has produced, in accordance with an applicable test method identified in subsection (c). If a producer blends diesel fuel components directly to pipelines, tankships, railway tankcars, or trucks and trailers, the loading(s) shall be sampled and tested for aromatic hydrocarbon content by the producer or authorized contractor. The producer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, final blend volume, and the aromatic hydrocarbon content. In the event a producer sells, offers for sale, or supplies diesel fuel which the producer claims is not vehicular diesel fuel and which has an aromatic hydrocarbon content exceeding the standard set forth in subsection (a)(1), such producer shall maintain, for two years from the date of any sale or supply of the fuel, records demonstrating that the diesel fuel was not vehicular diesel fuel when it was sold or supplied by the producer. All diesel fuel produced by the producer and not tested as vehicular diesel fuel by the producer pursuant to this subsection shall be deemed to have an aromatic hydrocarbon content exceeding 10 percent, unless the producer demonstrates that the diesel fuel meets the requirements of subsection (a)(1).

(2) Each importer shall sample and test for aromatic hydrocarbon content each shipment of vehicular diesel fuel which the importer has imported by tankship, pipeline, railway tankcars, trucks and trailers, or other means, in accordance with an applicable test method identified in subsection (c). The importer shall maintain, for two years from the date of each sampling, records showing the sample date, product sampled, container or other vessel sampled, the volume of the shipment, and the aromatic hydrocarbon content. All diesel fuel imported by the importer and not tested as vehicular diesel fuel by the importer pursuant to this subsection shall be deemed to have an aromatic hydrocarbon content exceeding 10 percent, unless the importer demonstrates that the diesel fuel meets the requirements of subsection (a)(1).

(3) A producer or importer shall provide to the executive officer any records required to be maintained by the producer or importer pursuant to this subsection (d) within 20 days of a written request from the executive officer if the request is received before expiration of the period during which the records are required to be maintained. Whenever a producer or importer fails to provide records regarding a final blend of vehicular diesel fuel in accordance with the requirements of this subsection, the final blend of diesel fuel shall be presumed to have been sold by the producer in violation of subsection (a)(1).

(4) The executive officer may perform any sampling and testing deemed necessary to determine compliance by any person with the requirements of subsection (a) and may require that special samples be drawn and tested at any time.

(5) The executive officer may enter into a protocol with any producer, importer, or person who sells, offers for sale, or transfers diesel fuel to a producer for the purpose of specifying alternative sampling, testing, recordkeeping, or reporting requirements which shall satisfy the provisions of subsections (f)(1), (f)(2), or (e)(3). The executive officer may only enter into such a protocol if s/he reasonably determines that application of the regulatory requirements under the protocol will be consistent with the state board's ability effectively to enforce the provisions of subsection (a). Any such protocol shall include the producer's or importer's agreement to be bound by the terms of the protocol.

(g) Certified Diesel Fuel Formulations Resulting in Equivalent Emissions Reductions.

(1) The executive officer, upon application of any producer or importer, may certify diesel fuel formulations in accordance with this subsection (g). The applicant shall initially submit a proposed test protocol to the executive officer. The proposed test protocol shall include: (A) the identify of the entity proposed to conduct the tests described in subsection (g)(4); (B) test procedures consistent with the requirements of this subsection (g); (C) test data showing that the candidate fuel meets the specifications for No. 2-D diesel fuel set forth in ASTM D975-81 (which is incorporated herein by reference), and identifying the characteristics of the candidate fuel set forth in subsection (g)(2); (D) test data showing that the fuel to be used as the reference fuel satisfies the specifications identified in subsection (g)(3); (E) reasonably adequate quality assurance and quality control procedures; and (F) notification of any outlier identification and exclusion procedure that will be used, and a demonstration that any such procedure meets generally accepted statistical principles.

Within 20 days of receipt of a proposed test protocol, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the proposed test protocol complete or that specified additional information is still required to make it complete. Within 20 days after the proposed test protocol is deemed complete, the executive officer shall either approve the test protocol as consistent with this subsection (g) or advise the applicant in writing of the changes necessary to make the test protocol consistent with this subsection (g). Any notification of approval of the test protocol shall include the name, telephone number, and address of the executive officer's designee to receive notifications pur-

suant to subsection (g)(4)(C)(ii). The tests shall not be conducted until the protocol is approved by the executive officer.

Upon completion of the tests, the applicant may submit an application for certification to the executive officer. The application shall include the approved test protocol, all of the test data, a copy of the complete test log prepared in accordance with subsection (g)(4)(C)(ii), a demonstration that the candidate fuel meets the requirements for certification set forth in this subsection (g), and such other information as the executive officer may reasonably require.

Within 20 days of receipt of an application, the executive officer shall advise the applicant in writing either that it is complete or that specified additional information is required to make it complete. Within 15 days of submittal of additional information, the executive officer shall advise the applicant in writing either that the information submitted makes the application complete or that specified additional information is still required to make it complete. Within 30 days after the application is deemed complete, the executive officer shall grant or deny the application. Any denial shall be accompanied by a written statement of the reasons for denial.

(2) *The candidate fuel.*

(A)1. The applicant shall supply the candidate fuel to be used in the comparative testing pursuant to subsection (g)(4).

2. The candidate fuel shall meet the specifications for No. 2-D diesel fuel set forth in ASTM D975-81, which is incorporated herein by reference, and shall also meet the requirements in subsections (g)(2)(A)3. and 4.

3.a. Except as otherwise provided in subsection (g)(2)(A)3.b., the candidate fuel shall meet the following specifications, which are identical to the comparable specifications for the reference fuel identified in subsection (g)(3):

<i>Property</i>	<i>ASTM Test Method</i>	<i>Candidate Fuel Specifications</i>
Gravity, API	D287-82	33-39
Viscosity at 40°C, cSt	D455-83	2.0-4.1
Flash point, °F, (min.)	D93-80	130
Distillation, °F		
IBP	D86-96	340-420
10% REC.		400-490
50% REC.		470-560
90% REC.		550-610
EP		580-660

b. The candidate fuel's value for one or more of the properties listed in the subsection (g)(2)(A)3.a. table may be outside the specification in the table if the applicant is specifying the property and candidate fuel's value pursuant to subsection (g)(2)(C).

4.a. Except for a property to which subsection (g)(2)(A)3.b applies, the gravity, viscosity, flash point and distillation values of the candidate fuel may not differ from the corresponding values of the reference fuel used in the engine emissions testing by more than one-half of the permitted range for the property. For example, if the API gravity of the reference fuel is 33, then the API gravity of the candidate fuel may not exceed 36.

b. The candidate fuel's value for one or more of the properties listed in the subsection (g)(2)(A)3.a. table may differ from the corresponding value of the reference fuel used in the engine emissions testing by more than one-half of the permitted range for the property if the applicant is specifying the property and candidate fuel's value pursuant to subsection (g)(2)(C).

(B) The following characteristics of the candidate fuel shall be determined as the average of three tests conducted in accordance with the referenced test method (the ASTM methods are incorporated herein by reference):

1.a. For formulations certified prior to August 14, 2004, sulfur content (not to exceed 500 ppm) by ASTM D2622-94;

b. For formulations certified on or after August 14, 2004, sulfur content (not to exceed 15 ppm) by ASTM D5453-93;

2. Total aromatic hydrocarbon content, by ASTM D5186-96;

3. Polycyclic aromatic hydrocarbon content, by ASTM D5186-96;

4. Nitrogen content, by ASTM D4629-96;
5. Cetane number, by ASTM D613-84;
6. Identity and concentration of each additive, by a test method specified by the applicant and determined by the executive officer to adequately determine the presence and concentration of the additive.

(C) The applicant may also specify any other parameters for the candidate fuel in addition to those listed in subsection (g)(2)(B), along with the test method for determining the parameters. The applicant shall provide the chemical composition of each additive in the candidate fuel, except that if the chemical composition of an additive is not known to either the applicant or to the manufacturer of the additive (if other), the applicant may provide a full disclosure of the chemical process of manufacture of the additive in lieu of its chemical composition.

(3) *The reference fuel.*

(A) The reference fuel used in the comparative testing described in subsection (g)(4) shall be produced from straight-run California diesel fuel by a hydrodearomatization process and shall have the characteristics set forth below under "General Reference Fuel Specifications" (the listed ASTM methods are incorporated herein by reference):

Reference Fuel Specifications

Property	ASTM Test Method	General Reference Fuel Specifications	Small Refiner Reference Fuel Specifications
Sulfur Content	D2622-94 ¹ D5453-93 ²	500 ppm max. ¹ 15 ppm max. ²	500 ppm max. ¹ 15 ppm max. ²
Aromatic Hydrocarbon Content, Vol. %	D5186-96	10% max.	20% max.
Polycyclic Aromatic Hydrocarbon Content, WT. %	D5186-96	1.4% max.	4% max.
Nitrogen Content	D4629-96	10 ppm max.	90 ppm max.
Natural Cetane Number	D613-84	48 minimum	47 minimum
Gravity, API	D287-82	33-39	33-39
Viscosity at 40°C, cSt	D445-83	2.0-4.1	2.0-4.1
Flash point, °F, (min.)	D93-80	130	130
Distillation, °F	D86-96		
IBP		340-420	340-420
10 % REC		400-490	400-490
50 % REC		470-560	470-560
90 % REC		550-610	550-610
EP		580-660	580-660

¹ This test method and sulfur content maximum applies to all reference fuels used for formulations certified prior to August 14, 2004.

² This test method and sulfur content maximum applies to all reference fuels used for formulations certified on or after August 1, 2004.

(B) Where the candidate fuel's value for one or more properties is outside the specification in the table in subsection (g)(2)(A)3.a as permitted by subsection (g)(2)(A)3.b., the reference fuel's value for that property may not be on the opposite side of the mid-point of the range shown in the table.

(4)(A) Exhaust emission tests using the candidate fuel and the reference fuel shall be conducted in accordance with the "California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Heavy-Duty Diesel-Powered Engines and Vehicles," as incorporated by reference in Title 13, California Code of Regulations, Section 1956.8(b). The tests shall be performed using a Detroit Diesel Corporation Series-60 engine, or, if the executive officer determines that the Series-60 is no longer representative of the post-1990 model year heavy-duty diesel engine fleet, another engine found by the executive office to be representative of such engines. A determination by the executive officer that an engine is no longer representative shall not affect the certification of a diesel fuel formulation based on prior tests using that engine pursuant to a protocol approved by the executive officer.

(B) The comparative testing shall be conducted by a party or parties that are mutually agreed upon by the executive officer and the applicant. The applicant shall be responsible for all costs of the comparative testing.

(C)1. The applicant shall use one of the following test sequences:

a. If both cold start and hot start exhaust emission tests are conducted, a minimum of five exhaust emission tests shall be performed on the engine with each fuel, using either of the following sequences, where "R" is the reference fuel and "C" is the candidate fuel: RC RC RC RC RC and

(continuing in the same order), or RC CR RC CR RC (and continuing in the same order).

The engine mapping procedures and a conditioning transient cycle shall be conducted with the reference fuel before each cold start procedure using the reference fuel. The reference cycle used for the candidate shall be the same cycle as that used for the fuel preceding it.

b. If only hot start exhaust emission tests are conducted, one of the following test sequences shall be used throughout the testing, where "R" is the reference fuel and "C" is the candidate fuel:

Alternative 1: RC CR RC CR (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 2: RR CC RR CC (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 3: RRR CCC RRR CCC (continuing in the same order for a given calendar day; a minimum of twenty-one individual exhaust emission tests must be completed with each fuel)

For all alternatives, an equal number of tests shall be conducted using the reference fuel and the candidate fuel on any given calendar day. At the beginning of each calendar day, the sequence of testing shall begin with the fuel that was tested at the end of the preceding day. The engine mapping procedures and a conditioning transient cycle shall be conducted after every fuel change and/or at the beginning of each day. The reference cycle generated from the reference fuel for the first test shall be used for all subsequent tests. For alternatives 2 and 3, each paired or triplicate series of individual tests shall be averaged to obtain a single value which would be used in the calculations conducted pursuant to section (g)(5)(C).

2. The applicant shall submit a test schedule to the executive officer at least one week prior to commencement of the tests. The test schedule shall identify the days on which the tests will be conducted, and shall provide for conducting the test consecutively without substantial interruptions other than those resulting from the normal hours of operations at the test facility. The executive officer shall be permitted to observe any tests. The party conducting the testing shall maintain a test log which identifies all tests conducted, all engine mapping procedures, all physical modifications to or operational tests of the engine, all recalibrations or other changes to the test instruments, and all interruptions between tests and the reason for each such interruption. The party conducting the tests or the applicant shall notify the executive officer by telephone and in writing of any unscheduled interruption resulting in a test delay of 48 hours or more, and of the reason for such delay. Prior to restarting the test, the applicant or person conducting the tests shall provide the executive officer with a revised schedule for the remaining tests. All tests conducted in accordance with the test schedule, other than any tests rejected in accordance with an outlier identification and exclusion procedure included in the approved test protocol, shall be included in the comparison of emissions pursuant to subsection (g)(5).

(D) In each test of a fuel, exhaust emissions of oxides of nitrogen (NOx) and particulate matter (PM) shall be measured. In addition, for each test the soluble organic fraction (SOF) of the particle matter in the exhaust emissions shall be determined in accordance with the Air Resources Board's "Test Method for Soluble Organic Fraction (SOF) Extraction" dated April 1989, which is incorporated herein by reference.

(5) The average emissions during testing with the candidate fuel shall be compared to the average emissions during testing with the reference fuel, applying one-sided Student's *t* statistics as set forth in Snedecar and Cochran, *Statistical Methods* (7th ed.), page 91, Iowa State University Press, 1980, which is incorporated herein by reference. The executive officer shall issue a certification pursuant to this paragraph only if he or she makes all of the determinations set forth in subsections (g)(5)(A) and (B) below, after applying the criteria in subsection (g)(5)(C).

(A) The average individual emissions of NOx, PM, and SOF, respectively, during testing with the candidate fuel do not exceed the average

individual emissions of NO_x, PM, and SOF, respectively, during testing with the reference fuel.

(B) Use of any additive identified pursuant to subsection (g)(2)(B)6. in heavy-duty engines will not increase emissions of noxious or toxic substances which would not be emitted by such engines operating without the additive.

(C) In order for the determinations in subsection (g)(5)(A) to be made, for each referenced pollutant the candidate fuel shall satisfy the following relationship:

$$\bar{X}_c < \bar{X}_R + \delta - S_p \sqrt{\frac{2}{n}} \cdot t(a, 2n-2)$$

Where: \bar{X}_c = Average emissions during testing with the candidate fuel
 \bar{X}_R = Average emissions during testing with the reference fuel
 δ = tolerance level equal to 1 percent of \bar{X}_R for NO_x, 2 percent of \bar{X}_R for PM, and 6 percent of \bar{X}_R for SOF.
 S_p = Pooled standard deviation
 $t(a, 2n-2)$ = The one-sided upper percentage point of t distribution with $a = 0.15$ and $2n-2$ degrees of freedom
 n = Number of tests of candidate and reference fuel

(6) If the executive officer finds that a candidate fuel has been properly tested in accordance with this subsection (g), and makes the determinations specified in subsection (g)(5), then he or she shall issue an Executive Order certifying the diesel fuel formulation represented by the candidate fuel. The Executive order shall identify all of the characteristics of the candidate fuel determined pursuant to subsection (g)(2). The Executive Order shall provide that the certified diesel fuel formulation has the following specifications: (1) a sulfur content, total aromatic hydrocarbon content, polycyclic aromatic hydrocarbon content, and nitrogen content not exceeding that of the candidate fuel, (2) a cetane number not less than that of the test fuel, (3) any additional fuel specification required under subsection (g)(2)(A)3.b, and (4) presence of all additives that were contained in the candidate fuel, in a concentration not less than in the test fuel, except for an additive demonstrated by the applicant to have the sole effect of increasing cetane number. All such characteristics shall be determined in accordance with the test methods identified in subsection (g)(2). The Executive Order shall assign an identification name to the specific certified diesel fuel formulation.

(7) In order for a producer or importer of a final blend to comply with subsection (a) through the sale, offer for sale or supply of a certified diesel fuel formulation, the producer or importer shall notify the executive officer in accordance with this subsection (g)(7). The notification shall identify the final blend and the identification name of the certified diesel fuel formulation. The notification shall be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be a specific certified formulation may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol would provide at least as much notice to the executive officer as notification pursuant to the express terms of this subsection (g)(7).

(8) A small refiner may apply for certification of a diesel fuel formulation to be sold pursuant to subsection (a)(1)(C). All of the provisions of this subsection (g) shall apply to certification of such a diesel fuel formulation, except the reference fuel in the comparative testing described in subsection (g)(4) shall have the characteristics set forth under "Small Refiner Reference Fuel Specifications" in the table in subsection (g)(3).

(9) (A) If the executive officer determines that a commercially available diesel fuel blend meets all of the specifications of a certified diesel

fuel formulation set forth in an Executive Order issued pursuant to subsection (g)(6), but does not meet the criteria in subsection (g)(5) when tested in accordance with subsection (g)(4), the executive officer shall modify the certification order as is necessary to assure that diesel fuel blends sold commercially pursuant to the certification will meet the criteria set forth in subsection (g)(5). The modifications to the order may include additional specifications or conditions, or a producer of the commercially available diesel fuel blend found not to meet the criteria.

(B) The executive officer shall not modify a prior certification order without the consent of the applicant and of the producer of the commercially available diesel fuel blend found not to meet the criteria, unless the applicant and producer are first afforded an opportunity for a hearing in accordance with Title 17, California Code of Regulations, Part III, Chapter 1, Subchapter 1, Article 4 (commencing with Section 60040). If the executive officer determines that a producer would be unable to comply with this regulation as a direct result of an order modification pursuant to this subsection, the executive officer may delay the effective date of such modification for such period of time as is necessary to permit the producer to come into compliance in the exercise of all reasonable diligence.

(10) Any diesel fuel formulation certified in accordance with this subsection (g) as it existed before the amendments effective 12/26/91 shall no longer be considered certified after 12/26/91 unless the executive officer determines that the test data submitted with the application demonstrates that the diesel fuel formulation satisfies the criteria for certification in subsection (g) as amended effective 12/26/91.

(h) Designated Equivalent Limits.

(1) *Designated equivalent limits.* The designated equivalent limits under this section 2282 are set forth in the following table. Compliance with the limits for the properties shall be determined by the specified ASTM methods, which are incorporated herein by reference.

Property	Equivalent Limit	Test Method
Aromatic Hydrocarbon Content (% by wt.)	≤ 21.0	ASTM D5186-96
PAH Content (% by wt.)	≤ 3.5	ASTM D5186-96
API Gravity	≥ 36.9	ASTM D287-82
Cetane Number	≥ 53	ASTM D613-84
Nitrogen Content (ppmw)	≤ 500	ASTM D4629-96
Sulfur Content (ppmw)	≤ 160 before 6/1/06 ≤ 15 starting 6/1/06	ASTM D2262-94 before 6/1/06 ASTM D5453-93 starting 6/1/06

(2) *Notification requirements.* In order for a producer or importer of a final blend to comply with subsection (a) through the sale, offer for sale or supply of diesel fuel subject to all of the designated equivalent limits in subsection (h)(1), the producer or importer shall notify the executive officer in accordance with this subsection (h)(2). The notification shall identify the final blend subject to the designated equivalent limits and must be received by the executive officer at least 12 hours before start of physical transfer of the final blend from the production or import facility. A producer or importer intending to have a series of its final blends be subject to the designated equivalent limits may enter into a protocol with the executive officer for reporting such blends as long as the executive officer reasonably determines the reporting under the protocol would provide at least as much notice to the executive officer as notification pursuant to the express terms of this subsection (h)(2).

(i) Variances.

(1) Any person who cannot comply with the requirements set forth in subsection (a)(1) because of reasons beyond the person's reasonable control may apply to the executive officer for a variance. The application shall set forth:

(A) the specific grounds upon which the variance is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (a)(1) will be achieved; and

(C) a plan reasonably detailing the method by which compliance will be achieved.

(2) Upon receipt of an application for a variance containing the information required in subsection (i)(1), the executive officer shall hold a hearing to determine whether, or under what conditions and to what extent, a variance from the requirements in subsection (a)(1) is necessary and will be permitted. Notice of the time and place of the hearing shall be sent to the applicant by certified mail not less than 20 days prior to the

hearing. Notice of the hearing shall also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such notice, not less than 20 days prior to the hearing.

(3) At least 20 days prior to the hearing, the application for the variance shall be made available to the public for inspection. Interested members of the public shall be allowed a reasonable opportunity to testify at the hearing and their testimony shall be considered.

(4) No variance shall be granted unless all of the following findings are made:

(A) that, because of reasons beyond the reasonable control of the applicant, requiring compliance with subsection (a)(1) would result in an extraordinary economic hardship;

(B) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants which would result from issuing the variance.

(C) that the compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(5) Any variance order shall specify a final compliance date by which the requirements in subsection (a)(1) will be achieved. Any variance order shall also contain a condition that specified increments of progress necessary to assure timely compliance be achieved, and such other conditions, including limitations on the aromatic hydrocarbon content of diesel fuel produced for use in motor vehicles, that the executive officer, as a result of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(6) The executive officer may require, as a condition of granting a variance, that a cash bond, or a bond executed by two or more good and sufficient sureties or by a corporate surety, be posted by the party to whom the variance was granted to assure performance of any construction, alteration, repair, or other work required by the terms of conditions of the variance.

Such bond may provide that, if the party granted the variance fails to perform such work by the agreed date, the cash bond shall be forfeited to the state board, or the corporate surety or sureties shall have the option of promptly remedying the variance default or paying to the state board an amount, up to the amount specified in the bond, that is necessary to accomplish the work specified as a condition of the variance.

(7) [Reserved]

(8) No variance which is issued due to conditions of breakdown, repair, or malfunction of equipment shall have a duration, including extensions, of more than six months.

(9) The executive officer may, after holding a hearing without complying with the provisions of subsections (i)(2) and (i)(3), issue an emergency variance to a person from the requirements of subsection (a)(1) upon a showing of reasonably unforeseeable extraordinary hardship and good cause that a variance is necessary. In connection with the issuance of an emergency variance, the executive officer may waive the requirements of subsection (i)(6). No emergency variance may extend for a period of more than 45 days. If the applicant for an emergency variance does not demonstrate that he or she can comply with the provisions of subsection (a)(1) within such 45-day period, an emergency variance shall not be granted unless the applicant makes a prima facie demonstration that the findings set forth in subsection (i)(4) should be made. The executive officer shall maintain a list of persons who have informed the executive officer in writing of their desire to be notified by telephone in advance of any hearing held pursuant to this subsection (i)(9), and shall provide advance telephone notice to any such person.

(10) A variance shall cease to be effective upon failure of the party to whom the variance was granted substantially to comply with any condition.

(11) Upon the application of any person, the executive officer may review and for good cause modify or revoke a variance from the requirements of subsection (a)(1) after holding a hearing in accordance with the provisions of subsections (i)(2) and (i)(3).

(j) Whenever this section provides for the use of a specified test method, another test method may be used following a determination by the executive officer that the other method produces results equivalent to the results with the specified method.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering former section 2256 to section 2282 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
2. Amendment of subsections (a)(4), (c)(2), (g)(1)-(6), and (j)(1)-(2) and adoption of subsections (g)(5)(D) and (g)(10) filed 11-25-91; operative 12-26-91 (Register 92, No. 13).
3. New subsections (l)-(l)(3) filed 10-21-93 as an emergency; operative 10-21-93 (Register 93, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-18-94 or emergency language will be repealed by operation of law on the following day.
4. Repeal of subsections (l)(1)-(l)(3) by operation of Government Code section 11346.1(f) (Register 94, No. 18).
5. Amendment of subsection (e)(1) filed 9-29-94; operative 9-29-94 (Register 94, No. 39).
6. Amendment filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
7. Editorial correction of subsection (g)(4)(C)(i)2. (Register 95, No. 43).
8. New subsection (b)(0.5), amendment of subsections (b)(14) and (c)(1), repealer of subsection (c)(2), amendment of subsections (g)(2)(A)-(D) and (g)(3) filed 7-25-97; operative 8-24-97 (Register 97, No. 30).
9. Amendment of subsections (b)(19)(A)-(B) and new subsections (e)(5)-(e)(5)(C) filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
10. Amendment filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).
11. New subsection (a)(2)(A) designator, new subsection (a)(2)(B) and amendment of NOTE filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

§ 2283. Exemptions for Diesel Fuel Used in Test Programs.

The executive officer shall consider and grant test program exemptions from the requirements of this Article in accordance with section 2259.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).

§ 2284. Lubricity of Diesel Fuel.

(a) Regulatory Standard.

(1) *Standard starting in 2005*

(A) *Basic standard.* Starting in January 1, 2005 in accordance with the phase-in schedule in section (a)(2), no person shall sell, offer for sale, supply, or offer for supply any vehicular diesel fuel unless at the time of the transaction the diesel fuel meets a minimum lubricity level of a maximum wear scar diameter of 520 microns based on American Society for Testing and Materials (ASTM) test method D6079-02, Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High Frequency Reciprocating Rig (HFRR), which is incorporated herein by reference.

(B) *Sunset.* The standard in section 2284(a)(1)(A) does not apply at any time that California diesel fuel must meet a minimum lubricity level of a maximum wear scar diameter of 520 microns based on ASTM test method D6079, Standard Test Method for Evaluating Lubricity of Diesel Fuels by the High Frequency Reciprocating Rig (HFRR), pursuant to section 4143, title 4, California Code of Regulations.

(2) *2005 phase-in schedule.* The lubricity standard in section (a)(1) shall apply:

(A) Starting January 1, 2005 to all sales, supplies, or offers of vehicular diesel fuel from the production facility or import facility at which it was produced or imported.

(B) Starting February 15, 2005 to all sales, supplies, or offers of vehicular diesel fuel except for transactions directly involving:

1. The fueling of motor vehicles at a retail outlet or bulk purchaser-consumer facility, or

2. The delivery of vehicular diesel fuel from a bulk plant to a retail outlet or purchaser-consumer facility.

(C) Starting April 1, 2005 to all sales, supplies, offers or movements of vehicular diesel, including transactions directly involving the fueling of motor vehicles at a retail outlet or bulk purchase-consumer facility.

(3) *Standard starting in 2006.* [Reserved]

(4) *2006 phase-in schedule.* [Reserved]

(5) *Exception for upstream activities.* Subsection (a)(1) shall not apply to transactions where the person selling, supplying, or offering the motor vehicle diesel fuel demonstrates that: (i) the diesel fuel has not yet been sold, offered, or supplied from the final distribution facility, (ii) the diesel fuel is identified as fuel to which a lubricity additive must be added before the diesel fuel is supplied from the final distribution facility; and either (iii) the person has taken reasonably prudent precautions to assure that he or she will bring the diesel fuel into satisfaction with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility, or (iv) at or before the time of the transaction the person has obtained a written statement from the purchaser, recipient, or offeree of the diesel fuel stating that he or she will take reasonably prudent precautions to assure that the diesel fuel will be brought into compliance with the requirements of subsection (a)(1) before it is sold, supplied or offered from the final distribution facility.

(6) *Correction of diesel fuel downstream of the final distribution facility.* Subsection (a)(1) shall not apply to the sale, supply, or offer of vehicular diesel fuel from a final distribution facility where the person selling, supplying, or offering the diesel fuel demonstrates that the diesel fuel will be corrected to comply with subsection (a)(1) as applicable prior to the sale of diesel fuel from the retail outlet. If such corrective action is taken, the producer, importer, or distributor of the diesel fuel must notify the Enforcement Division of the Air Resources Board by telephone or in writing within 2 business days of the correction. The person must also maintain records to document each occurrence for at least one year, and make the records available to the Executive Officer or his/her designee within 20 days of a written request. This subsection (a)(6) exception does not apply to vehicular diesel fuel found by an enforcement inspector to be in non-compliance, unless the person selling, supplying, or offering the diesel fuel affirmatively demonstrates that he or she would have corrected the diesel fuel independent of the inspection.

(7) *Applicability of standards to California nonvehicular diesel fuel.*

(A) Activities involving California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) are also subject to this section to the extent required by section 93114, title 17, California Code of Regulations. As adopted, section 93114 requires each air pollution control or air quality management district by December 12, 2004 to treat this section 2284 as applying to California nonvehicular diesel fuel (other than diesel fuel offered, sold or supplied solely for use in locomotives or marine vessels) as if it were vehicular diesel fuel, and to enforce those requirements regarding California nonvehicular diesel fuel, unless the district has proposed its own airborne toxic control measure to reduce particulate emissions from diesel-fueled engines through standards for nonvehicular diesel fuel.

(B) Activities involving California nonvehicular diesel fuel used in harborcraft and most diesel-electric intrastate locomotives are also subject to this section 2284 as if the fuel were vehicular diesel fuel, to the extent required by section 2299, title 13, California Code of Regulations, and section 93117, title 17, California Code of Regulations. As adopted, these regulations make nonvehicular diesel fuel used in most harborcraft in the South Coast Air Quality Management District subject to the requirements of this section 2284 starting January 1, 2006, and make all

California nonvehicular diesel fuel used in most harborcraft and diesel-electric intrastate locomotives subject to this section 2284 starting January 1, 2007.

(b) Definitions. For the purposes of this section:

(1) "Bulk purchaser-consumer" means a person that purchases or otherwise obtains diesel fuel in bulk and then dispenses it into the fuel tanks of motor vehicles owned or operated by the person.

(2) "Bulk plant" means an intermediate diesel fuel distribution facility where delivery of diesel fuel to and from the facility is solely by truck.

(3) "California nonvehicular diesel fuel" means any diesel fuel that is not vehicular diesel fuel and that is sold or made available for use in engines in California.

(4) "Diesel fuel" means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(5) "Executive Officer" means the executive officer of the Air Resources Board, or his or her designee.

(6) "Marine vessel" has the meaning set forth in section 39037.1 of the Health and Safety Code.

(7) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(8) "Produce" means to convert liquid compounds which are not diesel fuel into diesel fuel.

(9) "Producer" means any person who produces vehicular diesel fuel in California.

(10) "Refiner" means any person who owns, leases, operates, controls or supervises a refinery.

(11) "Refinery" means a facility that produces liquid fuels by distilling petroleum.

(12) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

(13) "Vehicular diesel fuel" means any diesel fuel (A) which is not conspicuously identified as a fuel which may not lawfully be dispensed into motor vehicle fuel tanks in California; or (B) which the person selling, offering for sale, or supplying the diesel fuel knows will be dispensed into motor vehicle fuel tanks in California; or (C) which the person selling, offering for sale, or supplying the diesel fuel in the exercise of reasonable prudence should know will be dispensed into motor vehicle fuel tanks in California, and that is not the subject of a declaration under penalty of perjury by the purchaser, offeree or recipient stating that s/he will not sell, offer for sale, or transfer the fuel for dispensing, or dispense the fuel, into motor vehicle fuel tanks in California.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).
2. Amendment of subsections (a)(1)(A) and (a)(2)(A)-(C) and new subsection (a)(2.5) filed 12-16-2004 as an emergency; operative 1-1-2005 (Register 2004, No. 51). A Certificate of Compliance must be transmitted to OAL by 5-2-2005 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(7)(A) designator and new subsection (a)(7)(B) filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).
4. Reinstatement of section as it existed prior to 12-16-2004 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 7). The repealed emergency language affecting subsections (a)(1) and (a)(2)(A)-(C) delayed starting dates for the lubricity standard of subsection (a)(1) for some vehicular diesel fuels until May 1, 2005.

§ 2285. Exemption from Diesel Fuel Requirements for Military-Specification Fuels Used in Qualifying Military Vehicles.

(a) Exemption for military-specification fuel used in qualifying military vehicles. The vehicular diesel fuel standards in sections 2281, 2282, and 2284 do not apply to military specification fuel that is sold, offered

for sale, supplied, offered for supply, stored, dispensed, or transported for use in:

(1) Vehicles for which the U.S. Environmental Protection Agency has granted a national security exemption under 40 CFR § 85.1708 from motor vehicle emissions standards under 40 CFR Part 86, or which are exempted from regulation under 40 CFR § 85.1703(a)(3) because of features ordinarily associated with military combat or tactical vehicles such as armor and/or weaponry, or military tactical vehicles that are exempt from the California motor vehicle emission standards pursuant to section 1905, title 13, California Code of Regulations; or

(2) Tactical military motor vehicles that are not subject to a national security exemption from motor vehicle emission standards but for national security purposes (for purposes of readiness for deployment overseas) need to be fueled with the same fuel as motor vehicles for which EPA has granted a national security exemption, provided that such fuel is:

(A) Used only in vehicles identified in section (a)(1) or this section (a)(2);

(B) Segregated from non-exempt vehicle diesel fuel at all points in the distribution system; and

(C) Dispensed from a fuel pump stand or tank that is prominently labeled as containing fuel that is not lawful for use in diesel vehicles other than excluded military vehicles, or from a fueling truck. Any such fuel pump stand or tank may also be labeled with the appropriate designation of the fuel, such as "JP-8."

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 7-15-2004; operative 8-14-2004 (Register 2004, No. 29).

Article 3. Specifications for Alternative Motor Vehicle Fuels

§ 2290. Definitions.

(a) For the purposes of this article, the following definitions apply:

(1) "Alternative fuel" means any fuel which is commonly or commercially known or sold as one of the following: M-100 fuel methanol, M-85 fuel methanol, E-100 fuel ethanol, E-85 fuel ethanol, compressed natural gas, liquefied petroleum gas, or hydrogen.

(2) "ASTM" means the American Society for Testing Materials.

(3) "Motor vehicle" has the same meaning as defined in section 415 of the Vehicle Code.

(4) "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New article 3 heading and section filed 12-9-92; operative 1-1-93 (Register 92, No. 50). For prior history, see Register 92, No. 4.

§ 2291. Basic Prohibitions.

(a) Starting January 1, 1993, no person shall sell, offer for sale or supply an alternative fuel intended for use in motor vehicles in California unless it conforms with the applicable specifications set forth in this article 3.

(b) An alternative fuel shall be deemed to be intended for use in motor vehicles in California if it is:

(1) stored at a facility which is equipped and used to dispense that type of alternative fuel to motor vehicles, or

[The next page is 276.7.]

(2) delivered or intended for delivery to a facility which is equipped and used to dispense that type of alternative fuel to motor vehicles, or

(3) sold, offered for sale or supplied to a person engaged in the distribution of motor vehicle fuels to motor vehicle fueling facilities, unless the person selling, offering or supplying the fuel demonstrates that he or she has taken reasonably prudent precautions to assure that the fuel will not be used as a motor vehicle fuel in California.

(c) For the purposes of this section, each retail sale of alternative fuel for use in a motor vehicle, and each supply of alternative fuel into a motor vehicle fuel tank, shall also be deemed a sale or supply by any person who previously sold or supplied such alternative fuel in violation of this section.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2292.1. Fuels Specifications for M100 Fuel Methanol.

The following standards apply to M-100 fuel methanol

(The identified test methods are incorporated herein by reference):

Specifications for M-100 Fuel Methanol

Specification	Value	Test Method
Methanol	96 vol. % (min.)	As determined by the distillation range below
Distillation	4.0°C (range)	ASTM D 1078-86. At 95% by volume distilled. Must include 64.6 + 0.1°C
Other alcohols and ethers	2 mass % (max.)	ASTM D 4815-89
Hydrocarbons, gasoline or diesel fuel derived	2 mass % (max.)	ASTM D 4815-89, and then subtract concentration of alcohols, ethers and water from 100 to obtain percent hydrocarbons
Specific gravity	0.792 + 0.002 @ 20°C	ASTM D 891-89
Acidity as acetic acid	0.01 mass % (max.)	ASTM D 1613-85
Total chlorine as chloride	0.0002 mass % (max.)	ASTM D 2988-86
Lead	2 mg/1 (max.) ^a	ASTM D 3229-88
Phosphorus	0.2 mg/1 (max.) ^b	ASTM D 3231-89
Sulphur	0.002 mass % (max.)	ASTM D 2622-87
Gum, heptane washed	5 mg/1 (max.)	ASTM D 381-86
Total particulates	5 mg/1 (max.)	ASTM D 2276-89, modified to replace cellulose acetate filter with a 0.8 micron pore size membrane filter
Water	0.3 mass % (max.)	ASTM E 203-75
Appearance	Free of turbidity, suspended matter and sediment	Visually determined at 25°C by proc. A of ASTM D 4176-86
Bitterant	c	
Odorant	d	

^a No added lead.

^b No added phosphorous.

^c The M-100 fuel methanol at ambient conditions must have a distinctive and noxious taste, for purposes of preventing purposeful or inadvertent human consumption. Applicable 1/1/95.

^d The M-100 fuel methanol upon vaporization at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability. Applicable 1/1/95.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

2. New footnote (e) filed 8-4-95; operative 8-4-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 31).

3. Amendment of section heading and incorporated test methods filed 9-23-96; operative 10-23-96 (Register 96, No. 39).

§ 2292.2. Specifications for M-85 Fuel Methanol.

The following standards apply to M-85 fuel methanol

(The identified test methods are incorporated herein by reference):

Specifications for M-85 Fuel Methanol

Specification	Value	Test Method
Methanol plus higher alcohols	84 vol. % (min.)	Annex A1 to the ASTM-D-2 Proposal P-232, Draft 8-9-91
Higher alcohols (C2-C8)	2 vol. % (max.)	ASTM D 4815-89
Hydrocarbons + aliphatic ethers ^a	13-16 vol. %	ASTM D 4815-89, and then subtract concentration of alcohols, ethers and water from 100 to obtain percent hydrocarbons
Vapor pressure, dry ^b		Methods contained in Title 13, Section 2262 are preferred. ASTM D 4953-90 is an alternative method, however, in case of dispute about the vapor pressure, the value determined by the methods contained in Title 13, Section 2262 shall prevail over the value calculated by ASTM D 4953-90, including its precision statement
Luminosity		Shall produce a luminous flame, which is visible under maximum daylight conditions, throughout the entire burn duration
Acidity as acetic acid	0.005 mass % (max.)	ASTM D 1613-85
Total chlorine as chloride	0.0002 mass % (max.)	ASTM D 3120-87 modified for the det. of organic chlorides, and ASTM D 2988-86
Lead	2 mg/1 (max.) ^c	ASTM D 3229-88
Phosphorous	0.2 mg/1 (max.) ^d	ASTM D 3231-89
Sulfur	0.004 mass % (max.)	ASTM D 2622-87
Gum, heptane washed	5 mg/100 ml (max.)	ASTM D 381-86
Specification	Value	Test Method
Total particulates	0.6 mg/1 (max.)	ASTM D 2276-89, modified to replace cellulose acetate filter with a 0.8 micron pore size membrane filter
Water	0.5 mass % (max.)	ASTM E 203-75
Appearance	Free of turbidity, suspended matter and sediment	Visually determined at 25°C by Proc. A of ASTM D 4176-86

^aHydrocarbon fraction shall have a final maximum boiling point of 225 degrees C by ASTM method D 86-90, oxidation stability of 240 minutes by ASTM test method D 525-88 and No. 1 maximum copper strip corrosion by ASTM method D 130-88. Ethers must be aliphatic. No manganese added. Adjustment of RVP must be performed using common blending components from the gasoline stream. Starting on 4/1/96, the hydrocarbon fraction must also meet specifications for benzene, olefin content, aromatic hydrocarbon content, maximum T90 and maximum T50 found in California Code of Regulations, Title 13 sections 2262.3, 2262.4, 2262.7 and 2262.6 (T90 & T50), respectively.

^bRVP range of 7.0 to 9.0 psi for those geographical areas and times indicated for A, A/B, B/A and B volatility class fuels in Table 2 of ASTM D 4814-91b. RVP range of 9.0 to 13.1 psi for those geographical areas and times indicated for B/C, C/B, C, C/D and D/C volatility fuels. RVP range of 10.9 to 13.1 psi for those geographical areas and times indicated for D, D/E, E/D and E volatility fuels. Geographical areas referenced in this note shall be adjusted to reflect the air basin boundaries set forth in Title 17, California Code of Regulations, sections 60100 through 60113.

^cNo added lead.

^dNo added phosphorus.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2292.3. Specifications for E-100 Fuel Ethanol.

The following standards apply to E-100 fuel ethanol
(The identification test methods are incorporated herein by reference):

Specifications for E-100 Fuel Ethanol

<i>Specification</i>	<i>Value</i>	<i>Test Method</i>
Ethanol	92 vol. % (min.)	ASTM D 3545-90 ^a
Other alcohols and ethers	2 mass % (max.)	ASTM D 4815-89
Hydrocarbons, gasoline or diesel fuel derived	5 mass % (max.)	ASTM D 4815-89, and then subtract concentration of alcohols, ethers and water from 100 to obtain percent hydrocarbons
Acidity as acetic acid	0.007 mass % (max.)	ASTM D 1613-85
Total chlorine as chloride	0.0004 mass % (max.)	ASTM D 3120-87 modified for the determination of organic chlorides, and ASTM D 2988-86
Copper	0.07 mg/l (max.)	ASTM D 1688-90 as modified in ASTM D 4806-88
Lead	2 mg/l (max.) ^b	ASTM D 3229-88
Phosphorus	0.2 mg/l (max.) ^c	ASTM D 3231-89
Sulfur	0.002 mass % (max.)	ASTM D 2622-87
Gum, heptane washed	5 mg/l (max.)	ASTM D 381-86
Total particulates	5 mg/l (max.)	ASTM D 2276-89, modified to replace cellulose acetate filter with a 0.8 micron pore size membrane filter
Water	1.25 mass % (max.)	ASTM E 203-75
Appearance	Free of turbidity, suspended matter and sediment	Visually determined at 25°C by Proc. A of ASTM D 4176-86

^aThe denaturant must meet the ASTM D 4806-88 specification for denatured fuel ethanol, except the denaturant cannot be rubber hydrocarbon solvent. The final blend specifications for E-100 take precedence over the ASTM D 4806-88 specifications.

^bNo added lead.

^cNo added phosphorus.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2292.4. Specifications for E-85 Fuel Ethanol.

The following standards apply to E-85 fuel ethanol
(The identified test methods are incorporated herein by reference):

Specifications for E-85 Fuel Ethanol

<i>Specification</i>	<i>Value</i>	<i>Test Method</i>
Ethanol	79 vol. % (min.)	ASTM D 3545-90 ^a
Other alcohols	2 vol. % (max.)	ASTM D 4815-89
Hydrocarbons + aliphatic ethers ^b	15-21 vol. %	ASTM D 4815-89, and then subtract concentration of alcohols, ethers and water from 100 to obtain percent hydrocarbons. The denaturant is included in this percentage.

Specification

Vapor pressure, dry^c

Value

Test Method

Methods contained in Title 13, Section 2262 must be used. ASTM D 4953-90 is an alternative method, however, in case of dispute about the vapor pressure, the value determined by the methods contained in Title 13, Section 2262 shall prevail over the value calculated by ASTM D 4953-90, including its precision statement

Acidity as acetic acid	0.007 mass % (max.)	ASTM D 1613-85
Total chlorine as chloride	0.0004 mass % (max.)	ASTM D 3120-87 modified for the det. of organic chlorides, and ASTM D 2988-86
Copper	0.07 mg/l (max.)	ASTM D 1688-90 as modified in ASTM D 4806-88
Lead	2 mg/l (max.) ^d	ASTM D 3229-88
Phosphorus	0.2 mg/l (max.) ^e	ASTM D 3231-89
Sulfur	0.004 mass % (max.)	ASTM D 2622-87

Specification

Value

Test Method

Gum, heptane washed	5 mg/100 ml (max.)	ASTM D 381-86
Total particulates	5 mg/l (max.)	ASTM D 2276-89, modified to replace cellulose acetate filter with a 0.8 micron pore size membrane filter
Water	1.25 mass % (max.)	ASTM E 203-75
Appearance	Free of turbidity, suspended matter and sediment	Visually determined at 25°C by Proc. A of ASTM D 4176-86

^aThe denaturant must meet the ASTM D 4806-88 specification for denatured fuel ethanol, except the denaturant cannot be rubber hydrocarbon solvent. The final blend specifications for E-85 take precedence over the ASTM D 4806-88 specifications.

^bHydrocarbon fraction shall have a final maximum boiling point of 225 degrees C by ASTM method D 86-90, oxidation stability of 240 minutes by ASTM test method D 525-88 and No. 1 maximum copper strip corrosion by ASTM method D 130-88. Ethers must be aliphatic. No manganese added. Adjustment of RVP must be performed using common blending components from the gasoline stream. Starting 4/1/96, the hydrocarbon fraction must also meet specification for benzene, olefin content, aromatic hydrocarbon content, maximum T90 and maximum T50 found in California Code of Regulations, Title 13 sections 2262.3, 2262.4, 2262.7 and 2262.6 (T90 & T50), respectively.

^cRVP range of 6.5 to 8.7 for those geographical areas and times indicated for A, A/B, B/A and B volatility class fuels in Table 2 of ASTM D 4814-91b. RVP range of 7.3 to 9.4 for those geographical areas and times indicated for B/C, C/B, C, C/D and D/C volatility fuels. RVP range of 8.7 to 10.2 for those geographical areas and times indicated for D, D/E, E/D and E volatility fuels. Geographical areas referenced in this note shall be adjusted to reflect the air basin boundaries set forth in Title 17, California Code of Regulations, section 60100 through 60113.

^dNo added lead.

^eNo added phosphorus.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2292.5. Specifications for Compressed Natural Gas.

The following standards apply to compressed natural gas
(The identified test methods are incorporated herein by reference):

Specifications for Compressed Natural Gas

<i>Specification</i>	<i>Value</i>	<i>Test Method</i>
Hydrocarbons (expressed as mole percent)		
Methane	88.0% (min.)	ASTM D 1945-81
Ethane	6.0% (max.)	ASTM D 1945-81
C ₃ and higher HC	3.0% (max.)	ASTM D 1945-81
C ₆ and higher HC	0.2% (max.)	ASTM D 1945-81
Other Species (expressed as mole percent unless otherwise indicated)		

Specification	Value	Test Method
Hydrogen	0.1% (max.)	ASTM D 2650-88
Carbon monoxide	0.1% (max.)	ASTM D 2650-88
Oxygen	1.0% (max.)	ASTM D 1945-81
Inert gases		
Sum of CO ₂ and N ₂	1.5-4.5 % (range)	ASTM D 1945-81
Water	a	
Particulate matter	b	
Odorant	c	
Sulfur	16 ppm by vol. (max.)	Title 17 CCR Section 94112

^aThe dewpoint at vehicle fuel storage container pressure shall be at least 10°F below the 99.0% winter design temperature listed in Chapter 24, Table 1, Climatic Conditions for the United States, in the American Society of Heating, Refrigerating and Air Conditioning Engineer's (ASHRAE) Handbook, 1989 fundamentals volume. Testing for water vapor shall be in accordance with ASTM D 1142-90, utilizing the Bureau of Mines apparatus.

^bThe compressed natural gas shall not contain dust, sand, dirt, gums, oils, or other substances in an amount sufficient to be injurious to the fueling station equipment or the vehicle being fueled.

^cThe natural gas at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2292.6. Specifications for Liquefied Petroleum Gas.

The following standards apply to liquefied petroleum gas
(The identified test methods are incorporated herein by reference):

Specifications for Liquefied Petroleum Gas

Specification	Value	Test Method
Propane	85.0 vol. % (min.) ^a	ASTM D 2163-87
Vapor pressure at 100°F	208 psig (max.)	ASTM D 1267-89 ASTM D 2598-88 ^b
Volatility residue: evaporated temp., 95% or	-37°F (max.)	ASTM D 1837-86
butanes	5.0 vol. % (max.)	ASTM D 2163-87
Butenes	2.0% (max.)	ASTM D 2163-87
Pentenes and heavier	0.5 vol. % (max.)	ASTM D 2163-87
Propene	10.0 vol. % (max.)	ASTM D 2163-87
Residual matter: residue on evap. of 100 ml oil stain observ.	0.05 ml (max.) pass ^c	ASTM D 2158-89 ASTM D 2158-89
Corrosion, copper strip	No. 1 (max.)	ASTM D 1838-89
Sulfur	80 ppmw (max.)	ASTM D 2784-89
Moisture content	pass	ASTM D 2713-86
Odorant	d	

^aPropane shall be required to be a minimum of 80.0 volume percent starting on January 1, 1993. Starting on January 1, 1999, the minimum propane content shall be 85.0 volume percent.

^bIn case of dispute about the vapor pressure of a product, the value actually determined by Test Method ASTM D 1267-89 shall prevail over the value calculated by Practice ASTM D 2598-88.

^cAn acceptable product shall not yield a persistent oil ring when 0.3 ml of solvent residue mixture is added to a filter paper, in 0.1 ml increments and examined in daylight after 2 min. as described in Test Method ASTM 2158-89.

^dThe liquefied petroleum gas upon vaporization at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability.

Within five years from the effective date of adoption or implementation, whichever comes later, of the amendments approved December 11, 1998, the Air Resources Board, in consultation with the Secretary for Environmental Protection, shall review the provisions of this chapter to determine whether it should be retained, revised or repealed.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).
2. Amendment filed 4-13-95; operative 4-13-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 15).
3. Amendment of footnotes a and c filed 1-6-98; operative 1-6-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 2).
4. Amendment of section and NOTE filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

§ 2292.7. Specifications for Hydrogen.

The following standards apply for hydrogen
(The identified test methods are incorporated herein by reference):

Specifications for Hydrogen

Specification	Value	Test Method
Hydrogen	98.0 mole % (min.)	ASTM D 1946-90
Combined hydrogen, water, oxygen and nitrogen	99.9 mole % (min.)	ASTM D 1946-90 for hydrogen, nitrogen and nitrogen oxygen; ASTM D 1142-90 for water using the Bureau of Mines apparatus
Total hydrocarbons	0.01 mole % (max.)	ASTM D 1946-90
Particulate matter	a	
Odorant	b	

^aThe hydrogen shall not contain dust, sand, dirt, gums, oils, or other substances in an amount sufficient to be injurious to the fueling station equipment or the vehicle being fueled.

^bStarting 1/1/95, the hydrogen fuel at ambient conditions must have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over 1/5 (one-fifth) of the lower limit of flammability. This requirement applies only to hydrogen which is introduced into the vehicle fuel storage system in gaseous form.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39010, 39500, 40000, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2293. Equivalent Test Methods.

(a) Whenever sections 2292.1 thru 2292.7 provide for the use of a specified test method, another test method may be used following a determination by the Executive Officer that the other test method produces results equivalent to the results obtained with the specified method.

HISTORY

1. New section filed 12-9-92; operative 1-1-93 (Register 92, No. 50).

§ 2293.5. Exemptions for Alternative Motor Vehicle Fuel Used in Test Programs.

The executive officer shall consider and grant test program exemptions from the requirements of this Article in accordance with section 2259.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39606, 41511, 43000, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 2-15-95; operative 2-15-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 7).

Article 4. Sampling and Test Procedures

§ 2296. Motor Fuel Sampling Procedures.

(a) "Scope." This method covers procedures for obtaining representative samples of motor fuel and blending components used to make motor fuel.

(b) "Summary of method." It is necessary that the samples be truly representative of the product in question. The precautions required to ensure the representative character of the samples are numerous and depend upon the tank, carrier, container or line from which the sample is being obtained, the type and cleanliness of the sample container, and the sampling procedure that is to be used. A summary of the sampling procedures and their application is presented in Table 1. Each procedure is suitable for sampling a material under definite storage, transportation, or container conditions. The basic principle of each procedure is to obtain a sample in such manner and from such locations in the tank or other container that the sample will be truly representative of the product.

(c) "Description of terms."

(1) "Average sample" is one that consists of proportionate parts from all sections of the container.

(2) "All-levels sample" is one obtained by submerging a stoppered beaker or bottle to a point as near as possible to the draw-off level, then opening the sampler and raising it at a rate such that it is about 3/4 full (maximum 85 percent) as it emerges from the liquid. An all-levels sample is not necessarily an average sample because the tank volume may not be proportional to the depth and because the operator may not be able to raise the sampler at the variable rate required for proportionate filling. The rate of filling is proportional to the square root of the depth of immersion.

(3) "Running sample" is one obtained by lowering an unstoppered beaker or bottle from the top of the liquid to the level of the bottom of the outlet connection or swing line, and returning it to the top of the liquid at a uniform rate of speed such that the beaker or bottle is about 3/4 full when withdrawn from the liquid.

(4) "Spot sample" is one obtained at some specific location in the tank by means of a thief bottle, or beaker.

(5) "Top sample" is a spot sample obtained 6 inches (150 mm) below the top surface of the liquid (Figure 1).

(6) "Upper sample" is a spot sample taken at the mid-point of the upper third of the tank contents (Figure 1).

(7) "Middle sample" is a spot sample obtained from the middle of the tank contents (Figure 1).

(8) "Lower sample" is a spot sample obtained at the level of the fixed tank outlet or the swing line outlet (Figure 1).

(9) "Clearance sample" is a spot sample taken 4 inches (100 mm) below the level of the tank outlet (Figure 1).

(10) "Bottom sample" is one obtained from the material on the bottom surface of the tank, container, or line at its lowest point.

(11) "Drain sample" is one obtained from the draw-off or discharge valve. Occasionally, a drain sample may be the same as a bottom sample, as in the case of a tank car.

(12) "Continuous sample" is one obtained from a pipeline in such manner as to give a representative average of a moving stream.

(13) "Mixed sample" is one obtained after mixing or vigorously stirring the contents of the original container, and then pouring out or drawing off the quantity desired.

(14) "Nozzle sample" is one obtained from a motor fuel service station pump nozzle which dispenses motor fuel from a underground storage tank.

(15) "Motor fuel" shall mean, for the purpose of this sampling procedure, gasoline (including gasoline containing oxygenates), diesel fuel, or any blending components that are used to make such fuel.

(d) "Sample containers."

(1) Sample containers may be clear or brown glass bottles, or cans. The clear glass bottle is advantageous because it may be examined visually for cleanliness, and also allows visual inspection of the sample for free water or solid impurities. The brown glass bottle affords some protection from light. The only cans permissible are those with the seams soldered on the exterior surface with a flux of rosin in a suitable solvent. Such a flux is easily removed with gasoline, whereas many others are very difficult to remove.

(2) "Container closure." Cork or glass stoppers, or screw caps of plastic or metal, may be used for glass bottles; screw caps only shall be used for cans to provide a vapor-tight closure seal. Corks must be of good quality, clean and free from holes and loose bits of cork. Never use rubber stoppers. Contact of the sample with the cork may be prevented by wrapping tin or aluminum foil around the cork before forcing it into the bottle. Glass stoppers must be a perfect fit. Screw caps must be protected by a disk faced with tin or aluminum foil, or other material that will not affect petroleum or petroleum products.

(3) "Cleaning procedure." All sample containers must be absolutely clean and free of water, dirt, lint, washing compounds, naphtha, or other solvents, soldering fluxes or acids, corrosion, rust, and oil. Before using a container, rinse it with Stoddard solvent or other naphtha of similar volatility. (It may be necessary to use sludge solvents to remove all traces of sediment and sludge from containers previously used.) Then wash the container with strong soap solution, rinse it thoroughly with tap water, and finally with distilled water. Dry either by passing a current of clean, warm air through the container or by placing it in a hot dust-free cabinet at 104 degrees Fahrenheit (40 degrees centigrade) or higher. When dry, stopper or cap the container immediately.

(e) "Sampling apparatus." The sampling apparatus is described in detail under each of the specific sampling procedures. Clean, dry, and free all sampling apparatus from any substance that might contaminate the material, using the procedure described in (d)(3).

(f) "Time and place of sampling." When loading or discharging product, take samples from both shipping and receiving tanks, and from the pipeline if required.

(1) "Ship or barge tanks." Sample each product after the vessel is loaded or just before unloading.

(2) "Tank cars." Sample the product after the car is loaded or just before unloading.

NOTE: When taking samples from tanks suspected of containing flammable atmospheres, precautions should be taken to guard against ignitions due to static electricity. Metal or conductive objects, such as gage tapes, sample containers, and thermometers, should not be lowered into or suspended in a compartment or tank which is being filled or immediately after cessation of pumping. A waiting period of approximately one minute will generally permit a substantial relaxation of the electrostatic charge; under certain conditions a longer period may be deemed advisable.

(g) "Obtaining samples."

(1) Directions for sampling cannot be made explicit enough to cover all cases. Extreme care and good judgment are necessary to ensure samples that represent the general character and average condition of the material. Clean hands are important. Clean gloves may be worn but only when absolutely necessary, such as in cold weather, or when handling materials at high temperature, or for reasons of safety. Select wiping cloths so that lint is not introduced, contaminating samples.

(2) As many petroleum vapors are toxic and flammable, avoid breathing them or igniting them from an open flame or a spark produced by static.

(3) When sampling relatively volatile products (more than 2 pounds (0.14 kg/cm²) RVP), the sampling apparatus shall be rinsed and allowed to drain before drawing the sample. If the sample is to be transferred to another container, this container shall also be rinsed with some of the volatile product and then drained. When the actual sample is emptied into this container, the sampling apparatus should be upended into the opening of the sample container and remain in this position until the contents have been transferred so that no unsaturated air will be entrained in the transfer of the sample.

(h) "Handling samples."

(1) "Volatile samples." It is necessary to protect all volatile samples of product from evaporation. Transfer the product from the sampling apparatus to the sample container immediately. Keep the container closed except when the material is being transferred. When samples of more than 16 pounds (1.12 kgf/cm²) RVP are being obtained, be sure to use containers strong enough to meet local safety regulations. After delivery to the laboratory, volatile samples should be cooled before the container is opened.

(2) "Container outage." Never completely fill a sample container, but allow adequate room for expansion, taking into consideration the temperature of the liquid at the time of filling and the probable maximum temperature to which the filled container may be subjected.

(i) "Shipping samples." To prevent loss of liquid and vapors during shipment, and to protect against moisture and dust, cover the stoppers of glass bottles with plastic caps that have been swelled in water, wiped dry, placed over the tops of the stoppered bottles, and allowed to shrink tightly in place. The caps of metal containers must be screwed down tightly and checked for leakage. Postal and express office regulations applying to the shipment of flammable liquids must be observed.

(j) "Labeling sample containers."

(1) Label the container immediately after a sample is obtained. Use waterproof and oilproof ink or a pencil hard enough to dent the tag, since soft pencil and ordinary ink markings are subject to obliteration from moisture, oil smearing, and handling. Include the following information:

- (A) Date and time (the period elapsed during continuous sampling),
- (B) Name of the sample,
- (C) Name or number and owner of the vessel, car, or container,
- (D) Brand and grade of material, and
- (E) Reference symbol or identification number.

(k) "Sampling procedures." The standard sampling procedures described in this method are summarized in Table 1. Alternative sampling procedures may be used if a mutually satisfactory agreement has been reached by the parties involved and such agreement was put in writing and signed by authorized officials.

(1) "Bottle or beaker sampling." The bottle or beaker sampling procedure is applicable for sampling liquids of 16 pounds (1.12 kgf/cm²) RVP or less in tank cars, tank trucks, shore tanks, ship tanks, and barge tanks.

(A) "Apparatus." A suitable sampling bottle or beaker as shown in Figure 2 is required. Recommended diameter of opening in the bottle or beaker is 3/4 inch (19 mm).

(B) "Procedure."

1. "All-levels sample." Lower the weighted, stoppered bottle or beaker as near as possible to the draw-off level, pull out the stopper with a sharp jerk of the cord or chain and raise the bottle at a uniform rate so that it is about 3/4 full as it emerges from the liquid.

2. "Running sample." Lower the unstoppered bottle or beaker as near as possible to the level of the bottom of the outlet connection or swing line and then raise the bottle or beaker to the top of the liquid at a uniform rate of speed such that it is about 3/4 full when withdrawn from the liquid.

3. "Upper, middle, and lower samples." Lower the weighted, stoppered bottle to the proper depths (Figure 1) as follows:

Upper sample	middle of upper third of the tank contents
Middle sample	middle of the tank contents
Lower sample	level of the fixed tank outlet or the swing-line outlet

Pull out the stopper with a sharp jerk of the cord or chain and allow the bottle or beaker to fill completely at the selected level, as evidenced by the cessation of air bubbles. When full, raise the bottle or beaker, pour off a small amount, and stopper immediately.

4. "Top sample." Obtain this sample (Figure 1) in the same manner as specified in (k)(1)(B)3. but at 6 inches (150 mm) below the top surface of the tank contents.

5. "Handling." Stopper and label bottle samples immediately after taking them, and deliver to the laboratory in the original sampling bottles.

(2) "Tap sampling." The tap sampling procedure is applicable for sampling liquids of 26 pounds (1.83 kgf/cm²) RVP or less in tanks which are equipped with suitable sampling taps or lines. This procedure is recommended for volatile stocks in tanks of the breather and balloon roof type, spheroids, etc. (Samples may be taken from the drain cocks of gage glasses, if the tank is not equipped with sampling taps.) When obtaining a sample for RVP or distillation analysis, use the assembly as shown in Figure 3. When obtaining a sample for other than RVP or distillation analysis, the assembly as shown in Figure 3 need not be used.

NOTE: If RVP is more than 16 pounds (1.12 kgf/cm²) but not more than 26 pounds (1.83 kgf/cm²) a cooling bath as shown in section (l)(6). Figure 5, shall be used between the tank tap and the sample container to cool the sample and prevent volatilization of low-boiling components.

(A) "Apparatus."

1. "Tank taps." The tank should be equipped with at least three sampling taps placed equidistant throughout the tank height. On tanks that are not equipped with floating roofs, each sample tap should extend into the a minimum of 10 cm (4 in.). A standard 1/4 inch pipe with suitable valve is satisfactory.

2. "Tube." A delivery tube that will not contaminate the product being sampled and long enough to reach to the bottom of the sample container is required to allow submerged filling. When a cooling bath is used while tap sampling, a similar suitable tube should be used between the tank tap and the cooler inlet.

3. "Sample containers." Use clean, dry glass bottles of convenient size and strength to receive the samples. In some cases, metal containers may be used instead of glass bottles.

(B) "Procedure."

1. Before a sample is drawn, flush the tap (or gage glass drain cock) and line until they are purged completely. Connect the clean delivery tube to the tap. Draw upper, middle, or lower samples directly from the respective taps after the flushing operation. Stopper and label the sample container immediately after filling, and deliver it to the laboratory.

2. When a sample cooler is used during the tap sampling operation, flush the tap (or gage glass drain cock). Then, using a section of clean tubing, connect the tap to the cooler inlet. Flush the cooler thoroughly, after which connect the clean delivery tube to the cooler outlet and proceed with the sampling operation.

(3) "Continuous sampling." The continuous sampling procedure is applicable for sampling liquids of 16 pounds (1.12 kgf/cm²) RVP or less and semiliquids in pipelines, filling lines, and transfer lines. The continuous sampling may be done manually or by using automatic devices.

(A) "Apparatus."

1. "Sampling probe." The function of the sampling probe is to withdraw from the flow stream a portion that will be representative of the entire stream. The apparatus assembly for continuous sampling is shown in Figure 4. Probe designs that are commonly used are as follows:

a. A tube extending to the center of the line and beveled at a 45 degree angle facing upstream (Figure 4(a)).

b. A long-radius forged elbow or pipe bend extending to the center line of the pipe and facing upstream. The end of the probe should be reamed to give a sharp entrance edge (Figure 4(b)).

c. A closed-end tube with a round orifice spaced near the closed end which should be positioned in such a way that the orifice is in the center of the pipeline and is facing the stream as shown in Figure 4(c).

2. Since the fluid pumped may not in all cases be homogeneous, the position and size of the sampling probe should be such as to minimize stratification or dropping out of heavier particles within the tube or the displacement of the product within the tube as a result of variation in gravity of the flowing stream. The sampling probe should be located preferably in a vertical run of pipe and as near as practicable to the point where the product passes to the receiver. The probe should always be in a horizontal position.

a. The sampling lines should be as short as practicable and should be cleared before any samples are taken.

b. A suitable device for mixing the fluid flow to ensure a homogeneous mixture at all rates of flow and to eliminate stratification should be installed upstream of the sampling tap. Some effective devices for obtaining a homogeneous mixture are as follows: Reduction in pipe size; a series of baffles; orifice or perforated plate; and a combination of any of these methods.

c. The design or sizing of these devices is optional with the user, as long as the flow past the sampling point is homogeneous and stratification is eliminated.

3. To control the rate at which the sample is withdrawn, the probe or probes should be fitted with valves or plug cocks.

4. "Automatic sampling devices" that meet the standards set out in (3)(A)5. may be used in obtaining samples of gasoline. The quantity of sample collected must be of sufficient size for analysis, and its composition should be identical with the composition of the batch flowing in the line while the sample is being taken. An automatic sampler installation necessarily includes not only the automatic sampling device that extracts the samples from the line, but also a suitable probe, connecting lines, auxiliary equipment, and a container in which the sample is collected. Automatic samplers may be classified as follows:

a. "Continuous sampler, time cycle (nonproportional) types." A sampler designed and operated in such a manner that it transfers equal increments of liquid from the pipeline to the sample container at a uniform rate of one or more increments per minute is a continuous sampler.

b. "Continuous sampler, flow-responsive (proportional) type." A sampler that is designed and operated in such a manner that it will automatically adjust the quantity of sample in proportion to the rate of flow is a flow-responsive (proportional) sampler. Adjustment of the quantity of sample may be made either by varying the frequency of transferring equal increments of sample to the sample container, or by varying the volume of the increments while maintaining a constant frequency of transferring the increments to the sample container. The apparatus assembly for continuous sampling is shown in Figure 4.

c. "Intermittent sampler." A sampler that is designed and operated in such a manner that it transfers equal increments of liquid from a pipeline to the sample container at a uniform rate of less than one increment per minute is an intermittent sampler.

5. "Standards of installation." Automatic sampler installations should meet all safety requirements in the plant or area where used, and should comply with American National Standard Code for Pressure Piping, and other applicable codes (ANSI B31.1). The sampler should be so installed as to provide ample access space for inspection and maintenance.

a. Small lines connecting various elements of the installation should be so arranged that complete purging of the automatic sampler and of all lines can be accomplished effectively. All fluid remaining in the sampler and the lines from the preceding sampling cycle should be purged immediately before the start of any given sampling operation.

b. In those cases where the sampler design is such that complete purging of the sampling lines and the sampler is not possible, a small pump should be installed in order to circulate a continuous stream from the sampling tube past or through the sampler and back into the line. The automatic sampler should then withdraw the sample from the sidestream through the shortest possible connection.

c. Under certain conditions, there may be a tendency for water and heavy particles to drop out in the discharge line from the sampling device and appear in the sample container during some subsequent sampling period. To circumvent this possibility, the discharge pipe from the sampling device should be free of pockets or enlarged pipe areas, and preferably should be pitched downward to the sample container.

d. To ensure clean, free-flowing lines, piping should be designed for periodic cleaning.

6. "Field calibration." Composite samples obtained from the automatic sampler installation should be verified for quantity performance in a manner that meets with the approval of all parties concerned, at least once a month and more often if conditions warrant. In the case of time-cycle samplers, deviations in quantity of the sample taken should not exceed

± 5 percent for any given setting. In the case of flow-responsive samplers, the deviation in quantity of sample taken per 1,000 barrels of flowing stream should not exceed ± 5 percent. For the purpose of field-calibrating an installation, the composite sample obtained from the automatic sampler under test should be verified for quality by comparing on the basis of physical and chemical properties, with either a properly secured continuous nonautomatic sample or tank sample. The tank sample should be taken under the following conditions:

a. The batch pumped during the test interval should be diverted into a clean tank and a sample taken within one hour after cessation of pumping.

b. If the sampling of the delivery tank is to be delayed beyond one hour, then the tank selected must be equipped with an adequate mixing means. For valid comparison, the sampling of the delivery tank must be completed within eight hours after cessation of pumping, even though the tank is equipped with a motor-driven mixer.

c. When making a normal full-tank delivery from a tank, a properly secured sample may be used to check the results of the sampler if the parties mutually agree to this procedure.

7. "Receiver." The receiver must be a clean, dry container of convenient size to receive the sample. All connections from the sample probe to the sample container must be free of leaks. Two types of container may be used, depending upon service requirements.

a. "Atmospheric container." The atmospheric container shall be constructed in such a way that it retards evaporation loss and protects the sample from extraneous material such as rain, snow, dust, and trash. The construction should allow cleaning, interior inspection, and complete mixing of the sample prior to removal. The container should be provided with a suitable vent.

b. "Closed container." The closed container shall be constructed in such a manner that it prevents evaporation loss. The construction must allow cleaning, interior inspection and complete mixing of the sample prior to removal. The container should be equipped with a pressure-relief valve.

(B) "Procedure."

1. "Nonautomatic sample."

a. Adjust the valve or plug cock from the sampling probe so that a steady stream is drawn from the probe. Whenever possible, the rate of sample withdrawal should be such that the velocity of liquid flowing through the probe is approximately equal to the average linear velocity of the stream flowing through the pipeline. Measure and record the rate of sample withdrawal as gallons per hour. Divert the sample stream to the sampling container continuously or intermittently to provide a quantity of sample that will be of sufficient size for analysis.

2. "Automatic sampling." Purge the sampler and the sampling lines immediately before the start of a sampling operation. If the sample design is such that complete purging is not possible, circulate a continuous stream from the probe past or through the sampler and back into the line. Withdraw the sample from the side stream through the automatic sampler using the shortest possible connections. Adjust the sampler to deliver not less than 1 and not more than 40 gallons (151 liters) of sample during the desired sampling period. For time-cycle samplers, record the rate at which sample increments were taken per minute. For flow-responsive samplers, record the proportion of sample to total stream. Label the samples and deliver them to the laboratory in the containers in which they were collected.

(4) "Nozzle sampling." The nozzle sampling procedure is applicable for sampling product from a service station underground storage tank.

(A) "Apparatus." Sample containers conforming with (d)(1) should be used. A spacer, as shown in Figure 6, shall be used, if appropriate. When obtaining a sample for RVP or distillation analysis, an ice water bath and nozzle extension, as shown in Figure 7, shall be used. When obtaining a sample for other than RVP or distillation analysis, neither the ice water bath nor the nozzle extension need to be used.

(B) "Procedure."

1. When obtaining a sample for RVP or distillation analysis, conduct the sampling in the following manner: Immediately after gasoline has been delivered from pump and pump has been reset, deliver a small amount of product into the sample container, using spacer (Figure 6), if needed, on the pump nozzle (vapor recovery type). Rinse sample container and dump product into waste container. Insert nozzle extension (Figure 7) into sample container and insert pump nozzle into extension with slot over air bleed hole (if the extension is equipped with a slot). Replace sample container in chilling medium and fill slowly through nozzle extension to 70–80 percent full (Figure 8). Remove nozzle extension. Cap container at once. Check for leaks. Discard container and resample if leak occurs. If container is leak tight, place container in a cold chest of ice water.

2. When obtaining a sample for other than RVP or distillation analysis, the following procedure may be used instead of the procedure in (k)(4)(B)1: Immediately after product has been delivered from pump and pump has been reset, deliver a small amount of product into the sample container, using spacer (Figure 6), if needed, on the pump nozzle (vapor recovery type). Rinse sample container and dump product into waste container. Fill slowly with the nozzle to 70–80 percent full. Cap container at once. Check for leaks. Discard container and resample if leak occurs.

(I) "Special precautions and instructions for RVP Sampling."

(1) "Precautions." Vapor pressures are extremely sensitive to evaporation losses and to slight changes in composition. When obtaining, storing, or handling samples, observe the necessary precautions to ensure samples representative of the product and satisfactory for RVP tests. Official samples should be taken by, or under the immediate supervision of a person of judgment, skill, and sampling experience. Never prepare composite samples for RVP testing. Make certain that containers which are to be shipped by common carrier conform to Interstate Commerce Commission, state, or local regulations. When flushing or purging lines or containers, observe the pertinent regulations and precautions against fire, explosion, and other hazards.

(2) "Sample containers." Use containers of not less than 1 quart (1 liter) nor more than 2 gallons (7.5 liters) capacity, of sufficient strength to withstand the pressures to which they may be subjected, and of a type that will permit replacement of the cap or stopper with suitable connections for transferring the sample to the gasoline chamber (if applicable) of the vapor pressure apparatus. Open-type containers have a single opening which permits sampling by immersion. Closed-type containers have two openings, one in each end (or the equivalent thereof), fitted with valves suitable for sampling by water displacement or by purging.

(3) "Transfer connections." The transfer connection for the open-type container consists of an air tube and a liquid delivery tube assembled in a cap or stopper. The air tube extends to the bottom of the container. One end of the liquid delivery tube is flush with the inside face of the cap or stopper and the tube is long enough to reach the bottom of the gasoline chamber while the sample is being transferred to the chamber. The transfer connection for the closed-type container consists of a single tube with a connection suitable for attaching it to one of the openings of the sample container. The tube is long enough to reach the bottom of the gasoline chamber while the sample is being transferred.

(4) "Sampling open tanks." Use clean containers of the open type when sampling open tanks and tank cars. An all-level sample obtained by the bottle procedure, (k)(1) is recommended. Before taking the sample, flush the container by immersing it in the product to be sampled. Then obtain the sample immediately. Fill to 70–80 percent and close it promptly. Label the container and deliver it to the laboratory.

(5) "Sampling closed tanks." Containers of either the open or closed type may be used to obtain samples from closed or pressure tanks. If an

open type container is used, follow the cooling bath procedure described in (I)(7) or (I)(10). If the closed type is used, obtain the sample using the water displacement procedure, (I)(8), or the purging procedure, (I)(9). The water displacement procedure is preferable because the flow of product involved in the purging procedure may be hazardous.

(6) "Cooling bath." A bath (Figure 5) of sufficient size to hold the sample container and a cooling coil of about 25 feet (8 m) of copper tubing (3/8 inch (9 mm) or less outside diameter) shall be required when using the procedure described in (I)(7). One end of the coil is provided with a connection for attaching it to the tank sampling tap or valve. The other end is fitted with a suitable valve (outlet) of good quality. A removable copper tube of 3/8 inch or less outside diameter and of sufficient length to reach the bottom of the sample container shall be connected to the open end of the outlet valve.

(7) "Cooling bath procedure." When using a cooling bath and a container of the open type, keep it at a temperature of 32 degrees to 40 degrees Fahrenheit (0 degrees to 4.5 degrees centigrade) during the sampling operation by using the cooling bath (Figure 5). Connect the coil to the tank sampling tap or valve and flush it with a sufficient amount of product to ensure complete purging. When obtaining a sample, throttle the outlet valve so that the pressure in the coil will be approximately the same as that in the tank. Fill the container once to wash and cool it, and discard the wash product. Then draw the sample immediately. Pour off enough so that the container will be 70–80 percent full and close it promptly. Label the container and deliver it to the laboratory.

(8) "Water displacement procedure." Completely fill the closed-type container with water and close the valves. The water should be at the same temperature or lower than that of the product to be sampled. While permitting a small amount of product to flow through the fittings, connect the top or inlet valve of the container to the tank sampling tap or valve. Then open all valves on the inlet side of the container. Open the bottom or outlet valve slightly to allow the water to be displaced slowly by the sample entering the container. Regulate the flow so that there is no appreciable change in pressure within the container. Close the outlet valve as soon as gasoline discharges from the outlet; then in succession close the inlet valve and the sampling valve on the tank. Disconnect the container and withdraw enough of the contents so that it will be 70–80 percent full. If the vapor pressure of the product is not high enough to force liquid from the container, open both the upper and lower valves slightly to remove the excess. Promptly seal and label the container, and deliver it to the laboratory.

(9) "Purging procedure." Connect the inlet valve of the closed-type container to the tank sampling tap or valve. Throttle the outlet valve of the container so that the pressure in it will be approximately equal to that in the container being sampled. Allow a volume of product equal to at least twice that of the container to flow through the sampling system. Then close all valves, the outlet valve first, the inlet valve of the container second, and the tank sampling valve last, and disconnect the container immediately. Withdraw enough of the contents so that the sample container will be 70–80 percent full. If the vapor pressure of the product is not high enough to force liquid from the container, open both the upper and lower valves slightly to remove the excess. Promptly seal and label the container and deliver it to the laboratory.

(10) "Nozzle sampling procedure." When using a container of the open type, keep it at a temperature of 32 degrees to 40 degrees Fahrenheit (0 degree to 4.5 degrees centigrade) when sampling by the nozzle sampling procedure. The container may be chilled by placing it into an ice chest containing ice (frozen water). The sampling is accomplished following the procedure in (k)(4).

Table 1
Summary of Sampling Procedures and Applicability

<i>Type of container</i>	<i>Procedure</i>	<i>Paragraph</i>
Storage tanks, ship and barge tanks, tank cars, tank trucks	Bottle sampling	(k)(1)
Storage tanks with taps	Tap sampling	(k)(2)
Pipes and lines	Continuous line sampling	(k)(3)
Service station under-ground storage tanks	Nozzle sampling	(k)(4)

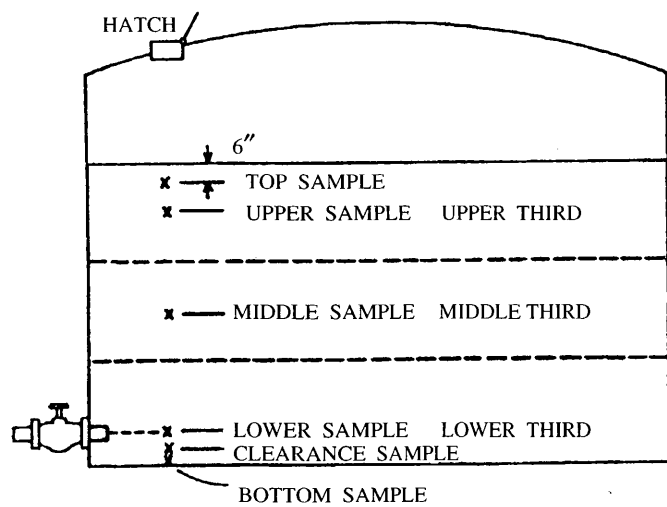
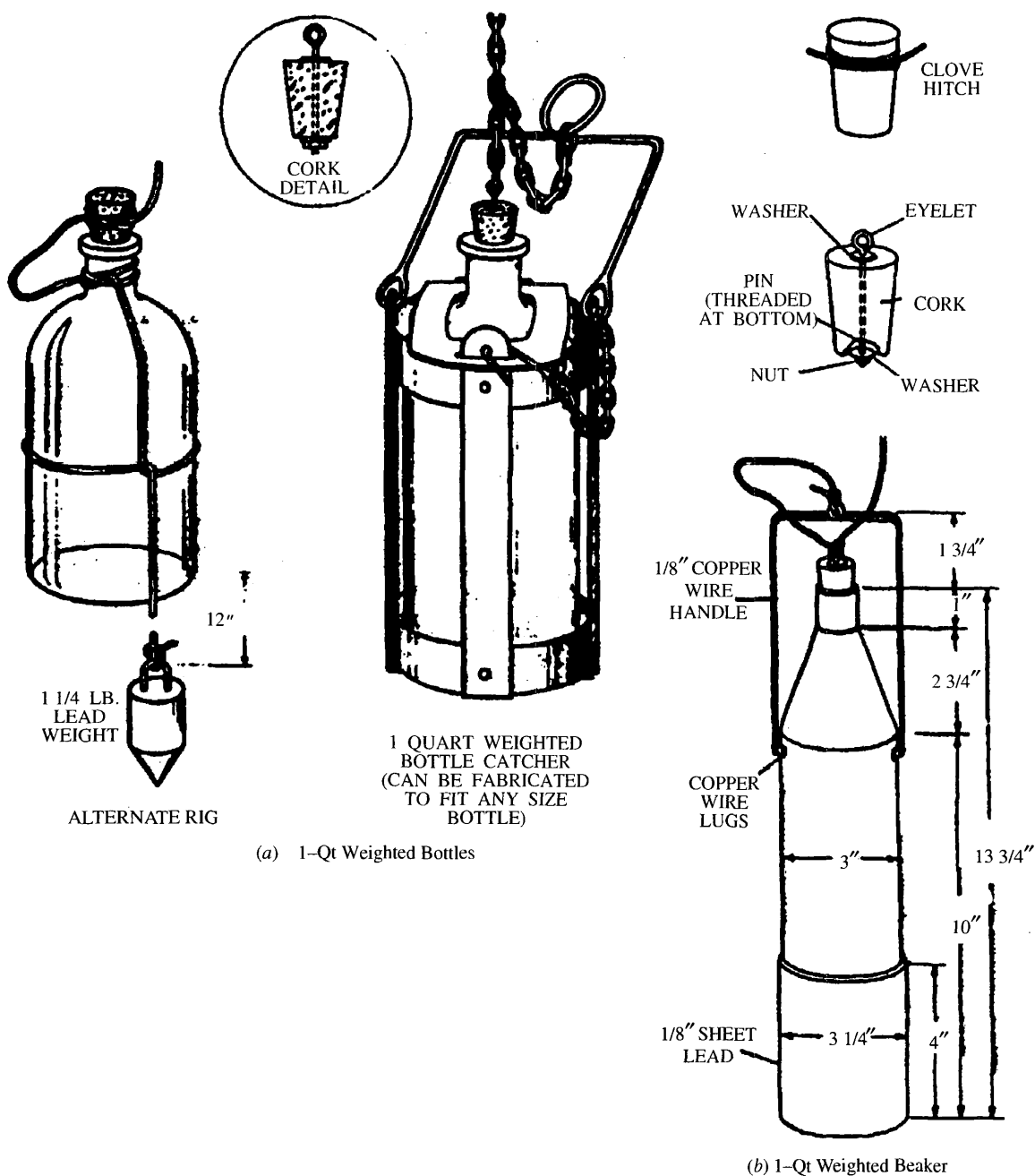


Figure 1. Sampling Depths



(a) 1-Qt Weighted Bottles

(b) 1-Qt Weighted Beaker

Metric Equivalents									
in.	1/8	1	1 1/4	2 3/4	3 1/4	4	10	12	13 1/4
mm	3	25	45	70	83	102	250	300	350

Figure 2. Assembly for Bottle Sampling

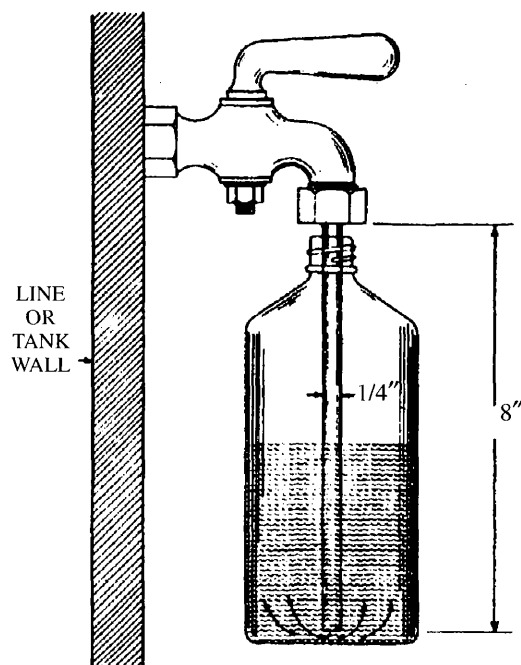
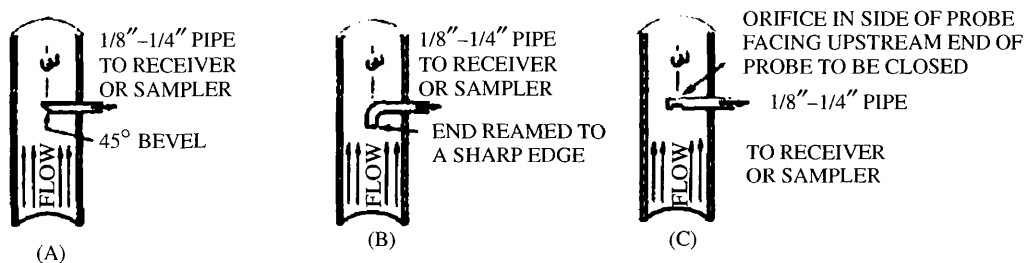


Figure 3. Assembly for Tap Sampling



Note: Probe may be pitted with valves or plug cocks.
Probe should be disposed horizontally

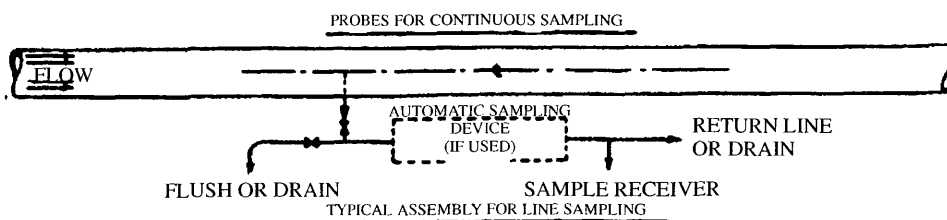


Figure 4. Probes for Continuous Sampling

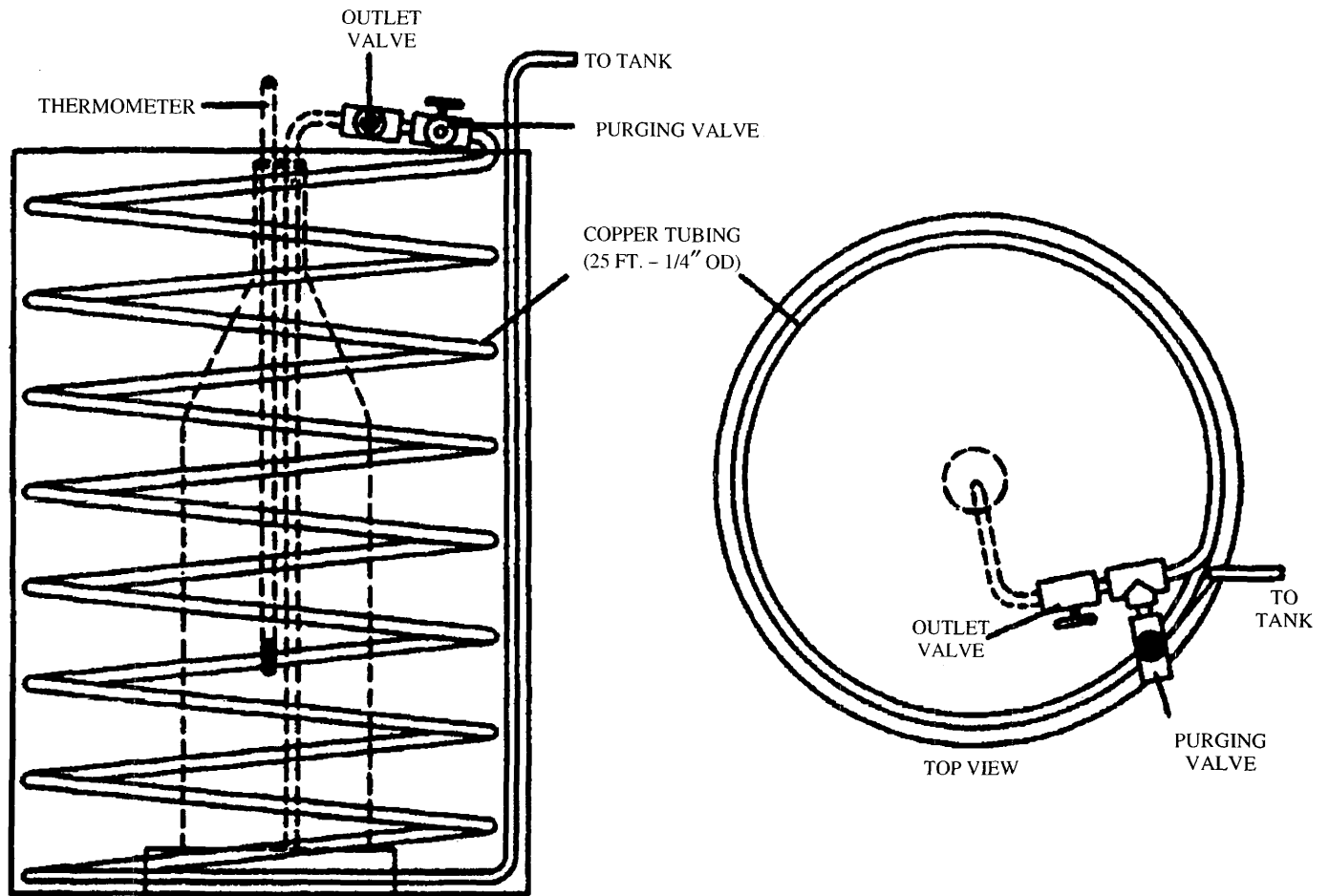
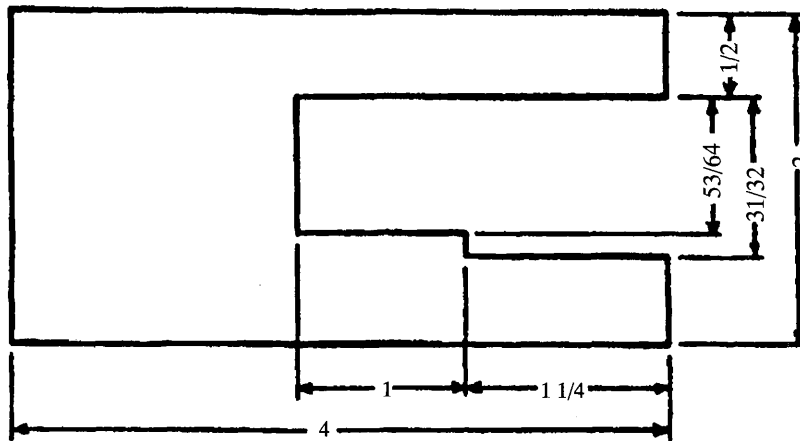
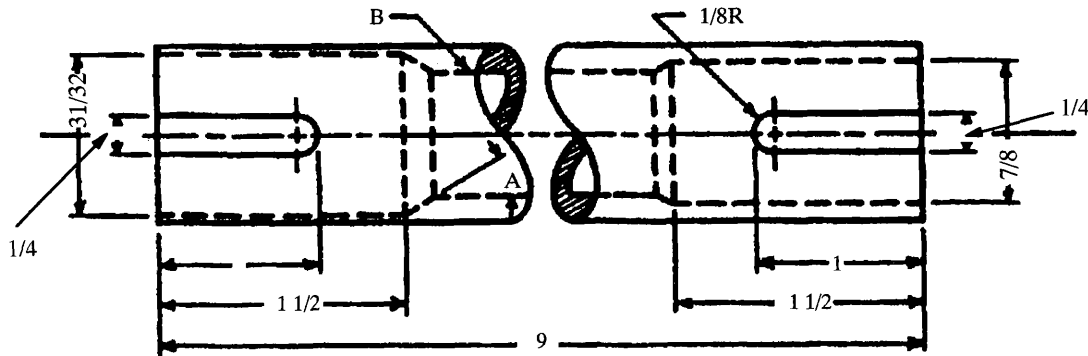


Figure 5. Cooling Bath

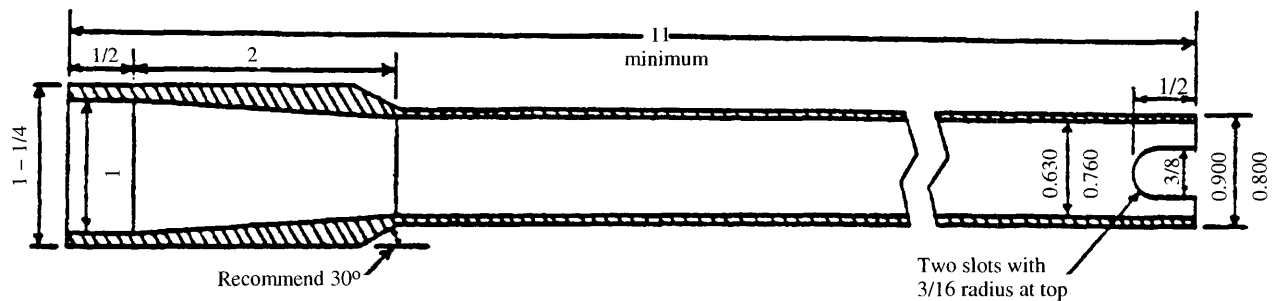


Make from 1/4 inch flat steel
All dimensions in inches
Break all edges and corners

Figure 6. Spacer for Nozzle Sampling



Use 3/4 in. Schedule 80 Black Iron Pipe
All dimensions in inches
All tolerances + 1/128 inch
A - Recommend 30°
B - Inside diameter Schedule 80 Black Iron Pipe



All dimensions in inches (not to scale).
All decimal dimensions represent minimum and maximum.
Tolerance for all other dimensions is $\pm 1/32$ ".
Made of non-ferrous material, unaffected by gasoline.

Figure 7. Nozzle Extensions for Nozzle Sampling

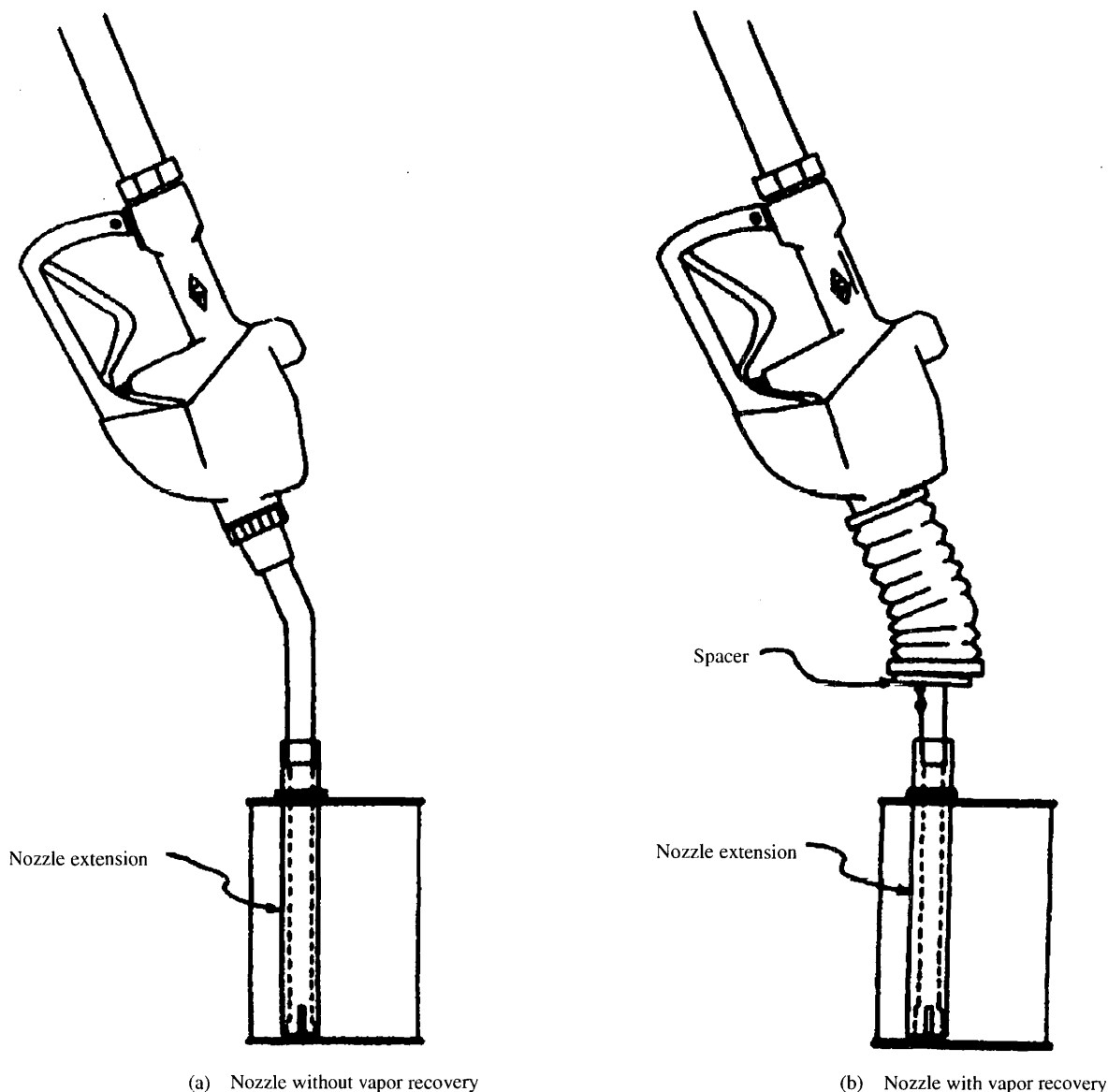


Figure 8. Assembly for Nozzle Sampling

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43830, Health and Safety Code. Reference: Sections 39000, 39001, 39002, 39003, 39500, 41511, 43000, 43013, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County APCD*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering article heading and former section 2261 to section 2296 filed 9-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
2. Amendment of section heading, subsections (a)-(c), (c)(3) and (c)(14), new subsection (c)(15), amendment of subsections (d), (d)(2), (e)-(f), (g), (g)(3)-(h)(1), (i)-(k), (k)(1)(B)(2), (k)(2), and (k)(4)-(B)1., new subsection (k)(4)(B)2., amendment of subsections (1)-(1)(7), Table 1, Figure 5, Figure 7, and NOTE filed 10-14-92; operative 10-14-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 42).
3. Amendment of subsections (k)(2)-(k)(2)(A) and amendment of NOTE filed 8-20-2001; operative 8-20-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).
4. Amendment of subsection (k)(2) filed 12-24-2002; operative 12-24-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 52).

§ 2297. Test Method for the Determination of the Reid Vapor Pressure Equivalent Using an Automated Vapor Pressure Test Instrument.

(a) Scope.

(1.0) This test method covers the determination of the total pressure, exerted in vacuum, by air-containing, volatile, petroleum products. The test method is suitable for testing samples with boiling points above 0°C (32°F) that exert a vapor pressure between 7 and 130 kPa (1.0 and 19 psi) at 37.8°C (100°F) at a vapor-to-liquid ratio of 4:1. The test method is suitable for testing gasoline samples which contain oxygenates. No account is made of dissolved water in the sample. (Samples can also be tested at other vapor-to-liquid ratios, temperatures and pressures, but the Precision and Bias as described in section (k) do not necessarily apply.)

(2.0) This test method covers the use of automated vapor pressure instruments that perform measurements on liquid specimen sizes in the range from 1 to 10 ml.

(3.0) Standard values are specified in SI units (International System of Units). The values given in parentheses are provided for information purposes only.

(4.0) This test method may involve hazardous materials, operations, and equipment. This test method does not purport to address all of the safety problems associated with its use. It is the responsibility of the user of this test method to establish appropriate safety and health practices and determine the applicability of regulatory limitations prior to use. For specific hazard statements, see section (g)(5.0).

(b) Summary of Test Method.

(1.0) A known volume of chilled, air-saturated sample is introduced into a thermostatically controlled test chamber, the internal volume of which is five times that of the total test specimen introduced into the chamber. A vacuum is applied to the chamber in accordance with the manufacturer's instructions. After introduction into the test chamber the test specimen is allowed to reach thermal equilibrium at the test temperature, 37.8°C (100°F). The resulting rise in pressure in the chamber is measured using a pressure transducer sensor and indicator.

(2.0) Only the sum of the partial pressure of the sample and the partial pressure of the dissolved air (commonly known as the total pressure) are used in this test method. Note that some instruments may call this pressure measurement by another term. Also note that some instruments are capable of measuring the absolute pressure of the specimen as well.

(3.0) The measured total vapor pressure is converted to a Reid vapor pressure equivalent (RVPE) by use of a calibration equation (section (i)(1.0)). This calculation converts the measured total pressure to the Reid vapor pressure (RVP) expected from the American Society of Testing and Materials (ASTM) Test Method D 323–58.

(c) Apparatus.

(1.0) Vapor Pressure Apparatus – An appropriate instrument, designed for the intended use should be selected. The minimum performance level for the automated vapor pressure test instrument is that the instrument shall perform as well as, or better than, the precision criteria set forth in the ASTM D323–58, which is incorporated herein by reference. The ASTM D323–58 states a repeatability value of 0.2 psi and a reproducibility value of 0.3 psi. The instrument shall provide accurate results which are comparable to the RVP measured by the ASTM 323–58. Typically, the type of apparatus suitable for use in this test method employs a small volume test chamber incorporating a transducer for pressure measurements and associated equipment for thermostatically controlling the chamber temperature and for evacuating the test chamber.

(1.1) The test chamber shall be designed to contain between 5 and 50 ml of liquid and vapor and be capable of maintaining a vapor-to-liquid ratio between 3.95 to 1.00 and 4.05 to 1.00.

(1.2) The pressure transducer shall have a minimum operational range from 0 to 177 kPa (0 to 25.6 psi) with a minimum resolution of 0.1 kPa (0.01 psi) and a minimum accuracy of ± 0.3 kPa (± 0.05 psi). The pressure measurement system shall include associated electronics and readout devices to display the resulting pressure reading.

(1.3) The thermostatically controlled heater shall be used to maintain the test chamber at $37.8 \pm 0.1^\circ\text{C}$ ($100 \pm 0.2^\circ\text{F}$) for the duration of the test.

(1.4) A platinum resistance thermometer shall be used for measuring the temperature of the test chamber. The minimum temperature range of the measuring device shall be from ambient to 60°C (140°F) with a resolution of 0.1°C (0.2°F) and accuracy of 0.1°C (0.2°F).

(1.5) The vapor pressure apparatus shall have provisions for introduction of the test specimen into the test chamber and for the cleaning or purging of the chamber following the test.

(2.0) A vacuum pump (if required by the manufacturer's instructions) shall be capable of reducing the pressure in the test chamber to less than 0.01 kPa (0.001 psi) absolute.

(3.0) A syringe (optional, depending on sample introduction mechanism employed with each instrument) shall be gas-tight. The syringe shall be 1 to 20-ml capacity with a $\pm 1\%$ or better precision. The capacity of the syringe should not exceed two times the volume of the test speci-

men being dispensed.

(4.0) Ice Water Bath or Refrigerator (Air Bath): for chilling the samples and syringe to temperatures between and 1°C (32 to 34°F).

(5.0) Mercury Barometer (if required by the manufacturer's instructions): in the 0 to 120 kPa (0 to 17.4 psi) range.

(6.0) McLeod Vacuum Gage (if required by the manufacturer's instructions): to cover at least the range from 0 to 0.67 kPa (0 to 5 mm Hg).

(d) Sampling.

(1.0) Obtain a sample in accordance with title 13, California Code of Regulations, section 2296.

(2.0) The extreme sensitivity of vapor pressure measurements to losses through evaporation and the resulting changes in composition is such as to require the utmost precaution and most meticulous care in the handling of samples.

(3.0) Protect samples from excessive high temperatures prior to testing. This can be accomplished by storage in an appropriate ice water bath or refrigerator.

(4.0) Do not test samples stored in leaky containers. Discard and obtain another sample if leaks are detected.

(e) Preparation of Apparatus.

(1.0) Prepare the instrument for operation in accordance with the manufacturer's instructions.

(2.0) Clean and prepare the test chamber as required to avoid contamination of the test specimen.

(3.0) For instruments that require that the test chamber be evacuated prior to the introduction of the test specimen: Prior to specimen introduction, visually determine from the instrument display that the test chamber pressure is stable and does not exceed 0.1 kPa (0.01 psi). When the pressure is not stable or exceeds this value, check that the chamber is clean of volatile materials remaining in the chamber from a previous specimen or check the calibration of the transducer.

(4.0) If a syringe is used for introduction of the specimen, chill it to between 0 and 4.5°C (32 and 40°F) in an ice water bath or a refrigerator before drawing in the specimen. Avoid water contamination of the syringe reservoir by suitably sealing the outlet of the syringe during the cooling process.

(5.0) For instruments using a pre-heated test chamber: Prior to introduction of the test specimen check that the temperature of the test chamber is within the required range from $37.8 \pm 0.1^\circ\text{C}$ ($100 \pm 0.2^\circ\text{F}$).

(f) Calibration.

(1.0) Pressure Transducer:

(1.1) Check the calibration of the pressure transducer on a monthly basis or when needed as indicated from the quality control checks (section (g)). The calibration of the pressure transducer is checked using two reference points, zero pressure (<0.1 kPa) and the ambient barometric pressure.

(1.2) Connect a McLeod gage to the vacuum source in line with the test chamber. Apply a vacuum to the test chamber. When the McLeod gage registers a pressure less than 0.1 kPa (0.8 mm Hg, or 0.01 psi), adjust the pressure transducer control to zero or to the actual reading on the McLeod gage as dictated by the instrument design and manufacturer's instructions.

(1.3) Open the test chamber to the atmosphere and observe the pressure transducer reading. If the pressure reading is not equal to the ambient barometric pressure, then adjust the pressure transducer span control until the appropriate reading is observed. Ensure that the instrument is set to display the total pressure and not a calculated or corrected value.

(1.4) Repeat steps (f)(1.2) and (f)(1.3) until the zero and barometric pressures read correctly without further adjustments.

(2.0) Thermometer – Check the calibration of the platinum resistance thermometer used to monitor the temperature of the test chamber at least every six months against a National Institute on Standards and Technology (NIST) traceable thermometer.

(g) Quality Control Checks.

(1.0) Check the performance of the instrument each day it is in use by running a quality control sample consisting of a pure solvent of known vapor pressure similar to the vapor pressure of the samples to be tested. Treat the pure solvent quality control check sample in the same manner as a sample (section (h)). Record the total vapor pressure (do not calculate a Reid vapor pressure equivalent) in a log for the purpose of tracking the instrument's performance. If the total vapor pressure differs from the previous entry (for the same pure solvent) in the log by more than ± 1.0 kPa (0.15 psi), then check the instrument calibration (section (f)). If the trend of the log shows variations of more than ± 1.0 kPa (0.15 psi) (for the same pure solvent), also check the instrument calibration.

(2.0) Some of the possible reference pure materials and their corresponding absolute vapor pressures include:

cyclohexane	22.5 kPa	(3.27 psi)
cyclopentane	68.3 kPa	(9.92 psi)
2,2-dimethylbutane	67.9 kPa	(9.86 psi)
2,3-dimethylbutane	51.1 kPa	(1.41 psi)
2-methylpentane	46.7 kPa	(6.77 psi)
toluene	7.1 kPa	(1.03 psi)

(The total pressure values cited were obtained from Phillips Petroleum Co., Bartlesville, OK, or the Table of Physical Constants, National Gas Producer Association.)

(3.0) Purity of Reagents – Use chemicals of at least 99% purity for quality control checks. Unless otherwise indicated, it is intended that all reagents conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society where such specifications are available. ("Reagent Chemicals, American Chemical Society Specifications," Am. Chemical Soc., Washington, DC. For suggestions on the testing of reagents not listed by the American Chemical Society, see "Reagent Chemicals and Standards," by Joseph Rosin, D. Van Nostrand Co, Inc., New York, NY and the "United States Pharmacopeia.") Lower purities can be used, provided it is first ascertained that the reagent is of sufficient purity to permit its use without lessening the accuracy of the determination.

(4.0) The chemicals in this section are suggested for use in quality control procedures; not for instrument calibration.

(5.0) **WARNING**—Cyclohexane, cyclopentane, 2,2-dimethylbutane, 3,2-dimethylbutane, 2-methylpentane, and toluene are extremely flammable. They are an aspiration hazard and are harmful if inhaled. They are also a skin irritant on repeated contact.

(h) Procedure.

(1.0) Sample Temperature – Cool the sample container and contents in an ice water bath or refrigerator to the 0 to 1°C (32 to 34°F) range prior to opening the sample container. Allow sufficient time to reach this temperature.

(2.0) Verification of Sample Container Filling – After the sample reaches thermal equilibrium at 0 to 1°C, take the container from the ice water bath or refrigerator, wipe dry with an absorbent material, unseal and examine the ullage. With a suitable gage, determine that the liquid content in the container is between 70 to 80% of the volume of the container capacity.

(2.1) Discard the sample if the liquid content of the container is less than 70% of the volume of the container capacity.

(2.2) If the liquid content of the container is more than 80% of the volume of the container capacity, pour out enough sample to bring the liquid contents within the 70 to 80% volume range.

(3.0) Air Saturation of Sample in Sample Container

(3.1) After determining that the liquid content in the sample container is between 70 to 80% full, reseal the container and shake vigorously. Return the container to the ice water bath or refrigerator for a minimum of 2 minutes.

(4.0) Remove the sample from the ice water bath or refrigerator, dry the exterior of the container with absorbent material, uncup, insert a transfer tube or syringe (section (e)(4.0)). Draw a bubble-free aliquot of sample into a gas tight syringe or transfer tube and deliver this test specimen to the test chamber as rapidly as possible. The total time between

opening the chilled sample container and inserting/securing the syringe into the sealed test chamber shall not exceed 1 minute.

(5.0) The vapor pressure determination shall be performed on the first test specimen withdrawn from a sample container. Successive vapor pressure determinations can be made on the remaining test material in the same container if the container had been tightly sealed immediately after the previous vapor pressure determination.

(6.0) Follow the manufacturer's instructions for the introduction of the test specimen into the test chamber, and for the operation of the instrument to obtain a total vapor pressure result for the test specimen.

(7.0) Set the instrument to read the result in terms of total vapor pressure. If the instrument is capable of calculating a Reid vapor pressure equivalent value, ensure that only the parameters described in section (i)(2.0) are used.

(8.0) Verification of Single Phase – After drawing a test specimen and introducing it into the instrument for analysis, check the remaining sample for phase separation. If the sample is contained in a glass container, this observation can be made prior to sample transfer. If the sample is contained in a non-transparent container, mix the sample thoroughly and immediately pour a portion of the remaining sample into a glass container and observe for evidence of phase separation. If the sample is not clear and bright or if a second phase is observed, discretion shall be used to determine if the sample is truly representative.

(9.0) Record the total vapor pressure reading from the instrument to the nearest 0.1 kPa (0.01 psi). For instruments that do not automatically record or display a stable pressure value, manually record the pressure indicator reading every minute to the nearest 0.1 kPa; and, when three successive readings agree to within 0.1 kPa, record the result to the nearest 0.1 kPa (0.01 psi).

(i) Calculation.

(1.0) Calibration Equation – Calculate the Reid vapor pressure equivalent (RVPE) using the following calibration equation. Ensure that the instrument reading used in this equation corresponds to the total pressure and has not been corrected by an automatically programmed correction factor.

Equation 1:

$$RVPE = aX - b$$

where:

"RVPE" is the vapor pressure value (in psi) that would be expected from test method ASTM D323–58;

"a" is the correlative relationship of test data from the specific automated vapor pressure test instrument and test data from ASTM D323–58;

"X" is the total vapor pressure value (in psi) as determined by the specific automated vapor pressure test instrument;

"b" is the offset of the test data between the specific automated vapor pressure test instrument and the test data from ASTM D323–58.

The data used for determining the calibration equation for each instrument shall be obtained during an Air Resources Board vapor pressure test program. The data shall consist of test results obtained from the analysis of identical samples by the automated instrument and by ASTM D323–58. Vapor pressure test programs may be conducted on a periodic basis as needed. The Air Resources Board conducted such a program and determined that the following automated vapor pressure test instruments meet the requirements of section (c). The data from the test program were used to arrive at the calibration equations for these instruments. The calibration equations are as follows:

1. Grabner Instruments,
Model: CCA–VP (laboratory Grabner) $RVPE = (.965) x - .304$
2. Grabner Instruments,
Model: CCA–VPS (portable Grabner) $RVPE = (.972) x - .715$
3. Stanhope–Seta Limited,
Model: Setavap $RVPE = (.961) x - .577$

(2.0) The calculation described in section (i)(1.0), above, can be accomplished automatically by the instrument, if so equipped, and in such cases the user shall not apply any further corrections.

(j) Report.

(1.0) Report the Reid vapor pressure equivalent to the nearest 0.1 kPa (0.01 psi).

(k) Precision and Bias.

(1.0) Precision – The precision of this test method as determined by the statistical examination of interlaboratory test results is as follows:

(1.1) Repeatability – The difference between successive test results obtained by the same operator with the same apparatus under constant operating conditions on identical test material would, in the long run, in the correct operation of the test method exceed the following value only in one case in twenty. The repeatability values for the specific automated vapor pressure test instruments listed in section (i)(1.0) are:

- | | |
|---|-----------|
| 1. Grabner Instruments,
Model: CCA-VP (laboratory Grabner) | 0.084 psi |
| 2. Grabner Instruments,
Model: CCA-VPS (portable Grabner) | 0.084 psi |
| 3. Stanhope-Seta Limited
Model: Setavap | 0.10 psi |

(1.2) Reproducibility — The difference between two single and independent test results obtained by different operators working in different laboratories using the same make and model test instrument on identical test material would, in the long run, in the correct operation of the test method exceed the following value only in one case in twenty. The reproducibility values for the specific automated vapor pressure test instruments listed in section (i)(1.0) are:

- | | |
|---|----------|
| 1. Grabner Instruments,
Model: CCA-VP (laboratory Grabner) | 0.13 psi |
| 2. Grabner Instruments,
Model: CCA-VPS (portable Grabner) | 0.21 psi |
| 3. Stanhope-Seta Limited
Model: Setavap | 0.32 psi |

(2.0) Bias – A relative bias was observed between the total pressure obtained using this test method and the Reid vapor pressure obtained using ASTM Test Method D323–58. This bias is corrected by the use of the calibration equation in section (i)(1.0) which calculates a Reid vapor pressure equivalent value from the observed total pressure.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 43000, 43013, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. Change without regulatory effect renumbering former section 2262 to section 2297 filed 9–17–91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 4).
2. Amendment of subsections (d)(1.0) and (k)(1.1)–(1.2) filed 8–20–2001; operative 8–20–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 34).

§ 2298. Conversion of Volume Percent Oxygenate to Weight Percent Oxygen in Gasoline.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43830, Health and Safety Code. Reference: Sections 39000, 39001, 39002, 39003, 39500, 41511, 43000, 43013, 43018, 43101 and 43830, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 10–14–92; operative 10–14–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 42).
2. Repealer filed 9–1–94; operative 9–1–94 (Register 94, No. 35).

Chapter 5.1. Standards for Fuels for Nonvehicular Sources

§ 2299. Standards for Nonvehicular Diesel Fuel Used in Diesel–Electric Intrastate Locomotives and Harborcraft.

(a) Requirements.

(1) Standards for Nonvehicular Diesel Fuel Used in Harborcraft in the South Coast Air Quality Management District (SCAQMD) Beginning January 1, 2006. Beginning January 1, 2006, California nonvehicular diesel fuel sold, offered for sale, or supplied within the SCAQMD for use in harborcraft is subject to all of the requirements of Title 13 CCR sections 2281 (sulfur content), 2282 (aromatic hydrocarbons content) and 2284 (lubricity) applicable to vehicular diesel fuel, and shall be treated under those sections as if it were vehicular diesel fuel.

(2) Standards for Nonvehicular Diesel Fuel Used in Intrastate Diesel–Electric Locomotives and Harborcraft Beginning January 1, 2007. Beginning January 1, 2007, California nonvehicular diesel fuel sold, offered for sale, or supplied for use in diesel–electric intrastate locomotives or harborcraft is subject to all of the requirements of title 13 CCR sections 2281 (sulfur content), 2282 (aromatic hydrocarbons content) and 2284 (lubricity) applicable to vehicular diesel fuel, and shall be treated under those sections as if it were vehicular diesel fuel.

(3) Exemption for military specification fuel used in military vessels. The requirements of this section do not apply to military specification fuel that is sold, offered for sale, or supplied for use in marine vessels owned or operated by the armed forces of the United States.

(b) Definitions.

(1) “California nonvehicular diesel fuel” means any diesel fuel that is not vehicular diesel fuel as defined respectively in title 13 CCR sections 2281(b), 2282(b), or 2284(b) and that is sold or made available for use in engines in California.

(2) “Diesel–electric locomotive” means a locomotive using electric power provided by a diesel engine that drives a generator or alternator; the electrical power produced then drives the wheels using electric motors.

(3) “Diesel fuel” means any fuel that is commonly or commercially known, sold or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons that is sold or represented as suitable for use in an internal combustion, compression–ignition engine.

(4) “Harborcraft” means any marine vessel that meets all of the following criteria:

(A) The vessel does not carry a “registry” (foreign trade) endorsement on its United States Coast Guard certificate of documentation, and is not registered under the flag of a country other than the United States;

(B) The vessel is less than 400 feet in length overall (LOA) as defined in 50 CFR § 679.2 as adopted June 19, 1996;

(C) The vessel is less than 10,000 gross tons (GT ITC) per the convention measurement (international system) as defined in 46 CFR § 69.51–.61, as adopted September 12, 1989; and

(D) The vessel is propelled by a marine diesel engine with a per–cylinder displacement of less than 30 liters.

(5) “Intrastate diesel–electric locomotive” means:

(A) A diesel–electric locomotive that operates within California for which at least 90 percent of its annual fuel consumption, annual hours of operation, or annual rail miles traveled occur within California. This definition would typically include, but not be limited to, diesel–electric locomotives used in the following operations: passenger intercity and commuter, short haul, short line, switch, industrial, port, and terminal operations;

(B) An intrastate diesel–electric locomotive does not include those diesel–electric locomotives that:

1. Meet the U.S. Environmental Protection Agency Tier II locomotive emission standards, and

2. Primarily move freight into and out of the South Coast Air Quality Management District, and

3. Have been included as a diesel–electric locomotive operating in the South Coast Nonattainment Area under paragraph IV.B. of the Memorandum of Mutual Understandings and Agreements for the South Coast Locomotive Fleet Average Emissions Program, dated July 2, 1998.

(C) (This subsection reserved for consideration of diesel–electric locomotives that meet the U.S. Environmental Protection Agency Tier II

locomotive emission standards and primarily move freight within California outside of the South Coast Air Quality Management District.)

(6) "Locomotive" means a piece of on-track equipment designed for moving or propelling cars that are designed to carry freight, passengers or other equipment, but which itself is not designed or intended to carry freight, passengers (other than those operating the locomotive) or other equipment.

(7) "Marine vessel" means any ship, boat, watercraft, or other artificial contrivance used as a means of transportation on water.

(c) Alternative Emission Reduction Plan for Intrastate Diesel-Electric Locomotives. For an owner or operator of an intrastate diesel-electric locomotive who has submitted an alternative emission reduction plan (plan) that contains a substitute fuel(s) and/or emission control strategy(s) and has been approved by the Executive Officer, compliance with the alternative emission reduction plan (plan) shall constitute compliance with the requirements of subsection (a)(2). In order to be approved, the plan must do all of the following:

(1) Identify or define the total fuel consumption and total emissions that would be associated with the activities of the diesel-electric locomotives were the owner or operator to comply with subsection (a)(2).

(2) Define a substitute fuel(s) and/or emission control strategy(s) for the plan.

(3) Identify the emission reductions that are attributable to the substitute fuel(s) and/or emission control strategy(s) relative to the emission reductions achieved through compliance with subsection (a)(2).

(4) Demonstrate that the substitute fuel(s) and/or emission control strategy(s) in the plan provide equivalent or better emission benefits than would be achieved through compliance with subsection (a)(2). The emission benefits achieved under the plan shall be targeted towards residents in those parts of the state most impacted by diesel-electric locomotive emissions.

(5) The plan shall contain adequate enforcement provisions.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39515, 39516, 41511, 43013, 43016 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New chapter 5.1 (section 2299) and section filed 7-5-2005; operative 8-4-2005 (Register 2005, No. 27).

§ 2299.1. Emission Limits and Requirements for Auxiliary Diesel Engines and Diesel-Electric Engines Operated on Ocean-Going Vessels Within California Waters and 24 Nautical Miles of the California Baseline.

(a) Purpose.

The purpose of this section is to reduce emissions of diesel particulate matter (PM), nitrogen oxides, and sulfur oxides from the use of auxiliary diesel engines and diesel-electric engines on ocean-going vessels within any of the waters subject to this regulation ("Regulated California Waters").

(b) Applicability.

(1) Except as provided in subsection (c), this section applies to any person who owns, operates, charters, rents, or leases any ocean-going vessel that operates in any of the Regulated California Waters, which include all of the following:

(A) all California internal waters;

(B) all California estuarine waters;

(C) all California ports, roadsteads, and terminal facilities (collectively "ports");

(D) all waters within 3 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;

(E) all waters within 12 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;

(F) all waters within 24 nautical miles of the California baseline, starting at the California-Oregon border to 34.43 degrees North, 121.12 degrees West, inclusive; and

(G) all waters within the area, not including islands, between the California baseline and a line starting at 34.43 degrees North, 121.12 degrees West; thence to 33.50 degrees North, 118.58 degrees West; thence to 32.65 degrees North, 117.81 degrees West; and ending at the California-Mexico border at the Pacific Ocean, inclusive.

(2) Except as provided in subsection (c), this section applies to tanker and nontanker ocean-going vessels that are flagged in, registered in, entitled to fly the flag of, or otherwise operating under the authority of the United States ("U.S.-flagged") or any other country ("foreign-flagged").

(3) Nothing in this section shall be construed to amend, repeal, modify, or change in any way any applicable U.S. Coast Guard requirements. Any person subject to this section shall be responsible for ensuring compliance with both U.S. Coast Guard regulations and the requirements of this section, including but not limited to, obtaining any necessary approvals, exemptions, or orders from the U.S. Coast Guard.

(c) Exemptions.

(1) The requirements of this section do not apply to ocean-going vessel voyages that are comprised of continuous and expeditious navigation through any of the Regulated California Waters for the purpose of traversing such bodies of water without entering California internal or estuarine waters or calling at a port, roadstead, or terminal facility. "Continuous and expeditious navigation" includes stopping and anchoring only to the extent such stopping and anchoring are required by the U.S. Coast Guard; rendered necessary by force majeure or distress; or made for the purpose of rendering assistance to persons, ships, or aircraft in danger or distress. This exemption does not apply to the passage of an ocean-going vessel that engages in any of the prejudicial activities specified in United Nations Convention on the Law of the Seas (UNCLOS) 1982, Article 19, subpart 2. Further, notwithstanding any Coast Guard mandated stops or stops due to force majeure or the rendering of assistance, this exemption does not apply to a vessel that was otherwise scheduled or intended to enter California internal or estuarine waters or call at a port, roadstead or terminal facility.

(2) The requirements of this section do not apply to slow-speed two-stroke diesel engines as defined in subsection (d).

(3) The requirements of this section do not apply to auxiliary engines on-board ocean-going vessels owned or operated by any branch of local, state, federal government, or by a foreign government, when such vessels are operated within the Regulated California Waters on government non-commercial service. However, such vessels are encouraged to act in a manner consistent, so far as is reasonable and practicable, with this section.

(4) The requirements of this section do not apply to auxiliary engines while operating on liquefied natural gas or compressed natural gas.

(5) The requirements of this section, including the payment of Non-compliance Fees as provided in subsection (h), do not apply to the master of the vessel ("master") if the master reasonably and actually determines that compliance with this section would endanger the safety of the vessel, its crew, its cargo or its passengers because of severe weather conditions, equipment failure, fuel contamination, or other extraordinary reasons beyond the master's reasonable control. This exemption applies only as long as and to the extent necessary to secure the safety of the vessel, its crew, its cargo, or its passengers and provided that;

(A) the master takes all reasonable precautions after the conditions necessitating the exemption have ended to avoid or minimize repeated claims of exemption under this subsection;

(B) the master notifies the Executive Officer of a safety exemption claim within 24 hours after the end of each such episode (i.e., the period of time during which the emergency conditions exist that necessitate the safety exemption claim, as provided in paragraph (5) above); and

(C) the master submits to the Executive Officer, within 4 working days after the notification in paragraph (B) above, all documentation neces-

sary to establish the conditions necessitating the safety exemption and the date(s), local time, and position of the vessel (longitude and latitude) in Regulated California Waters at the beginning and end of the time period during which a safety exemption is claimed under this subsection. All documentation required under this paragraph shall be provided in English.

(d) Definitions.

For purposes of this section, the following definitions apply:

- (1) "ASTM" means ASTM International.
- (2) "Auxiliary engine" means an engine on an ocean-going vessel designed primarily to provide power for uses other than propulsion, except that all diesel-electric engines shall be considered "auxiliary diesel engines" for purposes of this regulation.
- (3) "Baseline" means the mean lower low water line along the California coast, as shown on the following National Oceanic and Atmospheric Administration (NOAA) Nautical Charts as authored by the NOAA Office of Coast Survey, which are incorporated herein by reference:
 - (A) Chart 18600, Trinidad Head to Cape Blanco (January 2002);
 - (B) Chart 18620, Point Arena to Trinidad Head (June 2002);
 - (C) Chart 18640, San Francisco to Point Arena (August 2005);
 - (D) Chart 18680, Point Sur to San Francisco (June 2005);
 - (E) Chart 18700, Point Conception to Point Sur (July 2003);
 - (F) Chart 18720, Point Dume to Purisima Point (January 2005); and
 - (G) Chart 18740, San Diego to Santa Rosa Island (April 2005).
- (4) "Compliance Period" means the calendar year or other continuous period during which an approved Alternative Control of Emissions (ACE) plan is or will be in effect as specified in subsection (g).
- (5) "Diesel Engine" means an internal combustion, compression-ignition (CI) engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.
- (6) "Diesel Particulate Matter" means the particles found in the exhaust of diesel engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.
- (7) "Diesel-electric engine" means a diesel engine connected to a generator that is used as a source of electricity for propulsion or other uses.
- (8) "Emission Control Strategy" means any device, system, or strategy employed to reduce emissions from a diesel engine, including, but not limited to, utilization of shore-side electrical power, diesel oxidation catalysts, selective catalytic reduction systems, diesel particulate filters, alternative diesel fuels, water emulsified fuels, lower sulfur fuels, and any combination of the above.
- (9) "Estuarine Waters" means an arm of the sea or ocean that extends inland to meet the mouth of a river.
- (10) "Executive Officer" means the executive officer of the Air Resources Board (ARB), or his or her designee.
- (11) "Hydrocarbon (HC)" means the sum of all hydrocarbon air pollutants.
- (12) "Internal Waters" means any navigable river or waterway within the State of California.
- (13) "IMO" means the International Maritime Organization.
- (14) "ISO" means the International Organization for Standardization.
- (15) "Marine Diesel Oil" means any fuel that meets all the specifications for DMB grades as defined in Table I of International Standard ISO 8217, as revised in 2005, which is incorporated herein by reference.
- (16) "Marine Gas Oil" means any fuel that meets all the specifications for DMX or DMA grades as defined in Table I of International Standard ISO 8217, as revised in 2005, which is incorporated herein by reference.
- (17) "Master" means the person who operates a vessel or is otherwise in charge of the vessel's operations.
- (18) "Military Vessel" means any ship, boat, watercraft, or other contrivance used for any purpose on water, and owned or operated by the armed services.
- (19) "Nitrogen Oxides (NOx)" means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen, which are

typically created during combustion processes and are major contributors to smog formation and acid deposition.

(20) "Non-Methane Hydrocarbons (NMHC)" means the sum of all hydrocarbon air pollutants except methane.

(21) "Ocean-going Vessel" means a commercial, government, or military vessel meeting any one of the following criteria:

(A) a vessel with a "registry" (foreign trade) endorsement on its United States Coast Guard certificate of documentation, or a vessel that is registered under the flag of a country other than the United States;

(B) a vessel greater than or equal to 400 feet in length overall (LOA) as defined in 50 CFR § 679.2, as adopted June 19, 1996;

(C) a vessel greater than or equal to 10,000 gross tons (GT ITC) pursuant to the convention measurement (international system) as defined in 46 CFR 69.51-.61, as adopted September 12, 1989; or

(D) a vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(22) "Operate" means steering or otherwise running the vessel or its functions while the vessel is underway, moored, anchored, or at dock.

(23) "Own" means having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; having or being entitled to the possession of a vessel as the purchaser under a conditional sale contract; or being the mortgagor of a vessel.

(24) "Particulate Matter" means any airborne finely divided material, except uncombined water, which exists as a liquid or solid at standard conditions (e.g., dust, smoke, mist, fumes or smog).

(25) "Person" includes all of the following:

(A) any person, firm, association, organization, partnership, business trust, corporation, limited liability company, or company;

(B) any state or local governmental agency or public district, or any officer or employee thereof;

(C) the United States or its agencies, to the extent authorized by federal law.

(26) "Regulated California Waters" means all of the following:

(A) all California internal waters;

(B) all California estuarine waters;

(C) all California ports, roadsteads, and terminal facilities (collectively "ports");

(D) all waters within 3 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;

(E) all waters within 12 nautical miles of the California baseline, starting at the California-Oregon border and ending at the California-Mexico border at the Pacific Ocean, inclusive;

(F) all waters within 24 nautical miles of the California baseline, starting at the California-Oregon border to 34.43 degrees North, 121.12 degrees West, inclusive; and

(G) all waters within the area, not including any islands, between the California baseline and a line starting at 34.43 degrees North, 121.12 degrees West; thence to 33.50 degrees North, 118.58 degrees West; thence to 32.65 degrees North, 117.81 degrees West; and ending at the California-Mexico border at the Pacific Ocean, inclusive.

(27) "Roadstead" means any facility that is used for the loading, unloading, and anchoring of ships.

(28) "Slow Speed Engine" means an engine with a rated speed of 150 revolutions per minute or less.

(29) "Sulfur Oxides" means compounds of sulfur dioxide (SO₂), and other oxides of sulfur, which are typically created during combustion of sulfur containing fuels.

(30) "Tanker" means a self-propelled vessel constructed or adapted primarily to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue.

(31) "Two-stroke Engine" means an internal combustion engine which operates on a two stroke cycle where the cycle of operation completes in one revolution of the crankshaft.

(32) "Vessel" means any tugboat, tanker, freighter, passenger ship, barge, or other boat, ship, or watercraft, except those used primarily for recreation and any of the following:

(A) a seaplane on the water;

(B) a watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

(e) Requirements.

(1) Emission Limits.

Except as provided in subsections (c), (g) and (h), no person subject to this section shall operate any auxiliary diesel engine, while the vessel is operating in any of the Regulated California Waters, which emits levels of diesel PM, NO_x, or SO_x in exceedance of the emission rates of those pollutants that would result had the engine used the following fuels:

(A) Beginning January 1, 2007:

1. marine gas oil, as defined in subsection (d); or

2. marine diesel oil, as defined in subsection (d), with a sulfur content of no more than 0.5 percent by weight;

(B) Beginning January 1, 2010: marine gas oil with a sulfur content of no more than 0.1 percent by weight.

(C) Compliance with subsection (e)(1) is presumed if the person operates the regulated engine(s) with the fuels as specified in subsection (e)(1)(A) and (e)(1)(B).

(2) Recordkeeping, Reporting, and Monitoring Requirements.

(A) Recordkeeping.

Beginning January 1, 2007, any person subject to this section shall retain and maintain records in English that contain the following information for at least three years following the date when the records were made:

1. The date, local time, and position (longitude and latitude) of the vessel for each entry into and departure from any of the Regulated California Waters, excluding any voyages exempted from the requirements of this section under subsection (c)(1);

2. The date, local time, and position (longitude and latitude) of the vessel at the initiation and completion of any fuel switching procedures used to comply with subsection (e)(1) prior to entry into any of the Regulated California Waters;

3. The date, local time, and position (longitude and latitude) of the vessel at the initiation and completion of any fuel switching procedures within any of the Regulated California Waters; completion of fuel switching procedures occurs the moment all engines subject to this section have completely transitioned from operation on one fuel to another fuel;

4. The type of each fuel used (e.g. marine gas oil) in each auxiliary engine operated in any of the Regulated California Waters; and

5. The types, amounts, and the actual percent by weight sulfur content of all fuels purchased for use on the vessel, as reported by the fuel supplier or a fuel testing firm.

(B) Reporting and Monitoring.

1. Any person subject to this section shall provide in writing the information specified in subsection (e)(2)(A) to the Executive Officer upon request, either within 24 hours or by a later date approved by the Executive Officer on a case-by-case basis. To the extent the person already collects the information specified in subsection (e)(2)(A) in English to comply with other regulatory requirements or standard practices, the person may provide the requested information in a format consistent with those other regulatory requirements or standard practices.

2. Any person subject to this section shall provide to the Executive Officer upon request additional information the Executive Officer determines to be necessary to determine compliance with this section, including, but not limited to:

a. the make, model, rated power, and serial numbers of all auxiliary engines subject to subsection (e)(1);

b. the capacity and locations of all fuel tanks on the vessel; and

c. piping diagrams and specifications for mixing tanks or other fuel handling equipment applicable to auxiliary engines.

3. Any person subject to this section shall provide to the Executive Officer access to the vessel for the purpose of determining compliance with this section, including but not limited to, access to and review of records and information required under subsection (e)(2)(A) or (e)(2)(B)2., and for the purpose of collecting fuel samples for testing and analysis.

(f) Violations.

(1) Any person who is subject to this section and commits a violation of any provision, standard, criteria or requirement in this section is subject to the penalties, injunctive relief, and other remedies specified in Health and Safety Code, section 42400 et seq.; other applicable sections in the Health and Safety Code; and other applicable provisions as provided under California law for each violation. Nothing in this section shall be construed to limit or otherwise affect any applicable penalties or other remedies available under federal law.

(2) Any failure to meet any provision, standard, criteria or requirement in this section, including but not limited to the applicable emission limits; recordkeeping requirements; Noncompliance Fee provision; and Alternative Control of Emissions (ACE) provision, including the requirements of any approved ACE plans, shall constitute a single, separate violation of this section for each hour that a person operates an ocean-going vessel within the Regulated California Waters until such provision, standard, criteria or requirement has been met.

(3) Any person who is subject to this section is liable for meeting the requirements of this section, notwithstanding any contractual arrangement that person may have with any third-parties.

(g) Alternative Control of Emissions (ACE) Plan In Lieu of Meeting Subsection (e)(1).

For purposes of this subsection, the terms "ACE" and "ACE plan" shall have the same meaning, unless otherwise noted.

(1) Requirements.

(A) The purpose of this subsection is to allow any person ("person" or "applicant") the option of complying with the requirements of this subsection (g) in lieu of the requirements of subsection (e)(1). Under this subsection (g), alternative emission control strategies can be implemented in lieu of meeting the requirements of subsection (e)(1), provided the alternative strategies result in emissions of diesel PM, NO_x, and SO_x from the auxiliary diesel engines that are no greater than the emissions that would have occurred under subsection (e)(1), over the applicable compliance period.

(B) An applicant wishing to participate in an ACE may include one or more vessels in the ACE, but the applicant shall only include vessels that the person owns or operates under their direct control. For purposes of this subsection, "direct control" shall include, but not be limited to, vessels for which the applicant has a contract, lease, or other arrangement with a third-party for the third-party to operate the vessel.

(C) No vessel shall be included in more than one ACE plan.

(D) No ACE plan shall have a compliance period greater than 1 calendar year or a continuous 12-month period. Except as provided in paragraph (E) below, upon completion of a compliance period, an approved ACE plan shall continue to be in effect for another compliance period of equal length, provided the following are met:

1. the applicant provides updated information for all elements of the approved ACE plan to the Executive Officer at least 30 days prior to the end of the first compliance period; and

2. the updated information demonstrates that compliance with this subsection will continue for the next compliance period.

(E) No ACE plan shall be extended for another compliance period if:

1. the Executive Officer has determined that violations of the ACE provisions have occurred and the Executive Officer revokes the ACE plan as specified in subsection (g)(3);

2. the applicant elects to cancel an approved ACE plan. Applicants who cancel operation under an approved ACE are subject to the emission requirements of subsection (e)(1) and all other requirements of this section upon the effective date of the cancellation. An ACE plan that is cancelled prior to the end of its approved compliance period shall have its

compliance period adjusted to end at the effective date of cancellation; or

3. the applicant proposes to substantially change the alternative emission control strategies in their approved ACE plan, as determined by the Executive Officer. Applicants proposing to substantially change the alternative emission control strategies in their ACE plan shall be subject to the application process for new applications, as specified in subsection (g)(2).

(F) In addition to other requirements specified in this subsection (g), no proposed ACE plan shall be approved unless the applicant demonstrates to the satisfaction of the Executive Officer all of the following:

1. the alternative emission control strategies under the proposed ACE plan will result in emissions of diesel PM, NO_x, and SO_x from the auxiliary diesel engines that are no greater than the emissions that would have occurred under subsection (e)(1) over the applicable compliance period; and

2. surplus emission reductions achieved at one port will not result in increased emissions at a second port, relative to the emissions that would have occurred at the second port prior to implementation of this section.

(G) Emission control strategy is as defined in subsection (d)(8).

(H) The ACE plan application demonstrating compliance with this subsection shall contain, at a minimum, the following information:

1. the company name, address, and contact information;

2. the vessel(s) name, country flag, and IMO identification number;

3. the make, model, serial numbers and other information that uniquely identify each engine on the affected vessel(s) subject to the ACE;

4. documentation, calculations, emissions test data, or other information that demonstrates that the emission reductions from the auxiliary engines subject to the ACE will be equivalent to or greater than the emission reductions that would have been achieved upon compliance with subsection (e)(1). The emission reductions shall be calculated for diesel PM, NO_x, and SO_x, and shall be expressed in pounds of each pollutant;

5. information on the California ports expected to be visited by the affected vessel(s) during the compliance period that the ACE will be in effect, the anticipated dates of those visits, and the potential planned over-sea routes to and from these ports; and

6. the proposed recordkeeping, reporting, monitoring, and testing procedures that the applicant plans to use to demonstrate continued compliance with the ACE.

(I) Emission reduction calculations used to demonstrate equivalence with the requirements of subsection (e)(1) shall include only diesel PM, NO_x, and SO_x emissions from auxiliary engines operating within any of the Regulated California Waters.

(J) Use of Shore-Side Power.

1. Except as otherwise provided in this subsection (g)(1)(J), vessels in an ACE that utilize shore-side power in lieu of their auxiliary diesel engines while at dockside shall be considered to meet the emission reduction requirements of the ACE during:

a. all travel within Regulated California Waters from a previous port to the California port terminal where shore-side power is used;

b. time spent secured ("docked") at the California port terminal where shore-side power is used; and

c. all travel within Regulated California Waters from the California port where shore-side power is utilized to the next port visited.

2. For the purposes of paragraph 1 above, "utilizing shore-side power" means:

a. connecting to electricity supplied by a utility company, or another source with emissions per unit of delivered energy equivalent to or lower than the January 1, 2007 levels specified in title 17, CCR, sections 94200-94214, "Distributed Generation Certification Program;" and

b. shutting down all auxiliary engines subject to this control measure no later than one hour after the vessel is secured at the port terminal, and continuously thereafter until no more than one hour prior to when the vessel leaves the terminal.

3. Except as otherwise provided in paragraph 5 below, if a vessel operating under an approved ACE visits two California ports in succession,

and the vessel utilizes shore-side power at the first port but not at the second port visited, the vessel shall not be considered to meet the emission reduction requirements of the ACE during the time it is docked at the second port and any subsequent travel within Regulated California Waters from this port.

4. Except as otherwise provided in paragraph 5 below, if a vessel operating under an approved ACE visits two California ports in succession, and the vessel utilizes shore-side power at the second port but not at the first port visited, the vessel shall not be considered to meet the emission reduction requirements of the ACE during travel within Regulated California Waters to this first port or during the time the vessel is docked at the first port. Travel from the first port to the second port where shore-side power is utilized shall be deemed to meet the emission reduction requirements of the ACE.

5. The provisions in paragraphs 3 and 4 above notwithstanding, if a passenger cruise vessel operating under an approved ACE visits a California port, utilizes shore-side power at that port, then leaves that port and moors (i.e., drops anchor) at another offshore location away from a port, roadstead or terminal facility (e.g., Catalina Island or off Monterey), the mooring stop shall not be deemed as a second port visit. However, a person subject to this provision shall meet the emission limits in subsection (e)(1) for all auxiliary diesel engines on the passenger cruise vessel (i.e., all diesel-electric engines) during the entire time the vessel is moored.

(K) Any person subject to an approved ACE shall maintain operating records in a manner and form as specified by the Executive Officer in the approved ACE. Required records may include, but are not limited to, information on fuel usage, routes, port calls, maintenance procedures, and emissions test results. Such records and reports shall be retained for a period of not less than three (3) years and shall be submitted to the Executive Officer in the manner specified in the approved ACE and upon request by the Executive Officer, either within 24 hours or by a later date approved by the Executive Officer.

(L) Emission reductions included in an ACE shall not include reductions that are otherwise required by any State, federal or international rule, regulation, or statute.

(M) No person may comply with this section by operating under an ACE unless the applicant has first been notified in writing by the Executive Officer that the ACE application has been approved. Prior to such approval, applicants shall comply with the provisions of this section, including the emission limits in subsection (e)(1).

(N) No person may comply with this section by operating under an ACE that has been revoked as provided in subsections (g)(2)(G) and (g)(3).

(2) Application Process.

(A) Applications for an ACE shall be submitted in writing to the Executive Officer for evaluation.

(B) The Executive Officer shall establish an internet site ("ACE internet site") in which all documents pertaining to an ACE application will be made available for public review. The Executive Officer shall also provide a copy of all such documents to each person who has requested copies of the documents; these persons shall be treated as interested parties. The Executive Officer shall provide two separate public comment periods during the ACE Application process, as specified in this subsection (g)(2).

(C) Completeness Determination.

Within 15 days after receiving an ACE application, the Executive Officer shall notify the applicant whether the application is deemed sufficiently complete to proceed with further evaluation. If the application is deemed incomplete, the notification shall identify the application's deficiencies. The Executive Officer shall have an additional 15-day period for reviewing each set of documents or information submitted in response to an incomplete determination. Nothing in this subsection prohibits the Executive Officer from requesting additional information from the applicant, during any part of the ACE application process, which the Executive Officer determines is necessary to evaluate the application.

(D) Notice of Completeness and 30-Day First Public Comment Period.

After an ACE application has been deemed complete, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the ACE application and whether the Executive Officer should approve or disapprove the ACE application based on the contents and merits of the application. The Executive Officer shall notify all interested parties of the following:

1. the applicant(s);
2. the start and end dates for the 30-day first comment period; and
3. the address of the ACE internet site where the application is posted.

The Executive Officer shall also make this notification available for public review on the ACE internet site.

(E) Proposed Action and 15-Day Second Public Comment Period.

Within 30 days after the first public comment period ends, the Executive Officer shall notify the applicant and all interested parties of ARB's proposed approval or disapproval. This notification shall propose to approve the application as submitted, disapprove the application, or approve the ACE application with modifications as deemed necessary by the Executive Officer. The notification shall identify the start and end dates for the 15-day second public comment period. During the second public comment period, any person may comment on the Executive Officer's proposed approval or disapproval of the ACE application and any element of the application. The Executive Officer shall also make this notification available for public review on the ACE internet site.

(F) Final Action.

Within 15 days after the second public comment period ends, the Executive Officer shall take final action to either approve or deny an ACE application and shall notify the applicant accordingly. If the application is denied or modified, the Executive Officer shall state the reasons for the denial or modification in the notification. The notification to the applicant and approved ACE plan, if applicable, shall be made available to the public on the ACE internet site. In addition, the Executive Officer shall consider and address all comments received during the first and second public comment periods, and provide responses to each comment on the ACE internet site.

(G) Notification to the Executive Officer of Changes to an Approved ACE.

The applicant shall notify the Executive Officer in writing within 30 days upon learning of any information that would alter the emissions estimates submitted during any part of the ACE application process. If the Executive Officer has reason to believe that an approved ACE has been granted to a person that no longer meets the criteria for an ACE, the Executive Officer may, pursuant to subsection (g)(3) below, modify or revoke the ACE as necessary to assure that the applicant and subject vessel(s) will meet the emission reduction requirements in this section.

(3) Revocation or Modification of Approved ACEs.

With 30-days notice to the ACE holder, the Executive Officer may revoke or modify, as needed, an approved ACE if there have been multiple violations of the ACE provisions or the requirements of the approved ACE plan; or if the Executive Officer has reason to believe that an approved ACE has been granted that no longer meets the criteria or requirements for an ACE or the applicant can no longer comply with the requirements of the approved ACE in its current form. Public notification of a revocation or modification of an approved ACE shall be made available on the ACE internet site.

(h) Noncompliance Fee In Lieu of Meeting Subsection (e)(1).

The Executive Officer may permit a person to pay noncompliance fees in lieu of meeting the requirements of subsection (e)(1). Payment of the fees notwithstanding, all other provisions of this section shall continue to apply. No person shall be permitted to pay the fees unless the person meets the notification requirements in subsection (h)(1) and the requirements in either subsections (h)(2), (h)(3), or (h)(4), as specified below:

(1) Notification Requirements.

Before the person's vessel enters Regulated California Waters, the Executive Officer must receive notice that the person will not meet the

requirements of subsection (e)(1) while operating within Regulated California Waters, but the person will instead meet the requirements of this subsection (h). If the Executive Officer has not received such notice and the person enters Regulated California Waters, the person will be in violation of this section and will not be permitted to pay the fees in lieu of meeting the requirements of subsection (e)(1).

(2) Noncompliance for Reasons Beyond a Person's Reasonable Control.

Any person wishing to pay the fees under this subsection (h)(2) shall meet the following criteria:

(A) Demonstration of Need.

The person shall, through adequate documentation, demonstrate to the Executive Officer's satisfaction that the person's noncompliance with the requirements of subsection (e)(1) is beyond the person's reasonable control. For the purposes of this paragraph, "beyond the person's reasonable control" applies only when one or more of the following sets of circumstances (1, 2, or 3) applies:

1. Unplanned Redirection.

This provision applies only when all of the following criteria are met:

a. after leaving the last port of call, the person's vessel was redirected from his/her original, officially logged, non-California destination to a California port, roadstead, or terminal facility ("port"); and

b. the vessel does not contain a quantity of fuel sufficient for the auxiliary engines to meet the requirements of subsection (e)(1) and cannot comply using the alternative emission control strategies under an approved ACE.

2. Inadequate Fuel Supply.

This provision applies only when all of the following criteria are met:

a. the person made good faith efforts to acquire a quantity of fuel sufficient for the vessel's auxiliary engines to meet the requirements of subsection (e)(1); and

b. the person was unable to acquire fuel sufficient for the engines to meet the requirements of subsection (e)(1) and cannot comply using the alternative emission control strategies under an approved ACE.

3. Inadvertent Purchase of Defective Fuel.

This provision applies only when all of the following criteria are met:

a. based on the fuel supplier's certification of the fuel specifications, the person reasonably believed, and relied on such belief, that the fuel the person purchased on the route from the vessel's home port to California would enable the auxiliary engines to meet the requirements of subsection (e)(1);

b. the person determined that the vessel's auxiliary engines in fact will not meet the requirements of subsection (e)(1) using any of the fuel purchased under paragraph 3.a. above and the person cannot comply using the alternative emission control strategies under an approved ACE; and

c. the vessel is already on its way to California, and there are no other ports of call on the vessel's route where fuel can be purchased sufficient to meet the requirements of subsection (e)(1).

(B) Payment of Fees.

Upon meeting the requirements of paragraph (A) in this subsection (h)(2), the person shall pay the fees for every port visit, as specified in subsection (h)(5) below.

(C) Executive Officer Review.

For the purposes of verifying the demonstration of need as specified in paragraph (A) above, the Executive Officer may consider and rely on any facts or circumstances the Executive Officer believes are appropriate, including but not limited to: the fuel supplier's ability or failure to provide adequate fuel ordered by the person; any material misrepresentation by the fuel supplier concerning the fuel specifications; the reasonableness of the person's reliance on fuel suppliers with a history of supplying fuel inadequate for meeting the requirements of subsection (e)(1); and force majeure.

(3) Noncompliance for Vessels to Be Taken Out of Service for Modifications.

If a person cannot meet the requirements of subsection (e)(1) without vessel modifications, and such modifications cannot be completed prior

to the effective date of subsection (e)(1), the Executive Officer may permit the person to pay the fees as specified in this subsection. This provision also applies to vessels that will undergo modifications pursuant to an Executive Officer approved Alternative Control of Emissions (ACE) Plan. The vessel must be scheduled to complete the necessary modifications (e.g. during a dry dock operation) as soon as possible, but no later than 5 years after the effective date of this section. For this provision to apply, the person shall meet all of the following criteria:

(A) Demonstration of Need.

The person shall provide the Executive Officer a Compliance Retrofit Report, signed by the Chief Engineer of the person's vessel, which:

1. identifies the specific vessel modifications ("modifications") (e.g. installation of additional fuel tanks) the person plans to use for meeting the requirements of subsection (e)(1) or an ACE Plan;
2. identifies the specific date by which the modifications will be completed (e.g. while the vessel is in dry dock); and
3. demonstrates to the satisfaction of the Executive Officer that the modifications will be made at the earliest possible date (e.g. the vessel has been scheduled for the earliest available dry dock appointment).

(B) Payment of Fees.

Upon meeting the requirements of paragraph (A) in this subsection (h)(3), the person shall pay the fees for every port visit, as specified in subsection (h)(5) below.

(C) Proof of Modifications Actually Performed.

Within ten (10) business days after the scheduled or actual completion of the modifications, whichever occurs first, the person shall provide written certification to the Executive Officer that the modifications specified under this subsection (h)(3) have been completed. If the modifications have not been completed, the person shall certify which modifications have been completed, which have not, and the anticipated completion date for the remaining modifications. The notification requirement specified in this paragraph, the notification requirements in subsection (h)(1) above, and the fee provisions in subsection (h)(5) below shall apply until all the modifications have been completed.

(4) Noncompliance Based on Infrequent Visits and Need for Vessel Modifications.

If a person cannot meet the requirements of subsection (e)(1) without modifications for the vessel at issue, and that vessel will make no more than two California port visits per calendar year, and no more than 4 California port visits after January 1, 2007 during the life of the vessel, the Executive Officer may permit the person to pay the fees as specified in this subsection.

(A) Demonstration of Need.

The person shall demonstrate to the satisfaction of the Executive Officer that modifications to the vessel are necessary to meet the requirements of subsection (e)(1), and that the vessel shall meet the visitation limits specified in this subsection (h)(4).

(B) Payment of Fees.

Upon meeting the requirements of paragraph (A) above, the person shall pay the fees for every port visit up to a maximum of 4 visits, as specified in subsection (h)(5) below.

(5) Calculation and Payment of Fees.

For each port visit, the person who elects to pay the fees pursuant to this subsection (h) shall pay the applicable fees shown in Table 1. For purposes of this provision, "port visit" shall include all stops at a port, roadstead, or terminal facility in Regulated California Waters, as well as all moorings (i.e., the ship drops anchor) at an offshore location in Regulated California Waters away from a port, roadstead or terminal facility (e.g., Catalina Island or off Monterey). For each port visit, the person shall deposit the fees in the port's Noncompliance Fee Settlement and Air Quality Mitigation Fund prior to leaving the California port or by a later date approved by the Executive Officer on a case-by-case basis:

(A) After January 1, 2007, each instance of a vessel stopping or anchoring at a port or offshore in Regulated California Waters shall count as one port visit, and the port visits shall be cumulative.

Table 1: Noncompliance Fee Schedule, Per Vessel

<i>Visit</i>	<i>Fee</i>	
	<i>Diesel-Electric Vessels</i>	<i>Other Vessels</i>
1 st Port Visited	\$32,500	\$13,000
2 nd Port Visited	\$65,000	\$26,000
3 rd Port Visited	\$97,500	\$39,000
4 th Port Visited	\$130,000	\$52,000
5 th or more Port Visited	\$162,500	\$65,000

(B) The fees shown in Table 1 shall be assessed by the Executive Officer at the time of the port visit. However, if for any reason the person is not notified by the Executive Officer of the assessed fee by the end of the port visit, the person shall nevertheless be responsible for payment of the appropriate fee as specified in this subsection (h) prior to leaving the California port or by a later date approved by the Executive Officer on a case-by-case basis.

(C) The Executive Officer shall enter into enforceable agreements with each port that will receive the fees. The agreements shall require that the fees be used by the ports only to fund projects that will substantially reduce emissions of diesel PM, NOx, and SOx from on-site sources, sources within 2 miles of port boundaries, or ocean-going vessels operated within the Regulated California Waters, except that the fees shall not be used to fund projects on vessels from which noncompliance fees were paid. Fees intended for ports that do not have such agreements at the time the fees are paid shall be deposited into the California Air Pollution Control Fund.

(i) Test Methods.

The following test methods or alternative test methods that are demonstrated to the written satisfaction of the Executive Officer to be equally or more accurate, shall be used to determine compliance with this section:

(1) Test methods used to determine whether fuels meet the requirements of marine gas oil (DMA or DMX) or marine diesel oil (DMB), as specified in subsection (e)(1), shall be the methods specified in International Standard ISO 8217 (as revised in 2005), which is incorporated herein by reference.

(2) The sulfur content of fuels shall be determined pursuant to International Standard ISO 8754 (as adopted in 2003), which is incorporated herein by reference.

(j) Sunset, Technology Re-evaluation, and Baseline and Test Method Review.

(1) If the Executive Officer determines that the International Maritime Organization or the United States Environmental Protection Agency have adopted regulations for auxiliary diesel engines and diesel-electric engines that will achieve equivalent or greater emission reductions from ocean-going vessels in California compared to the emission reductions resulting from this regulation, the Executive Officer shall propose to the Board for its consideration the termination of the requirements of this section or other modifications to the section as deemed appropriate by the Executive Officer.

(2) On or before July 1, 2008, the Executive Officer shall re-evaluate the feasibility of the emission limits based on using marine gas oil with no greater than 0.1 percent sulfur by weight specified in subsection (e)(1)(B). The re-evaluation shall consider, but not be limited to:

(A) the availability of 0.1 percent sulfur marine gas oil at bunkering ports worldwide;

(B) the ability of petroleum refiners and marine fuel suppliers to deliver 0.1 percent sulfur fuel by January 1, 2010;

(C) fuel lubricity;

(D) compatibility of the 0.1 percent sulfur marine gas oil with heavy fuel oil during fuel transitions; and

(E) the additional cost of 0.1 percent sulfur fuel compared to marine gas oil with other sulfur content levels.

(3) Pursuant to paragraph (2) of this subsection (j), if the Executive Officer determines that modifications to subsection (e)(1)(B) are necessary, the Executive Officer shall propose appropriate changes to the Board prior to January 1, 2009.

(4) The Executive Officer shall periodically review the California baseline determinations by the National Oceanic and Atmospheric Administration (NOAA) to determine if updates to the baseline maps incorporated by reference in this section are necessary. If modifications to the baseline maps are determined to be necessary, the Executive Officer shall conduct a public hearing as soon as practicable to amend this section accordingly.

(5) The Executive Officer shall periodically review the test methods incorporated by reference in this section to determine if updates to the referenced methods are necessary. If updates to the test methods are determined to be necessary, the Executive Officer shall conduct a public hearing as soon as practicable to amend this section accordingly.

(k) Severability.

Each part of this section shall be deemed severable, and in the event that any part of this section is held to be invalid, the remainder of this section shall continue in full force and effect.

NOTE: Authority cited: Sections 39600, 39601, 41511, 43013 and 43018, Health and Safety Code. Reference: Sections 39000, 39001, 39515, 39516, 41510, 41511, 43013, 43016 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n v. Orange County Air Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 12-6-2006; operative 12-6-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 49).
2. Change without regulatory effect amending subsections (b)(1)(G) and (d)(26)(G) filed 7-2-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 27).

Chapter 8. Clean Fuels Program

§ 2300. Definitions.

(a) The following definitions apply to Chapter 8.

(1) "Affiliate" means any person who owns or controls, is owned or controlled by, or is under common ownership and control with, another person.

(2) "CEC" means the Energy Resources, Conservation and Development Commission.

(3) "Clean alternative fuel" means any fuel used as the certification fuel in a low-emission vehicle, other than the primary gasoline or diesel fuel used in exhaust emission certification testing pursuant to the ARB's "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, or "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1961.

(4) "CNG" means compressed natural gas.

(4.3) "Compliance year" means the 12 month period running from May 1 through April 30.

(4.7) "Dedicated vehicle" means a low-emission vehicle designed and engineered to be operated solely on a clean alternative fuel, and not on gasoline or any mixture of gasoline and the clean alternative fuel.

(5) "Designated clean fuel" means any clean alternative fuel other than electricity.

(6) "Distribute" means to physically transfer from a production or importation facility and irrevocably release into commerce for use as a motor vehicle fuel in California.

(7) "Distributor" has the same meaning as defined in section 20999 of the Business and Professions Code.

(8) "Dual-fuel vehicle" means any motor vehicle that is engineered and designed to be capable of operating on gasoline, and on liquified petroleum gas, CNG or liquified natural gas.

(9) "Executive officer" means the executive officer of the Air Resources Board, or his or her designee.

(10) "Fleet operator" means, for any given calendar year, the operator in that year of fifteen or more low-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.

(10.5) "Fleet vehicle" means one of fifteen or more low-emission vehicles that are certified on a particular designated clean fuel and that are under common ownership or operation in California.

(11) "Flexible-fuel vehicle" means any alcohol-fueled motor vehicle that is engineered and designed to be operated using any gasoline-alcohol mixture or blend.

(12) "Franchise," "franchisor," and "franchisee" have the same meaning as defined in section 20999 of the Business and Professions Code.

(13) "Gasoline supplier" means any person, including affiliates of such person, who produces gasoline for use in California or imports gasoline into California.

(14) "Import" means to bring motor vehicle fuel into California for the first time for use in motor vehicles in California.

(15) "Liquid designated clean fuel" means any designated clean fuel that is dispensed into motor vehicles in liquid form.

(16) "Low-emission vehicle" means any vehicle certified to the transitional low-emission vehicle, low-emission vehicle, ultra-low-emission vehicle, super ultra-low emission vehicle, or zero-emission vehicle standards established in Title 13, California Code of Regulations, sections 1960.1 or 1961.

(17) "Major breakdown" means an unforeseeable mechanical or electrical failure of CNG dispensing equipment which cannot in the exercise of reasonable diligence be repaired in 72 hours or less.

(19) "Minor breakdown" means an unforeseeable mechanical or electrical failure of CNG dispensing equipment which can in the exercise of reasonable diligence be repaired in 72 hours or less.

(20) "Non-retail facility" means any establishment at which a designated clean fuel is supplied or offered for supply to motor vehicles, but is not supplied or offered to the general public.

(21) "Owner/lessor" means:

(A) In the case of a retail gasoline outlet which is owned, leased or controlled by a franchisor, and which the franchisee is authorized or permitted, under the franchise, to employ in connection with the sale of gasoline, the franchisor.

(B) In the case of a retail gasoline outlet which is owned, leased or controlled by a refiner or a distributor, and is operated by the refiner or distributor or his agent, the refiner or distributor.

(C) In the case of all other retail gasoline outlets, the owner of the retail gasoline outlet.

(22) "Primary designated clean fuel" means a designated clean fuel for which a substitute fuel has been proposed or designated pursuant to section 2317.

(23) "Produce" means, in the case of any liquid motor vehicle fuel, to convert in California liquid compounds which do not constitute the fuel into the fuel.

(24) "Quarter" means the three month calendar quarters January-March, April-June, July-September, and October-December.

(25) "Refiner" has the same meaning as defined in section 20999 of the Business and Professions Code.

(26) "Refinery" means a facility that produces gasoline by means that include distilling petroleum.

(27) "Selected retail clean fuel outlet" means a specific retail clean fuel outlet which is equipped to store and dispense a designated clean fuel in order to comply with section 2302.

(28) "Retail clean fuel outlet" means an establishment which is equipped to dispense a designated clean fuel to motor vehicles and at which the designated clean fuel is sold or offered for sale to the general public for use in motor vehicles without the use of a key or card key and without the need to establish an account.

(29) "Retail gasoline outlet" means any establishment at which gasoline is sold or offered for sale to the general public for use in motor vehicles.

(31) "Vehicle conversion" means a modification of a gasoline or diesel fueled vehicle, not certified to a low-emission vehicle standard, to a vehicle which uses a designated clean fuel and which is capable of meeting low-emission vehicle exhaust emissions standards as demonstrated either by installation of an ARB-approved conversion system that achieves such low-emission standards or by individual vehicle testing.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Redesignation of subchapter 8 as chapter 8 and amendment of section filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2301. Equipping Retail Gasoline Outlets in the SCAQMD to Dispense Designated Clean Fuels in 1994 through 1996.

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Repealer filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2302. Equipping Retail Gasoline Outlets or Other Outlets to Dispense Designated Clean Fuels.

(a) Any person who is the owner/lessor of an operating retail gasoline outlet shall, for each designated clean fuel, equip at least the required minimum number for each year, as determined in accordance with section 2307(d), of his or her retail gasoline outlets in the state, or of other outlets in the state, so that the outlets are retail clean fuel outlets for the designated clean fuel. The required minimum number of retail clean fuel outlets for each compliance year shall apply to the entire compliance year. The requirements of this section shall apply at all times during which a person is an owner/lessor of an operating retail gasoline outlet. The requirements of this section shall in any case be deemed satisfied with regard to a designated clean fuel if all of the owner/lessor's operating retail gasoline outlets are equipped as retail outlets for the designated clean fuel.

(b) In the case of any designated clean fuel which is in gaseous form, the dispensing equipment required by this section shall be designed for a minimum of four hours of high volume operation per day. For all retail gasoline outlets or other that are claimed by the owner/lessor to be equipped in order to satisfy the requirements of this section, the owner/lessor shall notify the operator in writing that the outlet is so equipped.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Amendment of section heading and section filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2303. Determination of Total Projected Maximum Volumes of Designated Clean Fuels.

The executive officer shall determine the total projected maximum volume of each designated clean fuel for each year, at least fourteen months before the start of the year, in accordance with this section.

(a) *Identification of designated clean fuels.* The executive officer shall determine what designated clean fuels are expected to be used as the certification fuel in low-emission vehicles in the year. This determination shall be based on registration records of the Department of Motor Vehicles and projected production estimates submitted by motor vehicle manufacturers to the executive officer pursuant to the "California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, and the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" as incorporated by reference in Title 13, California Code of Regulations, section 1961.

(b) *Estimation of number of designated clean fuel vehicles.*

(1) For each designated clean fuel identified pursuant to section 2303(a), the executive officer shall make an estimate of the number of low-emission vehicles certified on the fuel for each calendar year.

The estimate shall be the sum of: [i] the number of low-emission vehicles certified on the fuel that vehicle manufacturers have projected to be produced in the corresponding model year and the prior model year for sale in California; [ii] one-sixth of the number of low-emission vehicles certified on the fuel that vehicle manufacturers project to produce for the model year that is two years prior to the year for which the calculations are being made; and [iii] the number of low-emission vehicles certified on the fuel that are registered with the Department of Motor Vehicles through July 30 of the year two years prior to the year for which the estimates are being made.

(2) The vehicle manufacturers' projections used for the estimates made under this section 2303(b) shall be the reports of projected production data submitted by motor vehicle manufacturers to the executive officer pursuant to the "California Exhaust Emission Standards and Test Pro-

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cedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” as incorporated by reference in Title 13, California Code of Regulations, section 1960.1, or “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” as incorporated by reference in Title 13, California Code of Regulations, section 1961.

(c) *Determination of total projected maximum volumes of designated clean fuel.* For each designated clean fuel identified pursuant to section 2303(a), the executive officer shall estimate the total projected maximum volume (TPMV) of the designated clean fuel for the year. The total projected maximum volume for each designated clean fuel shall be the sum of the maximum demand volumes (MXDV) calculated by model-year and vehicle class (passenger car, light-duty truck, or medium-duty vehicle).

The following equation shall be used to calculate total projected maximum volumes:

$$TPMV = \sum_{\text{model year } (y)} \left[\sum_{\text{vehicle class } (i)} MXDV(\text{vehicle class } i, \text{model year } y) \right]$$

Where: *TPMV* is the total projected maximum volume (gasoline equivalent gallons per year for a liquid fuel and therms per year for a gaseous fuel) for a particular clean fuel.

MXDV is the maximum demand volume for a particular clean fuel within vehicle class *i* and model-year *y* as calculated in the next paragraph of text.

Model-year y is, in turn, each vehicle model-year since and including 1994.

Vehicle class i is, in turn, each of three classes of vehicles: passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Maximum demand volume for a designated clean fuel (for a given model-year and vehicle class) shall equal the number of vehicles (as determined in section 2303(b)) in a particular vehicle class certified on a particular fuel, multiplied by the average miles travelled per year per vehicle by those vehicles, divided by the average fuel economy of those vehicles.

The following equation shall be used to calculate maximum demand volumes:

MXDV

(vehicle class *i*, model year *y*) =

$$\frac{(\text{number of vehicles certified on fuel}) \times (\text{AMT per vehicle})}{(\text{average fuel economy})}$$

Where: *MXDV* is the maximum demand volume (gasoline equivalent gallons per year for a liquid fuel and therms per year for a gaseous fuel) for a particular clean fuel within vehicle class *i* and model year *y*.

Vehicle class i is one of three possible classes of vehicles—passenger cars (PC), light-duty trucks (LDT) or medium-duty vehicles (MDV).

Model-year y is, in turn, each vehicle model-year since and including 1994.

Number of vehicles certified on fuel shall be determined pursuant to section 2303(b), and shall be calculated separately for vehicles of the same model year and vehicle class (PC, LDT, MDV).

AMT per vehicle is the average vehicle miles traveled per year per low-emission vehicle, based on annual mileage accrual rates for motor vehicles for a specific model year and vehicle class derived from the current version of the ARB’s EMFAC

emission inventory model and other reasonably available relevant information.

Average fuel economy represents the estimated fuel economy in miles per gasoline equivalent gallon (mpg) (or miles per therm in the case of gaseous fuels) of low-emission vehicles of the same model year and vehicle class. The average fuel economy estimates shall be determined by the executive officer based on the fuel economy estimates provided by the vehicle manufacturers pursuant to the “California Exhaust Emission Standards and Test Procedures for 1988 Through 2000 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles” and the “California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles,” which are incorporated by reference in Title 13, California Code of Regulations, sections 1960.1 and 1961, and on other reasonably available relevant information.

(d) *Characterization of certain dual-fuel or flexible-fuel vehicles.* Any dual-fuel or flexible-fuel vehicle which is certified to meet, while operated on gasoline or diesel fuel, low-emission vehicle standards at least as stringent as the most stringent low-emission vehicle standards to which the vehicle is certified while operated on a fuel other than gasoline shall not be included in the determination pursuant to section 2303(b) of the number of low-emission vehicles certified on a designated clean fuel.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass’n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass’n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Editorial correction of Reference cite (Register 95, No. 15).
3. Amendment filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2303.5. Identification of Designated Clean Fuels Projected to Reach the Trigger Level in a Particular Year.

(a) *The trigger level requirement.*

(1) *Number of designated clean fuel vehicles necessary to trigger a retail clean fuel outlet requirement.* There shall be no retail clean fuel outlets for a designated clean fuel required in a year unless the statewide number of low-emission vehicles projected by the executive officer for that fuel in accordance with section 2303(b) is 20,000 or greater, after discounting the number of fleet vehicles by 75 percent or a smaller discount factor determined in accordance with section 2303.5(a)(2).

(2) *Reducing the discount factor for fleet vehicles.* The discount factor for fleet vehicles is intended to reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets in the year for which the trigger determination is being made. If the executive officer determines, based on the reports filed pursuant to section 2313 and on any other relevant reasonably available information, that a specified lower percentage of the clean fuel dispensed to the fleet vehicles will likely be dispensed from facilities other than retail clean fuel outlets, the executive officer shall discount the number of fleet vehicles by that specified lower percentage.

(b) *Yearly projections regarding the trigger level.* For each year, the executive officer shall identify any designated clean fuels he or she projects will for the first time be the fuel for a sufficient number of low-emission vehicles to reach the trigger level set forth in section 2303.5(a). At least sixteen months before the start of the year, the executive officer shall notify interested parties of the fuel or fuels identified, and shall make available a summary of the information and analysis relied upon, including the fleet discount factor applied. The notification shall also identify any other designated clean fuel that the executive officer projects will miss the trigger level by no more than 30 percent, with the information and analysis relied upon being made available. The notice shall be

provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(c) *Requests to revise trigger level projections.* Any interested party may request in writing that the executive officer revise the trigger determination or fleet discount factor for any designated clean fuel, and may submit any relevant information supporting a revised determination. In order to be considered by the executive officer, the written request and supporting information must be received no more than 30 days after issuance of the notice. The executive officer shall consider any requests that are timely submitted, and shall issue his or her final trigger determination and fleet discount factor no less than fourteen months before the start of the year in question.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2304. Determination of Total and Additional Number of Retail Clean Fuel Outlets Required for Each Designated Clean Fuel in Each Year.

The executive officer shall, for each designated clean fuel, determine the total number of retail clean fuel outlets required for each year, and the total number of additional retail clean fuel outlets required for the first time in the year, in accordance with this section. The executive officer shall make the determination at least fourteen months before the start of the year.

(a) *Determination of total number of retail clean fuel outlets required for each designated clean fuel in each year.* The executive officer shall determine for each designated clean fuel the total number of retail clean fuel outlets that shall be required for that designated fuel in each year, calculated as follows:

(1) *Formula for calculating required number of clean fuel outlets.*

Except as otherwise provided in this section 2304(a), the total number of clean fuel outlets that shall be required for each designated clean fuel for each year shall be calculated as follows:

Required Clean Fuel Outlets	=	Total Projected Maximum Clean Fuel Volume	-	Discounted Clean Fuel Volume for Fleet Vehicles	+	Total Clean Fuel Volume From Vehicle Conversions
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Clean Fuel Throughput Volume per Station

Where: *Total Projected Maximum Clean Fuel Volume* shall be determined in accordance with the procedures set forth in section 2303(c).

Discounted Clean Fuel Volume for Fleet Vehicles means the total volume of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) estimated to be used in fleet vehicles during the year, multiplied by the discount factor determined pursuant to section 2303.5(a) for the designated clean fuel for the year in which the retail clean fuel outlet trigger was reached. This figure shall be determined by the executive officer using the methodology in section 2303(c), the reports filed pursuant to section 2313 and any other relevant reasonably available information.

Total Clean Fuel Volume from Vehicle Conversions means the total amount of the designated clean fuel (adjusted to gasoline volumes on an energy equivalent basis) for each vehicle class from conversions. This figure shall be determined by the executive officer based on information provided by the Department of Motor Vehicles and on any other relevant reasonably available information.

Clean Fuel Throughput Volume Per Station for liquid fuel shall be 300,000 gasoline equivalent gallons per year for each designated clean fuel, except that once more than five percent of all retail gasoline outlets are required to be equipped to dispense a particular liquid clean fuel, the clean fuel throughput volume per station shall be 600,000 gasoline equivalent gallons for purposes of calculating the number of required retail clean fuel outlets in excess of five percent of all retail gasoline outlets. For gaseous fuel, the clean fuel throughput volume per station shall be 400,000 therms per year.

(2) *Executive officer adjustments to the number of required retail clean fuel outlets.*

(A) *Reducing projected clean fuel volume to reflect the volume of gasoline used in dual-fuel or flexible-fuel vehicles.* For each year, the executive officer shall determine for each designated clean fuel the percentage of the low-emission vehicles identified for the year pursuant to section 2303(b) that will be dual-fuel or flexible-fuel vehicles. The executive officer shall further determine the approximate percentage of the fuel used during the year in these dual-fuel or flexible-fuel vehicles that will be gasoline rather than the designated clean fuel and multiply that percentage by 0.85. The executive officer shall then discount the "Total Projected Maximum Clean Fuel Volume" attributed to these vehicles in the section 2304(a)(1) equation by the adjusted percentage. The determinations are to be based on the information sources identified in section 2303(a) and on any other relevant reasonably available information.

(B) *Change to the discount for fleet vehicles.* If the executive officer determines that the discount factor applied to the calculation of the Clean Fuel Volume for Fleet Vehicles in the equation in section 2304(a)(1) does not accurately reflect the approximate percentage of clean fuel that will be dispensed to the fleet vehicles from facilities other than retail clean fuel outlets projected 18 months from the start of the year for which the number of required clean fuel outlets is being determined, he or she shall revise the discount factor so that it is an accurate reflection of that percentage. The determination shall be based on reports filed pursuant to section 2313 and on any other relevant reasonably available information.

(C) *Reducing the number of required retail clean fuel outlets to reflect certain preexisting outlets.*

1. For each year, the executive officer shall determine for each designated clean fuel the number of retail clean fuel outlets that [i] are owned or leased by persons who are not owners/lessors of any retail gasoline outlets, [ii] have a design capacity as set forth in section 2302(b) where applicable, [iii] satisfy the provisions of section 2309(b), and [iv] are operating as of fifteen months before the start of the year for which the determination is being made.

2. For each year, the executive officer shall reduce the total number of required clean fuel outlets required for each designated clean fuel, as determined pursuant to sections 2304(a)(1), (a)(2)(A) and (a)(2)(B) by the number of retail clean fuel outlets determined in accordance with section 2304(a)(2)1.. The executive officer shall notify the owner/lessor of each retail clean fuel outlet included in the determinations made pursuant to this section 2304(a)(2), and no such outlet may be constructively allocated pursuant to section 2308.

(D) *Notification regarding any adjustments.* If the executive officer makes an adjustment pursuant to section 2304(a)(2)(A), (B) or (C) for a given year, he or she shall notify interested parties of the adjustment and the underlying basis for the adjustment, at least fourteen months before the start of the year. The notice shall be provided to trade associations representing gasoline refiners, distributors and retailers, representative environmental groups, and any person who has requested in writing to receive such notices.

(E) *Requests to revise the executive officer's adjustments.* Any interested party may request in writing that the executive officer revise the adjustments, and may submit any relevant information supporting revised determinations. In order to be considered by the executive officer, the written request and supporting information must be received no more than 30 days after issuance of the notice. The executive officer shall con-

sider any requests that are timely submitted, and shall issue his or her final determinations no less than twelve months before the start of the year in question. At the same time, the executive officer shall make any resulting modifications to the determinations and notifications made pursuant to sections 2304(b), 2306 and 2307.

(b) *Determination of total number of additional clean fuel outlets required each year for each designated clean fuel.* For each year, the executive officer shall determine, for each designated clean fuel, the total number of additional retail clean fuel outlets required for the first time to be in place in that year. This figure shall be determined by subtracting the total number of required retail clean fuel outlets determined in accordance with section 2304 (a) for the previous year, from the total number of required clean fuel outlets determined in accordance with 2304(a) for the previous year, from the total number of required clean fuel outlets determined in accordance with 2304(a) for the year for which the calculations are being made.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Amendment of section heading and section filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2305. Allocation Among Major Gasoline Suppliers of Additional and Total Number of Retail Clean Fuel Outlets in the SCAQMD Required for Each Designated Clean Fuel in Each Year from 1994 Through 1996.

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Editorial correction of Reference cite (Register 95, No. 15).
3. Repealer filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2306. Identification of Affected Owner/Lessors Required to Equip Additional Retail Clean Fuel Outlets Each Year.

For each year, at least fourteen months before the start of the year, the executive officer shall identify for each designated clean fuel the affected retail gasoline outlet owner/lessors who will be required to equip retail gasoline outlets or other retail outlets to dispense that fuel. An affected station owner/lessor is any person who is the owner/lessor of a number of retail gasoline outlets equal to or greater than the minimum ownership level (MOL) for the year, calculated as follows:

$$\text{Minimum Ownership Level (MOL)} = \frac{\text{Sum of the Numbers of Additional Retail Clean Fuel Outlets for All Designated Clean Fuels}}{\text{Number of Non-Clean Fuel Retail Outlets}}$$

Sum of the Numbers of Additional Retail Clean Fuel Outlets for All Designated Clean Fuels

Where: *Number of Non-Clean Fuel Retail Outlets* is calculated by subtracting the sum of the required retail clean fuel outlets determined in accordance with section 2304(a) for all designated clean fuels for the previous year, from the total number of retail gasoline outlets statewide estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.

Sum of the Numbers of Additional Retail Clean Fuel Outlets for All Designated Clean Fuels is the sum of the total additional number of clean fuel outlets calculated for the year for each designated clean fuel in accordance with section 2304(b).

The executive officer shall round the result of the calculation for minimum ownership level to the nearest integer.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference:

Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Amendment of section heading, section and NOTE filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2307. Allocation Among Affected Owner/Lessors of the Total Number of Retail Clean Fuel Outlets.

For each year, the executive officer shall, for each designated clean fuel, make the determinations set forth in this section.

(a) *Allocation among affected owner/lessors of the number of additional retail clean fuel outlets for each year.*

For each year, the executive officer shall determine the number of additional retail clean fuel outlets that each affected owner/lessor of retail gasoline outlets is required for the first time to have in place in the state. This number shall be calculated, for each designated clean fuel, by multiplying the owner/lessor's number of non-clean fuel retail gasoline outlets (determined in accordance with section 2307(b)) by the clean fuel fraction (determined in accordance with section 2307(c)), rounded to the nearest integer using conventional rounding. If the resulting number is less than zero, the number shall be adjusted to zero.

(b) *Determination of an owner/lessor's number of non-clean fuel retail gasoline outlets.* The executive officer shall determine an owner/lessor's number of non-clean fuel retail gasoline outlets by subtracting the sum of the owner/lessor's total required minimum number of retail clean fuel outlets for all designated clean fuels in the preceding year as determined pursuant to section 2307(d), from the owner/lessor's total number of retail gasoline outlets (based on reports submitted pursuant to section 2312 and other reasonably available relevant information).

(c) *Determination of clean fuel fraction.*

For each designated clean fuel, the executive officer shall calculate the clean fuel fraction for each designated clean fuel as follows:

$$\text{Clean Fuel Fraction} = \frac{\text{Total Number of Retail Clean Fuel Retail Outlets}}{\text{Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors}}$$

Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors

Where: *Total Additional Number of Retail Clean Fuel Outlets* is the total number of additional retail clean fuel outlets required for the year for the particular clean fuel in accordance with section 2304(b).

Number of Non-Clean Fuel Outlets Owned by All Affected Owner/Lessors is calculated by subtracting the sum of the required retail outlets determined in accordance with section 2304(a) for all clean fuels from the sum of the number of retail gasoline outlets owned or leased by all of the affected owners and lessors estimated by the executive officer based on the reports submitted pursuant to section 2312 and other reasonably available relevant information.

(d) *Determination of each owner/lessor's total required minimum number of retail clean fuel outlets for each clean fuel for each year.*

For each year, each owner/lessor's required minimum number of retail clean fuel outlets for each designated clean fuel in the state shall consist of the number of additional retail clean fuel outlets that the owner/lessor is required for the first time to have in place in the year as determined in accordance with section 2307(a), added to the sum of the numbers of additional retail clean fuel outlets required of the owner/lessor for the first time in each of the previous years as determined in accordance with section 2307(a). The required minimum number of an owner/lessor's retail clean fuel outlets for each designated clean fuel in a year shall not be less than the required minimum number of such outlets for the previous year, except that there shall be no required minimum number outlets for a designated clean fuel in any year for which the number of vehicles estimated by the executive officer pursuant to section 2303(b) is less than 20,000.

(e) *Notification of owner/lessors.*

At least fourteen months before the start of each year, the executive officer shall notify each affected owner/lessor in writing of the owner/lessor's required minimum number of clean fuel outlets for each designated clean fuel for the year. The written notification shall include a detailed analysis of how the number was derived.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Amendment of section heading, section and NOTE filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2308. Constructive Allocation of Retail Clean Fuel Outlets.

(a) Any owner/lessor of a retail gasoline outlet, and any person who is the owner/lessor of a retail clean fuel outlet which is not a retail gasoline outlet, may constructively allocate one or more retail clean fuel outlets to the owner/lessor of a retail gasoline outlet, for purposes of demonstrating compliance with the requirements in section 2302, as long as the requirements of this section are met.

(b) Any agreement to constructively allocate a retail clean fuel outlet pursuant to this section shall be in writing. The constructive allocation shall be in calendar year increments, and shall not cover less than one calendar year. The agreement shall be executed before the start of the first year of constructive allocation covered by the agreement.

(c) A retail clean fuel outlet may not be constructively allocated unless it meets any applicable dispensing capacity requirements set forth in section 2302(b).

(d) If the retail clean fuel outlet being constructively allocated is not a retail gasoline outlet, the person making the constructive allocation shall obtain prior approval from the executive officer. The executive officer shall approve the constructive allocation if s/he determines that the facility is adequately accessible for fueling motor vehicles by the general public with the designated clean fuel.

(e) Any person who constructively allocates a retail clean fuel outlet for a designated clean fuel shall be deemed to be the owner/lessor of that retail clean fuel outlet and shall be subject to the requirements of sections 2309(b) and (c)(1) during the period covered by the constructive allocation agreement.

(f) The owner/lessor of any retail clean fuel outlet which is constructively allocated shall notify the operator in writing that it is claimed to be equipped in order to satisfy the requirements of section 2302, as applicable.

(g) Any person who constructively allocates a retail clean fuel outlet to an owner/lessor shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The report shall be executed in California under penalty of perjury and shall contain the following information.

(1) The name, address and telephone number of the person making the constructive allocation.

(2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, the business interest in the outlet of the person making the constructive allocation, and the brand, trade, or other name under which the business at the outlet is conducted.

(3) For each constructively allocated retail clean fuel outlet, the name and address of the owner/lessor to whom the outlet was constructively allocated, and the starting and ending dates of the constructive allocation.

(4) The name of the operator of the retail clean fuel outlet.

(h) Any owner/lessor who receives a constructive allocation of a retail clean fuel outlet shall submit a report to the executive officer by January 10 of each year covered by the constructive allocation agreement. The

report shall be executed in California under penalty of perjury and shall contain the following information.

(1) The name, address and telephone number of the owner/lessor.

(2) The street address of each retail clean fuel outlet constructively allocated, the type of designated clean fuel dispensed at the outlet, and the brand, trade, or other name under which the business at the outlet is conducted.

(3) For each constructively allocated retail clean fuel outlet, the name and address of the person constructively allocating the outlet, and the starting and ending dates of the constructive allocation.

(4) A copy of the executed constructive allocation agreement.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).
2. Amendment filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2309. Responsibilities of Owner/Lessors of Selected Retail Clean Fuel Outlets.

(a) *Locations of required clean fuel outlets.*

(1) For each designated clean fuel, in determining the locations of required retail clean fuel outlets, an owner/lessor shall provide a reasonable geographical dispersion of the outlets and place the outlets in locations that are reasonably near the existing and anticipated areas of operation of low-emission vehicles that operate on the designated clean fuel, and are convenient to drivers of such vehicles. Any retail clean fuel outlet that was equipped to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy these criteria.

(2) At least eight months before the start of each year (by April 30 of the previous year), each owner/lessor who has received a notification pursuant to section 2307(e) indicating that s/he will be required to have in place additional retail clean fuel outlets for that year shall submit to the executive officer proposed locations for such outlets and optional locations equal to at least 20 percent off the proposed locations, identified by street address, ZIP code, and Universal Transverse Mercator (UTM) coordinates. The submittal shall include any outlets that are or may be constructively allocated to the owner/lessor pursuant to section 2308. Following submittal, the owner/lessor shall consult with designees of the executive officer, and with the CEC's executive officer or his or her designees, on the optimal locations for new retail clean fuel outlets.

(3) The owner/lessor shall notify the executive officer of the final locations of all new retail clean fuel outlets for the year, no later than five months before the start of the year (by July 31).

(b) *Requirements regarding facilities at selected clean fuel outlets at retail gasoline outlets.*

Each owner/lessor of a selected retail clean fuel outlet at a retail gasoline outlet shall, with respect to each such outlet:

(1) Locate the designated clean fuel dispenser(s) in a location substantially as accessible and visible to a customer entering the station as are the gasoline dispensers, and providing substantially the same convenience of ingress and egress as exists for the gasoline dispensers at the outlet; provided that any dispenser equipped prior to January 1, 1993 to dispense a designated clean fuel as part of the CEC's California Methanol Fuel Demonstration Program shall be deemed to satisfy this criterion.

(2) Ensure that the designated clean fuel dispensers are substantially as well-marked and as clearly identified as the gasoline dispensers with regard to the type of fuel.

(3) Maintain lighting which keeps the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area when the outlet operates at night.

(4) Ensure that customers using designated clean fuel dispensers will have, within the same service mode (e.g. self serve or full serve), substan-

tially the same access to services and facilities such as canopy coverage, air and water, vending, and restrooms as do customers purchasing gasoline, unless the owner/lessor has, in the preceding 12 months, demonstrated to the satisfaction of the executive officer that providing such a service or facility is prohibited by local ordinance or applicable safety codes.

(5) Prominently display directions on use of the clean fuel dispensing equipment.

(6) Maintain the designated clean fuel dispensing equipment in good operating condition.

(c) *Requirements regarding facilities at selected clean fuel outlets at which gasoline is not offered to the public.* Each owner/lessor of a selected retail clean fuel outlet at which gasoline is not offered to the public shall, with respect to each such outlet:

(1) Locate the designated clean fuel dispenser(s) in a location that is readily accessible from main streets and highways.

(2) Ensure that the designated clean fuel dispensers are available for public use during normal business hours without the use of a key or card-key.

(3) Ensure that a customer is able to pay for his or her fuel purchase without establishment of an account with the outlet owner or operator.

(4) If the outlet is operated after dark, maintain commercially reasonable lighting levels to provide user safety.

(5) Prominently display directions on use of the clean fuel dispensing equipment.

(d) *Requirements regarding supply of designated clean fuels to selected retail clean fuel outlets.*

(1) Whenever the operator of a selected retail clean fuel outlet requests that the owner/lessor of the outlet provide for the delivery, within a specified time not less than 72 hours from the request, of specified commercially reasonable quantities of the designated clean fuel to the outlet on commercially reasonable terms, the owner/lessor shall be jointly liable with the operator for any violations at the outlet of section 2310(a)(1) starting with the requested time of delivery and ending with the next delivery of commercially reasonable quantities of the clean fuel to the outlet, unless the owner/lessor does one of the following:

[i] supplies the specified quantity of designated clean fuel to the outlet, within the specified time, on commercially reasonable terms, or

[ii] identifies a third party willing to supply, within the specified time, the specified quantity of designated clean fuel to the outlet on commercially reasonable terms.

However, an owner/lessor's failure to satisfy the conditions set forth in [i] and [ii] shall not result in liability under this section if the owner/lessor demonstrates that s/he was prevented from satisfying the conditions by a natural disaster such as an earthquake or flood, an act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.

(2) Whenever an owner/lessor is required to submit a notification regarding final outlet locations to the executive officer pursuant to section 2309(a)(3), the notification shall include a description of the means by which the owner/lessor intends to comply with section 2309(c)(1). The description shall include, but need not be limited to, [i] a description of any facility that is or will be owned or leased by the owner/lessor for the production or importation of the designated clean fuel, including the throughput capacity of such facility; [ii] the identities of any third parties with whom the owner/lessor has or plans to have contracts to supply the designated clean fuel, and the minimum volumes of the designated clean fuel subject to such contracts; [iii] if the owner/lessor will not have a designated clean fuel production or import facility, or a contract for supply of the fuel, a description of the manner in which supply of the designated clean fuel will be arranged; [iv] a description, including location and capacity, of any facilities that are or will be owned or leased by the owner/lessor for the loading of the designated clean fuel into tank cars, vessels, or tank trucks; and [v] the identities of any parties with whom the owner/lessor has, or plans to have, contracts for the delivery of the designated

clean fuel to the retail clean fuel outlets, and the facilities from which such parties will make such deliveries.

(e) *Annual reports regarding compliance with section 2302.*

(1) For each calendar year, each owner/lessor who is required to equip one or more retail gasoline outlets as a retail clean fuel shall submit to the executive officer by January 10 of the year a report containing the information set forth below regarding compliance with section 2302. The information shall be categorized by each designated clean fuel. The reports shall be executed in California under penalty of perjury.

(A) The street address of each of the owner/lessor's retail gasoline outlets claimed to be equipped as a retail clean fuel outlet to satisfy the requirements of section 2302.

(B) For each such outlet, the type of designated clean fuel dispensed at the outlet, the brand, trade, or other name under which the business at the outlet is conducted, and the name of the operator of the outlet.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8-30-91; operative 9-30-91 (Register 92, No. 14).

2. Amendment filed 12-8-2000; operative 1-7-2001 (Register 2000, No. 49).

§ 2310. Responsibilities of Operators of Selected Retail Clean Fuel Outlets.

(a) The operator of a selected retail clean fuel outlet equipped to dispense gasoline shall, whenever gasoline is offered for sale at the outlet, do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:

(1) Store a commercially reasonable quantity of the designated clean fuel at the outlet and offer the fuel for sale to the public, during the same hours that gasoline is offered for sale. However, an operator shall not be liable for failure to comply with this section 2310(a)(1) if the operator demonstrates s/he was unable to comply because of a natural disaster such as an earthquake or flood, and act of war or an act by a public enemy, a civil disorder or riot, the expropriation or confiscation of facilities or property, or the operation of law.

(2) Maintain the designated clean fuel dispensing equipment in good operation conditions.

(3) Keep the designated clean fuel dispenser area substantially as well-illuminated as the gasoline dispensing area during nighttime operation.

(4) Keep the designated clean fuel dispenser area and pad substantially as clean as the gasoline dispenser area and pad.

(b) The operator of a selected retail clean fuel outlet not equipped to dispense gasoline to the general public shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:

(1) Maintain reasonable access to the clean fuel dispensing equipment.

(2) Maintain the designated clean fuel dispensing equipment in good operating condition.

(3) Provide a payment option that does not require the purchaser to establish an account with the operator.

(c) The operator of any selected retail clean fuel outlet shall do all of the following with respect to the designated clean fuel(s) that the outlet is equipped to dispense:

(1) If the designated clean fuel dispensers are at any time in a consumer self-service mode, post at all times in a conspicuous and convenient location directions illustrating the use of the dispensing equipment.

(2) Display on the premises a sign which discloses that the clean fuel outlet offers the designated clean fuel for sale, and which is clearly visible from the street or highway adjacent to the outlet, provided that the operator shall not be required to display a sign in a manner inconsistent with applicable local ordinances.

(3) Conspicuously post, on the designated clean fuel dispenser, the price of the clean fuel volume that provides the energy provided by a gallon of gasoline. This price shall be calculated for liquid fuels by multiplying the price of a volumetric gallon of the fuel by the values in the table below. In the case of CNG, the price shall be posted as 1.18 multiplied by the price of one therm of compressed natural gas.

Fuel	Price Multiplier
Gasoline	1.00
LPG	1.27
Methanol (M100)	2.08
M85	1.79
Ethanol (E100)	1.54
E85	1.43

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2311. Relief from Liability Caused by Breakdowns of CNG Dispensing Equipment.

(a) An owner/lessor or operator of a selected clean fuel outlet equipped to dispense CNG shall not be liable for violations of sections 2302, 2309(b) or 2310(a) resulting from a minor breakdown if:

(1) The owner/lessor or operator reports the breakdown to the executive officer within 4 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;

(2) The equipment is repaired as quickly as possible in the exercise of reasonable diligence, in no case in more than 72 hours;

(3) Within 12 hours of repair of the equipment, the owner/lessor or operator reports to the executive officer that the repairs have been completed, and describes the corrective measures, if any, taken to avoid breakdowns in the future; and

(4) The owner/lessor or operator is able to demonstrate that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the control of the owner/lessor or operator.

(b) An owner/lessor or operator of a selected clean fuel outlet equipped to dispense CNG shall not be liable for violations of sections 2302, 2309(b) or 2310(a) resulting from a major breakdown if the owner/lessor or operator:

(1) Reports the breakdown to the executive officer within 4 hours of the time the person knows or reasonably should know of the breakdown, including the time, location, and nature of the breakdown;

(2) Within 7 days of the breakdown, submits to the executive officer is writing a report that:

(A) Demonstrates to the reasonable satisfaction of the executive officer that the breakdown did not result from inadequate or improper maintenance, operator error, or other reasons within the reasonable control of the owner/lessor or operator; and

(B) Identifies a plan reasonably detailing how the CNG dispensing equipment will be repaired or replaced as soon as possible with the exercise of reasonable diligence, including a final completion date no later than six months following the date of the breakdown; and

(3) Completes the repair or replacement [i] by the final completion date identified in the submitted plan, or [ii] by such earlier completion date designated by the executive officer, within 14 days of receipt of the plan, as reasonably feasible based on review of the plan.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment of subsections (a) and (b) filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2311.5. Notification by Executive Officer of Reporting Obligations.

For each year starting with 2002, the executive officer shall determine whether there is a substantial possibility that the 20,000 vehicle trigger level in section 2304(a)(1) will for the first time be reached for one or more designated clean fuels. The executive officer shall identify any such designated clean fuel at least 22 months before the start of the year. The executive officer shall then take prompt and reasonable steps to provide notice of the identified fuel and applicable reporting obligations to: (1) all owner/lessors of retail gasoline outlets, (2) all fleet operators, and (3) all persons engaged in the business of distributing the identified fuel for use in motor vehicles.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2312. Reports by Owner/Lessors of Retail Gasoline Outlets.

(a) Once the executive officer has identified a designated clean fuel under section 2311.5, by July 31 of the year the identification was made and by July 31 of every year thereafter, each owner/lessor of a retail gasoline outlet shall report to the executive officer the total number of retail gasoline outlets in the state of which the person is the owner/lessor, the street address of the retail gasoline outlet, and the owner/lessor's business interest in the outlet.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2313. Reports by Fleet Operators.

Once the executive officer has identified a particular designated clean fuel under section 2311.5, every fleet operator shall, for any year in which the fleet operator reasonably expects to operate fleet vehicles certified on a designated clean fuel, supply the following information to the executive officer, at least eighteen months (by June 30) before the start of the year:

(1) The expected number of low-emission vehicles in the fleet to be operated in the year that will be certified on a designated clean fuel, categorized by designated clean fuel.

(2) The total volume of each designated clean fuel expected to be used by the vehicles in the year.

(3) The total volume of designated clean fuel expected to be supplied to the fleet operator's low-emission vehicles during the year from the fleet operator's own dispensing facilities and from facilities that are not retail clean fuel outlets.

(4) The actual vehicle miles traveled for the prior 12 month period and the estimated vehicle miles travelled for the year in question.

(5) The extent to which operations using the designated clean fuel would be expanded due to increased availability of the designated clean fuel at retail clean fuel outlets.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n.*

v. *Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2314. Reporting Requirements for Persons Who Distribute Designated Clean Fuels for Use in Motor Vehicles.

Starting with the beginning of the year after the Executive Officer the executive officer identifies a particular designated clean fuel under section 2311.5, each person who in a quarter distributes a designated clean fuel for use in motor vehicles shall, within 45 days after the end of the quarter, submit to the executive officer a report containing the following information for each designated clean fuel:

(1) The volume of the designated clean fuel that was produced by the person and that was distributed in the quarter for use in motor vehicles.

(2) The volume of the designated clean fuel that was imported by the person and that was distributed in the quarter for use in motor vehicles.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment of first paragraph filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2315. Determination of Violations

(a) Violations of section 2302.

At any time that an owner/lessor fails to have equipped the number of retail gasoline outlets required by section 2302 to be equipped to be a retail clean fuel outlet for a designated clean fuel, the owner/lessor shall be deemed to have sold or supplied gasoline to motor vehicles in violation of these regulations. For each day that the owner/lessor violates section 2302, the first ten motor vehicles fueled at one of the owner/lessor's retail gasoline outlets shall be deemed to have been unlawfully fueled for each retail gasoline outlet not equipped as required. If an owner/lessor claims to comply with the requirements of section 2302 on the basis of retail clean fuel outlets constructively allocated pursuant to section 2308, such facilities shall not satisfy the owner/lessor's obligations if the requirements in section 2308 for constructive allocation are not met.

(b) Violations of section 2309(b).

Whenever the owner/lessor of a selected retail clean fuel outlet violates section 2309(b) with respect to the outlet, the gasoline sold or supplied by the owner/lessor in violation of these regulations. For each day that the owner/lessor violates section 2309(b) with respect to a selected retail clean fuel outlet, the first five motor vehicles fueled that day at the outlet with gasoline shall be deemed to have been unlawfully fueled by the owner/lessor.

(c) Violations of section 2310.

Whenever the operator of a selected retail clean fuel outlet violates section 2310 with respect to the outlet, the gasoline sold or supplied at the outlet shall be deemed to have been sold or supplied by the operator violates section 2310, the first five motor vehicles fueled that day with gasoline at the outlet shall be deemed to have been unlawfully fueled by the operator.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43016, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment of section and NOTE filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2316. Determinations of Energy Equivalency of Fuels.

Whenever implementation of this chapter requires values for the energy contents of fuels, the lower heating values in the following table shall be used.

Fuel	Volumetric Energy Contents	
		BTUs per gallon
Gasoline		116,500
LPG		91,500
Methanol (M100)		56,500
M85		65,000
Ethanol (E100)		75,700
E85		81,800
CNG		1000 BTU/scf

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment of first paragraph filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2317. Satisfaction of Designated Clean Fuel Requirements with a Substitute Fuel.

(a) Any person may petition the state board to designate by regulation a substitute fuel which may be used instead of a primary designated clean fuel to satisfy any requirements in this chapter pertaining to a designated clean fuel. The state board shall designate such a substitute fuel if it is satisfied that the petitioner has demonstrated all of the following:

(1) That use of the fuel in low-emission vehicles certified on the primary designated clean fuel will result in emissions of NMOG (on a reactivity-adjusted basis), NOx, and CO no greater than the corresponding emissions from such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels," as adopted November 2, 1993, which is incorporated herein by reference.

(2) That use of the fuel in low-emission vehicles certified on the primary designated clean fuel will result in potential health risks from exposure to benzene, 1,3-butadiene, formaldehyde, and acetadehyde in the aggregate no greater than the corresponding potential health risks for such vehicles fueled with the primary designated clean fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating Substitute Fuels and New Clean Fuels," as adopted November 2, 1993, which is incorporated herein by reference.

(3) That if the proposed substitute fuel may be used to fuel any motor vehicle other than low-emission vehicles certified on the primary designated clean fuel:

(A) Use of the substitute fuel in such other motor vehicles would not increase emissions of NMOG (on a reactivity-adjusted basis), NOx, and CO as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating the Emission Impacts of Substitute Fuels or New Clean Fuels," as adopted November 2, 1993, which is incorporated herein by reference; and

(B) Use of the substitute fuel in such other motor vehicles would result in potential health risks from exposure to benzene, 1,3-butadiene, formaldehyde, and acetadehyde in the aggregate no greater than the corresponding potential health risk from the emissions from such vehicles when operating on their customary fuel, as determined pursuant to the procedures set forth in the "California Test Procedure for Evaluating the Emission Impacts of Substitute Fuels or New Clean Fuels," as adopted November 2, 1993, which is incorporated herein by reference; and

(C) Use of the substitute fuel in such other motor vehicles would not result in increased deterioration of the emission control system on the vehicle and would not void the warranties of any such vehicles.

(b) Whenever the state board designates a substitute fuel pursuant to this section, the state board shall also establish by regulation required specifications for the substitute fuel.

(c) Commencing with the effective date of a regulatory action of the state board designating a substitute fuel pursuant to this section, any person may satisfy his or her obligations under this chapter pertaining to a primary designated clean fuel, in whole or in part, by substituting the substitute fuel in place of the primary designated clean fuel.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 8–30–91; operative 9–30–91 (Register 92, No. 14).
2. Amendment of subsections (a)(1), (a)(2), and (a)(3)(A)–(C) filed 11–2–93; operative 12–2–93 (Register 93, No. 45).
2. Amendment of subsections (a) and (c) filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

§ 2318. Sunset for Particular Designated Clean Fuels.

This Chapter 8, shall cease to apply to a particular designated clean fuel once the number of retail clean fuel outlets offering the designated clean fuel represent at least ten percent of all retail gasoline outlets.

NOTE: Authority cited: Sections 39600, 39601, 39667, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975). Reference: Sections 39000, 39001, 39002, 39003, 39500, 39515, 39516, 39667, 43000, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Air Pollution Control District*, 14 Cal. 3d 411, 121 Cal. Rptr. 249 (1975).

HISTORY

1. New section filed 12–8–2000; operative 1–7–2001 (Register 2000, No. 49).

Employer–Based Emissions Reduction Goal =

$$\left(\begin{array}{l} \text{Average Daily} \\ \text{Peak Period Employees} \\ \text{as defined in district rules} \end{array} \right) \times \left(\frac{1}{\text{AVR Base}} - \frac{1}{\text{AVR Goal}} \right) \times \left(\begin{array}{l} \text{Annual Commute} \\ \text{Emission Factor} \end{array} \right)$$

Example: If peak employees equal 100, AVR Base is 1.2, AVR Goal is 1.5, and Annual Commute Emission Factor for Reactive Organic Gases (ROG) in 1995 is 21 lbs/year, then the Employer–Based Emissions Reduction Goal for ROG equals:

$$\left(100 \right) \times \left(\frac{1}{1.2} - \frac{1}{1.5} \right) \times \left(21 \right) = 336 \text{ lbs/year of ROG}$$

(b) The state board shall provide the districts with district–specific annual commute emission factors to be used in the emissions formula and shall periodically update these factors. The factors shall be in a format that allows for varying trip lengths.

(c) Air districts shall give employers with employment sites in more than one air district the option to use the formula as set forth in subdivision (a) of this section to determine emission reduction goals for any or all of their employment sites.

NOTE: Authority cited: Sections 39600, 39601, 40717.5(d) and 40916(c), Health and Safety Code. Reference: Sections 40717, 40717.1, 40717.5, 40916, 40918, 40919, 40920 and 40920.5, Health and Safety Code.

HISTORY

1. New section filed 12–21–95; operative 1–20–96 (Register 95, No. 51).

Subchapter 8.5. Emissions Formula for Employer–Based Trip Reductions

§ 2330. Applicability.

This subchapter shall be applicable to any air pollution control or air quality management district which adopts or amends a rule or regulation which establishes employer–based trip reduction requirements.

HISTORY

1. New subchapter 8.5 and section filed 12–21–95; operative 1–20–96 (Register 95, No. 51).

§ 2331. Definitions.

The following definitions shall apply to this subchapter:

(a) “AVR Base” is the average vehicle ridership based on the most recent survey of employees at the site or an average value provided by the air district. Employers shall have the option to choose either value.

(b) “AVR Goal” is the average vehicle ridership goal for a given year provided by the air district or implementing agency.

(c) “Annual Commute Emission Factor” is the annual emission factor, expressed in pounds per year, for a given year and pollutant based on a typical commute vehicle fleet, peak period speed distributions and temperatures, and average commute trip lengths for a given area.

HISTORY

1. New section filed 12–21–95; operative 1–20–96 (Register 95, No. 51).

§ 2332. Emissions Formula.

(a) Air pollution control districts and air quality management districts shall use the following emissions formula, or an algebraic expression of the formula which produces the same mathematical results, to determine employer–based emissions reduction goals equivalent to employer–based trip reduction goals:

Chapter 9. Off–Road Vehicles and Engines Pollution Control Devices

Article 1. Small Off–Road Engines

§ 2400. Applicability.

(a)(1) This article applies to small off–road engines produced on or after January 1, 1995 and any equipment produced on or after January 1, 1995 that uses such engines.

(2) Every new small off–road engine that is manufactured for sale, sold, or offered for sale in California, or that is introduced, delivered or imported into California for introduction into commerce, and that is sub-

ject to any of the standards prescribed in this article must be covered by an Executive Order, issued pursuant to this article.

(3) This article does not apply to compression-ignition engines, as defined in Section 2421, below 25 horsepower, produced during the 2000 and later model years or any equipment that uses such engines produced during the 2000 and later model years.

(4) This article may apply to zero-emission small off-road equipment.

(b) Each part of this article is severable, and in the event that any part of this article is held to be invalid, the remainder of this article remains in full force and effect.

(c)(1) For purposes of this article, military tactical vehicles or equipment means vehicles or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(2) This article shall not apply to engines used in off-road military tactical vehicles or equipment which have been exempted from regulations under the federal national security exemption, 40 CFR, subpart J, section 90.908. It shall also not apply to those vehicles and equipment covered by the definition of military tactical vehicle that are commercially available and for which a federal certificate of conformity has been issued under 40 CFR Part 90, subpart B.

(3) On January 1, 1997, the U.S. Department of Defense shall submit to the ARB a list of all vehicle and equipment types that are exempted under the above provisions and which are located in the State of California. If any additional vehicle and equipment types are added to the list during the previous 12 months, the U.S. Department of Defense shall update the list and submit it to the ARB by January 1 of the following year.

NOTE: Information regarding authorization to adopt regulations that are included in this chapter for nonpreempted nonroad vehicles or engines pursuant to section 209(e) of the federal Clean Air Act (42 U.S.C. 7543(e)) may be obtained from the Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of subsection (a)(1) and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect amending article heading, subsections (a)(1) and (b) and NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment of subsections (a)(1)-(2) filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. New subsections (c)(1)-(c)(3) filed 7-3-96; operative 7-3-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 27).
6. Amendment of article heading, section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
7. Amendment of subsection (a)(2) and new subsection (a)(3) filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
8. Amendment of subsection (a)(1) and new subsection (a)(4) filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2401. Definitions.

(a) The definitions in Section 1900 (b), Chapter 1, Title 13 of the California Code of Regulations, apply with the following additions:

(1) "ARB Enforcement Officer" means any officer or employee of the Air Resources Board so designated in writing by the Executive Officer or by the Executive Officer's designee.

(2) "Assembly-line tests" are those tests or inspections that are performed on or at the end of the assembly-line.

(3) "Averaging" means the exchange of emission credits among engine families within a given manufacturer's product line.

(4) "Banking" means the retention of small off-road engine emission credits by the manufacturer generating the emission credits for use in future model year averaging or trading as permitted by these regulations.

(5) "Basic engine" means an engine manufacturer's unique combination of engine displacement, number of cylinders, fuel system, emission control system and other engine and emission control system characteristics specified by the Executive Officer.

(6) "Calendar year" is the twelve month period commencing on January 1 through December 31.

(7) "Certification emission reduction credits" means the amount of emission reduction or exceedance, by an engine family, below or above the applicable HC+NO_x (or NMHC+NO_x, as applicable) or Particulate Matter emission standard, respectively. Family emission levels (FEL) below the standard create "positive credits," while FELs above the standard create "negative credits." Some or all of these credits may be revoked if the Executive Officer's review of the end-of-year reports or any subsequent audit action(s) reveals problems or errors of any nature with credit computations.

(A) "Projected credits" refer to emission credits based on the projected applicable production/sales volume of the engine family.

(B) "Reserved credits" are emission credits generated within a model year available for reporting to the Executive Officer at the end of the model year.

(C) "Actual credits" refer to emission credits based on California's share, determined by market analysis, of actual federal production/sales volume as contained in the end-of-year reports submitted to the Executive Officer.

(8) "Certification value" means the product of the measured emissions of the prototype engine at zero hours and the (calculated or assigned) deterioration factor.

(9) "Blue Sky Series engine" means a small off-road engine meeting the requirements of Section 2403(b)(2)(A).

(10) "Complete engine assembly" or "Engine configuration" means an assembly of a basic engine and all of the specific applicable components (e.g., air inlet, fuel and exhaust systems, etc.) and calibrations (e.g., carburetor jet size, valve timing, etc.) required for the assembly to be installed into a new unit of equipment.

(11) "Crankcase emissions" means airborne substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

(12) "Deterioration factor" means the calculated or assigned number that represents the certification engine's emissions change over the durability period. It is multiplied by zero hour (new) engine test results to determine the engine family compliance level. The deterioration factor is determined as per Part II, Section 3 of the 1995-2004 Test Procedures and Subpart B, Section 90.104 of the 2005 and Later Test Procedures. See "Emissions Durability Period," below.

(13) "Emission control system" includes any component, group of components, or engine modification that controls or causes the reduction of substances emitted from an engine.

(14) "Emissions durability period" is the period that represents an engine's useful life. The emissions durability period is selected from the choices listed in Part II, Section 1 of the 1995-2004 Test Procedures and Subpart B, Section 90.104 of the 2005 and Later Test Procedures. The durability periods are also noted in the table in section 2403(b). The emissions durability period is used to determine an engine family's deterioration factors and in the calculation of certification and production emission reduction credits.

(15) "Emissions durability values" means emissions from an engine that has accumulated service equivalent to that engine's emissions durability period, or the result of the product of the zero hour (new) engine test results and the appropriate deterioration factor (e.g., the certification values). The Executive Officer must approve the methods of service accumulation before the manufacturer begins service accumulation.

(16) "Emission-related defect" means a defect in design, materials, or workmanship in a device, system, or assembly described in the approved application for certification which affects any applicable parameter, specification, or component enumerated in Appendix A to Article 2.1, Chapter 2, Division 3, Title 13, California Code of Regulations or listed in the Emission Warranty Parts List pursuant to section 2405(d).

(17) "End of assembly-line" is defined as that place where the final inspection test or production line test is performed.

(18) "Engine family" is a subclass of a basic engine based on similar emission characteristics. The engine family is the grouping of engines that is used for the purposes of certification.

(19) "Engine family name" means a multi-character alphanumeric sequence that represents certain specific and general information about an engine family.

(20) "Engine manufacturer" means the manufacturer granted certification.

(21) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust port of an engine.

(22) "Extreme nonattainment area" means any area classified as an extreme ozone nonattainment area by the U.S. Environmental Protection Agency pursuant to Section 181(a) of the Clean Air Act, as amended, including Orange County and the portions of Los Angeles, San Bernardino and Riverside Counties described as extreme ozone nonattainment areas in Title 40, section 81.305 of the Code of Federal Regulations.

(23) "Family emission level" or "FEL" means an emission level that is declared by the manufacturer to serve for the averaging, banking, and trading program and in lieu of an emission standard for certification. The FEL serves as the engine family's emission standard for emissions compliance efforts. If the manufacturer does not declare an FEL for an engine family, the applicable emissions standard must be treated as that engine family's FEL for the purposes of any provision of this Article.

(24) "Final calendar quarter production" is defined as the calendar quarter in which the production of an engine family ends.

(25) "First calendar quarter production" is defined as the calendar quarter in which the production of an engine family begins.

(26) "Fuel system" means the combination of any of the following components: fuel tank, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, or all fuel system vents.

(27) "Gross engine malfunction" is defined as one yielding an emission value greater than the sum of the mean plus three (3) times the standard deviation. This definition shall apply only for determination of control limits.

(28) "Horizontal-shaft engine" means any engine that is designed to operate with the axis of the crankshaft in a horizontal position.

(29) "Incomplete engine assembly" means a basic engine assembly that does not include all of the components necessary for designation as a complete engine assembly, and is marketed in order to be a part of, and assembled into, a new unit of equipment that is marketed to ultimate purchasers.

(30) "Model year" means the manufacturer's annual production period that includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.

(31) "Off-road vehicle" or "Off-road equipment" means any non-stationary device, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power, and used in, but not limited to, any of the following applications: Marine Vessels, Construction/Farm Equipment, Locomotives, Small Off-Road Engines, Off-Road Motorcycles, and Off-Highway Recreational Vehicles.

(32) "Point of first retail sale" means the point that the engine is first sold directly to the ultimate purchaser. Generally, this point is the retail engine or equipment dealer. If the engine is sold first to an equipment manufacturer for installation in a piece of equipment, the equipment manufacturer is the point of first retail sale if the equipment manufacturer

cannot demonstrate to a reasonable certainty that the engine will be exported or destined for retail sale outside California.

(33) "Production emission reduction credits" means the amount of emission reduction or exceedance by an engine family below or above, respectively, the applicable FEL to which the engine family is certified. Emission reductions below the standard are considered "positive credits," while emission exceedances above the standard are considered "negative or required credits." (See Section 2409.)

(34) "Production line test" is defined as the emissions test performed on a sample of production engines produced for sale in California and conducted according to the Emissions Standards and Test Procedures specified in Section 2403(b) and (d).

(35) "Sales" or "Eligible sales" means the actual or calculated sales of an engine family in California for the purposes of averaging, banking or trading. Upon Executive Officer approval, an engine manufacturer may calculate its eligible sales through market analysis of actual federal production or sales volume. Actual sales are sales calculated at the end of a model year based on that model year's production, rather than on estimates of production.

(36) "Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the engine manufacturer that is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(37) "Small off-road engine" means any engine that produces a gross horsepower less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), or is designed (e.g., through fuel feed, valve timing, etc.) to produce less than 25 horsepower (at or below 19 kilowatts for 2005 and later model year), that is not used to propel a licensed on-road motor vehicle, an off-road motorcycle, an all-terrain vehicle, a marine vessel, a snowmobile, a model airplane, a model car, or a model boat. If an engine family has models below 25 horsepower (at or below 19 kilowatts) and models at or above 25 horsepower (above 19 kilowatts), only the models under 25 horsepower (at or below 19 kilowatts) would be considered small off-road engines. Uses for small off-road engines include, but are not limited to, applications such as lawn mowers, weed trimmers, chain saws, golf carts, specialty vehicles, generators and pumps. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category. Any compression-ignition engine, as defined in Section 2421, produced during the 2000 and later model years shall not be defined as a small off-road engine.

(38) "Small off-road equipment" means any off-road equipment powered by a small off-road engine, or comparable electric motor or other power source.

(39) "Third-party distributor" is a party that is not an engine or equipment manufacturer, and that engages in wholesale or retail sales of complete or incomplete small off-road engine assemblies.

(40) "Trading" means the exchange of small off-road engine emission credits between manufacturers.

(41) "Ultimate purchaser" means the first person who in good faith purchases a new small off-road engine or equipment using such an engine for purposes other than resale.

(42) "Unscheduled maintenance" means any inspection, adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems that is performed to correct or diagnose a part failure that was not anticipated.

(43) "Vertical-shaft engine" means any engine that is designed to operate with the axis of the crankshaft in a vertical position.

(44) "Warrantable condition" means any condition of an engine that requires the manufacturer to take corrective action pursuant to Section 2405.

(45) "Warranted part" means any emissions-related part installed on an engine by the equipment or engine manufacturer, or installed in a warranty repair, that is listed on the warranty parts list.

(46) "Warranty period" means the period of time that the engine or part is covered by the warranty provisions.

(47) "Warranty station" means a service facility authorized by the equipment or engine manufacturer to perform warranty repairs. This includes all manufacturer distribution centers that are franchised to service the subject equipment or engines.

(48) "Zero-emission small off-road equipment" means any small off-road equipment that produces zero emissions of any criteria pollutant (or precursor pollutant) under any and all possible operational modes and conditions.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 45205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
6. Amendment of subsection (a)(35) and amendment of NOTE filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).

ister 2000, No. 52).

7. Amendment filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2402. Test Procedures.

Test procedures referred to in this chapter may be obtained from the California Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Repealer of NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment of NOTE filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

§ 2403. Exhaust Emission Standards and Test Procedures—Small Off-Road Engines.

(a) This section applies to small off-road engines produced on or after January 1, 1995.

(b)(1) Exhaust emissions from small off-road engines manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce, must not exceed:

Exhaust Emission Standards
grams per brake horsepower-hour
[grams per kilowatt-hour]

Calendar Year	Engine Class ⁽¹⁾	Hydrocarbon plus Oxides of Nitrogen ⁽²⁾	Hydrocarbon ⁽²⁾	Carbon Monoxide	Oxides of Nitrogen	Particulate
1995	I	12.0	—	300	—	0.9 ⁽³⁾
	II	10.0	—	300	—	0.9 ⁽³⁾
	III ⁽⁴⁾	—	220	600	4.0	—
	IV ⁽⁴⁾	—	180	600	4.0	—
	V ⁽⁴⁾	—	120	300	4.0	—
1996 to 1999	I	12.0 ⁽⁵⁾	—	350	—	0.9 ⁽³⁾
	II	10.0 ⁽⁵⁾	—	350	—	0.9 ⁽³⁾
	III ⁽⁴⁾	—	220 ⁽⁵⁾	600	4.0 ⁽⁵⁾	—
	IV ⁽⁴⁾	—	180 ⁽⁵⁾	600	4.0 ⁽⁵⁾	—
	V ⁽⁴⁾	—	120 ⁽⁵⁾	300	4.0 ⁽⁵⁾	—

Exhaust Emission Standards for Spark-Ignition Engines
grams per brake horsepower-hour
[grams per kilowatt-hour]

Model Year	Engine Class	Durability Periods (hours)	Hydrocarbon plus Oxides of Nitrogen ⁽²⁾	Carbon Monoxide	Particulate
2000-2001 ⁽⁵⁾	0-65 cc, inclusive	50/125/300	54 [72]	400 [536]	1.5 ⁽⁴⁾ [2.0]
	>65 cc - <225 cc	N/A	12.0 [16.1]	350 [467]	—
	≥225 cc	N/A	10.0 [13.4]	350 [467]	—
	≥225 cc	50/125/300	54 [72]	400 [536]	1.5 ⁽⁴⁾ [2.0]
2002-2004 ⁽⁵⁾	0-65 cc, inclusive	125/250/500	12.0 [16.1]	410 [549]	—
	>65 cc - <225 cc	NA	12.0 [16.1]	350 [467]	—
	Horizontal-Shaft Engine	125/250/500	9.0 [12.0]	410 [549]	—
	>65 cc - <225 cc	NA	12.0 [16.1]	350 [467]	—
	Vertical-Shaft Engine	125/250/500	9.0 [12.0]	410 [549]	—

Exhaust Emission Standards for Spark-Ignition Engines
grams per kilowatt-hour

<i>Model Year</i>	<i>Displacement Category</i>	<i>Durability Periods (hours)</i>	<i>Hydrocarbon plus Oxides of Nitrogen⁽²⁾⁽⁶⁾</i>	<i>Carbon Monoxide</i>	<i>Particulate</i>
2005 and subsequent	<50cc	50/125/300	50	536	2.0 ⁽⁴⁾
	50–80 cc, inclusive	50/125/300	72	536	2.0 ⁽⁴⁾
2005	>80 cc – <225cc	125/250/500	16.1	549	
	Horizontal-shaft Engine				
	>80 cc – <225cc	NA	16.1	467	
	Vertical-shaft Engine				
2006	>80 cc – <225 cc	125/250/500	16.1	549	
	≥225 cc	125/250/500	12.1	549	
	>80 cc – <225 cc	125/250/500	10.0	549	
	≥225 cc	125/250/500	12.1	549	
2007	>80 cc – <225 cc	125/250/500	10.0	549	
	≥225 cc	125/250/500	12.1	549	
2008 and subsequent	>80 cc – <225cc	125/250/500	10.0	549	
	≥225 cc	125/250/500/1000	8.0	549	

(1) “Class I” means small off-road engines greater than 65 cc to less than 225 cc in displacement.

“Class II” means small off-road engines greater than or equal to 225 cc in displacement.

“Class III” means small off-road engines less than 20 cc in displacement.

“Class IV” means small off-road engines 20 cc to less than 50 cc in displacement.

“Class V” means small off-road engines greater than or equal to 50 cc to 65 cc in displacement.

(2) The Executive Officer may allow gaseous-fueled (i.e., propane, natural gas) engine families, that satisfy the requirements of the regulations, to certify to either the hydrocarbon plus oxides of nitrogen or hydrocarbon emission standard, as applicable, on the basis of the non-methane hydrocarbon (NMHC) portion of the total hydrocarbon emissions.

(3) Applicable to all diesel-cycle engines.

(4) Applicable to all two-stroke engines.

(5) Engines used exclusively in snowthrowers and ice augers need not certify to or comply with the HC and NO_x standards or the crankcase requirements at the option of the manufacturer.

(6) Engines used exclusively to power products which are used exclusively in wintertime, such as snowthrowers and ice augers, at the option of the engine manufacturer, need not certify to or comply with standards regulating emissions of HC+NO_x or NMHC+NO_x, as applicable. If the manufacturer exercises the option to certify to standards regulating such emissions, such engines must meet such standards. If the engine is to be used in any equipment or vehicle other than an exclusively wintertime product such as a snowthrower or ice auger, it must be certified to the applicable standard regulating emissions of HC+NO_x or NMHC+NO_x as applicable.

(2) Low-emitting Blue Sky Series engine requirements.

Voluntary standards. Engines may be designated “Blue Sky Series” engines by meeting:

(A) All applicable requirements of this Article, and

(B) The following voluntary exhaust emission standards, which apply to all certification and compliance testing. Blue Sky Series engines shall not be included in the averaging, banking, and trading program. Zero-

emission small off-road equipment may certify to the Blue Sky Series emission standards. Manufacturers of zero-emission small off-road equipment are not required to perform emissions testing, but must file an application of certification and comply with the administrative requirements outlined in the 2005 and Later Test Procedures to certify their equipment for sale in California.

Voluntary Emission Standards
(grams per kilowatt-hour)

<i>Model Year</i>	<i>Displacement Category</i>	<i>Hydrocarbon plus Oxides of Nitrogen</i>	<i>Carbon Monoxide</i>	<i>Particulate*</i>
2005 and subsequent	<50 cc	25	536	2.0
	50–80 cc, inclusive	36	536	2.0
2007 and subsequent	>80 cc – <225 cc	5.0	549	
2008 and subsequent	≥225 cc	4.0	549	

* Applicable to all two-stroke engines

(3) Evaporative emission requirements for small off-road engines are specified in Title 13, Chapter 15, Article 1.

(c)(1) For the 2000 through 2006 model years, manufacturers of small spark-ignited off-road engines between 65 and 225 cc displacement that are manufactured for sale, offered for sale, or sold in any extreme non-attainment area, or introduced, delivered or imported into any such extreme non-attainment area for sale to an ultimate purchaser in an extreme non-attainment area, and that are produced by manufacturers who produce more than 40,000 engines per year between 65 and 225 cc for sale in such areas (based on data for engines produced for sale in such areas in model year 1998), must meet the additional requirements of this subsection and achieve the additional emission reductions in subparagraph (3).

(2) No later than May 1, 1999, each manufacturer subject to this subsection shall submit a plan to achieve additional emission reductions. The plan shall include the following:

(A) An identification of the specific measures from subparagraph (4) that the manufacturer intends to implement in the extreme nonattainment areas, including but not limited to identification of engine families that in model years 2000 and 2001 will meet the exhaust emissions reduction requirements of subsection (b) for 2002 and subsequent model years prior to required implementation, and the projected sales volumes of such engine families in the extreme nonattainment areas;

(B) Data documenting the emissions performance of engines included in the plan when operated on fuels meeting the requirements of Chapter

5, Article 1, subarticle 2 of this Title applicable in the extreme nonattainment areas; and

(C) A description of the provisions made by the manufacturer to assure that all engines offered for sale or sold in the extreme nonattainment areas (or introduced, delivered or imported into the extreme nonattainment areas for sale to an ultimate purchaser in that area) will meet the requirements of the plan, including but not limited to a description of the methods to be used to determine actual sales of engines in the extreme nonattainment areas; provided, that in the case of manufacturers that maintain data on actual or projected Statewide engine sales, the Executive Officer may approve provisions that demonstrate compliance with the plan on a Statewide basis.

(3) The plans submitted under this subsection shall in the aggregate provide for emissions reductions and controls by or from the group of engines produced by the submitting manufacturers that are equal to or greater than the difference between: 1) reductions that would have been achieved in the extreme nonattainment areas in calendar years 2000, 2001, 2005 and 2010 by all manufacturers of engines greater than 65 cc displacement that would have met the emissions reduction requirements proposed in the staff report contained in Mail-Out MSC-98-02 released February 6, 1998; and 2) those same engines meeting the requirements of subsection (b). The Executive Officer shall determine whether a plan meets this requirement based on the estimated model year 1998 sales in the extreme nonattainment areas available at time of plan submission by manufacturers covered by this subsection, and using a proportional allocation between such manufacturers based upon such estimated sales.

(4) The manufacturer's plan shall achieve additional emission reductions or controls through one or more of the following measures:

(A) The certification and introduction of engines greater than 65 cc meeting the standards in subsection (b) before the applicable model year;

(B) The voluntary certification of engines not subject to emission reductions requirements of the ARB due to preemption under section 222 of U.S. Public Law No. 101-549. A manufacturer choosing voluntarily to certify an engine shall also certify that it will honor all compliance and warranty requirements set forth in the provisions of this Title for that engine;

(C) The certification of engines to Family Emission Levels below the standards in subsection (b), or of engines that otherwise generate emissions credits under section 2408 of this Article and that are not used for any other purpose;

(D) The certification of engines to useful life periods longer than the maximum requirements set forth in subsection (b);

(E) The introduction of engines that achieve in-use reductions in engine evaporative emissions demonstrated by procedures acceptable to the Executive Officer;

(F) The use of emission credits generated by the manufacturer pursuant to section 2409 of this Article and that are not used for any other purpose; and

(G) Other measures approved in advance by the Executive Officer.

(5) The plan shall also demonstrate that at least 60 percent of engines greater than 65 cc sold in extreme nonattainment areas comply in model years 2000 and 2001 with the standards in subsection (b) applicable to the 2006 model year. The percentage shall be calculated based on the total projected sales by all manufacturers of engines greater than 65 cc in the extreme nonattainment areas in those model years, and shall be proportionally allocated between the manufacturers subject to this subsection.

(6) The provisions of this subsection are not applicable to engines offered for sale or sold outside an extreme nonattainment area, or introduced, delivered or imported into an extreme nonattainment area for sale to an ultimate purchaser outside an extreme nonattainment area.

(7) The Executive Officer shall determine if a plan timely submitted under this subsection meets the requirements of this subsection no later than June 1, 1999. The Executive Officer shall not issue any executive orders for individual engine families subject to the plan until the plan is approved. The manufacturer shall submit annual reports to the Executive

Officer demonstrating compliance with the plan approved by the Executive Officer and may, at its discretion, propose revisions to its plan on an annual basis. If, on the basis of information contained in a manufacturer's annual report or any other information, the Executive Officer finds that the manufacturer is not in compliance with an approved plan, the Executive Officer may direct the manufacturer to submit a revised plan; *provided*, that no such revision shall be required solely as a result of gain or loss in market share in the extreme nonattainment areas during the period while this subsection remains in effect. The Executive Officer shall act upon any proposed revision of a plan within 30 days of receipt. Pending approval of a revised plan, the Executive Officer shall not issue any Executive Orders for individual engine families subject to the revised plan. These actions of the Executive Officer are in addition to any remedies available under this Article or Part 5 of Division 26 of the Health & Safety Code.

(d) The test procedures for determining compliance with the standards for exhaust emissions from new small off-road engines are set forth in "California Exhaust Emission Standards and Test Procedures for 1995-2004 Small Off-Road Engines," adopted March 20, 1992, and last amended July 26, 2004 or "California Exhaust Emission Standards and Test Procedures for 2005 and Later Small Off-Road Engines," adopted July 26, 2004, as applicable, which is incorporated herein by reference.

(e) Averaging. For new 2000 and subsequent model year small off-road engines, a manufacturer may comply with the standards established in paragraph (b), above, by choosing either to certify an engine family to the standards or to use the corporate average described below.

(1) For each model year, the corporate average value for a pollutant is defined by the following equation:

$$\frac{\sum_{j=1}^n (\text{FEL}_j) (\text{Sales}_j \text{ Power}_j) (\text{Load Factor}) (\text{EDP}_j) - \text{credits expended}}{\sum_{j=1}^n (\text{Sales}_j \text{ Power}_j) (\text{Load Factor}) (\text{EDP}_j)} = \text{AVG}$$

where n = the number of small off-road engine families.

FEL = the Family emission level for an engine family.

Sales_j = eligible sales of engine family j.

Power_j = sales-weighted maximum modal power, in horsepower or kilowatt as applicable, of engine family j, or an alternative approved by the Executive Officer.

EDP_j = Emissions durability period of engine family j.

AVG = For a given pollutant (HC+NO_x, CO, or Particulate Matter), a manufacturer's corporate average of the exhaust emissions from those California small off-road engines subject to the California corporate average pollutant exhaust emission standard, as established by an Executive Order certifying the California production for the model year. Engines certified to voluntary standards of 2403(b)(2) are not eligible for corporate averaging.

Credits expended = HC+NO_x or Particulate Matter credits, as defined in Sections 2408 and 2409, that are expended by the manufacturer to adjust the corporate average. This term has no meaning for any pollutants other than HC+NO_x and Particulate Matter.

Load Factor = For Test Cycle A and Test Cycle B, the Load Factor = 47% (i.e., 0.47). For Test Cycle C, the Load Factor = 85% (i.e., 0.85). For approved alternate test procedures, the load factor must be calculated according to the Load Factor formula found in paragraph (f)(1) of section 2408.

(2) The manufacturer's average pollutant exhaust emissions must meet the corporate average standard at the end of the manufacturer's production for the model year. At the end of the model year, the manufacturer must calculate a corrected corporate average using actual rather than projected sales. Any discrepancy must be made up with emission reduction credits as explained in paragraph (3).

(3) All excess HC+NO_x or Particulate Matter emissions resulting from final non-compliance with the California standard must be made up with emission reduction credits or through incorporation in the following model year's corporate average.

(A) Emission reduction credits expended within the next model year to remedy final non-compliance will be used at a rate of 1 gram to 1 gram.

(B) Emission reduction credits expended after the end of the next model year to remedy final non-compliance must be used at a rate of 1.5 grams to 1 gram.

(f) In 1995 and subsequent years, fire and police departments, and other entities that specialize in emergency response may purchase emergency equipment powered by a non-California certified engine only when such equipment with a California-certified engine is not available. For purposes of this section, a request to purchase emergency equipment powered by a non-California certified engine must be submitted for approval to the Executive Officer.

(g)(1) No new engines below 225 cc may be produced for sale to replace pre-1995 model equipment after January 1, 1999, unless such new engines comply with the 1995 model emission standards.

(2)(A) A new small off-road engine equal to or greater than 225 cc, intended solely to replace an engine in a piece of off-road equipment that was originally produced with an engine manufactured prior to the applicable implementation date as described in paragraph (b), shall not be subject to the emissions requirements of paragraph (b) provided that:

1. The engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this article, is available with the appropriate physical or performance characteristics to repower the equipment; and

2. Unless an alternative control mechanism is approved in advance by the Executive Officer, the engine manufacturer or its agent takes ownership and possession of the engine being replaced; and

3. The replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Executive Officer:

THIS ENGINE DOES NOT COMPLY WITH CALIFORNIA OFF-ROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE IN AN OFF-ROAD VEHICLE OR PIECE OF OFF-ROAD EQUIPMENT WHOSE ORIGINAL ENGINE WAS NOT CERTIFIED IS A VIOLATION OF CALIFORNIA LAW SUBJECT TO CIVIL PENALTY.

(B) At the beginning of each model year, the manufacturer of replacement engines must provide, by engine model, an estimate of the number of replacement engines it expects to produce for California for that model year.

(C) At the conclusion of the model year, the manufacturer must provide, by engine model, the actual number of replacement engines produced for California during the model year, and a description of the physical or performance characteristics of those models that indicate that certified replacement engine(s) were not available as per paragraph (A).

(h) Any new equipment engine certified to comply with California emission standards and test procedures for on-road or other off-road applications may, upon approval by the Executive Officer, be in compliance with these regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of subsections (a), (b), (b)(4)(ii), (c), (d), (e) and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect repealing article heading and amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment of subsection (c) filed 10-18-94; operative 10-18-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).

5. Amendment filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
6. Amendment of subsections (b) and (c) filed 8-29-96; operative 8-29-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 35).
7. Editorial correction of Table and subsection (f) (Register 97, No. 8).
8. Amendment of Table and new subsection (b)(6) filed 2-20-97; operative 2-20-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 8).
9. Amendment of section heading, section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
10. Change without regulatory effect amending subsection (c)(7) filed 7-7-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 28).
11. Amendment of table contained within subsection (b) and amendment of subsection (d) filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
12. Amendment filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2404. Emission Control Labels and Consumer Information — 1995 and Later Small Off-Road Engines.

(a) Purpose. The Air Resources Board recognizes that certain emissions-critical or emissions-related parts must be properly identified and maintained in order for engines to meet the applicable emission standards. In addition, the Board recognizes that information regarding engines' emissions levels may influence consumer choice. These specifications require engine or equipment manufacturers to affix a label (or labels) on each production engine (or equipment, as applicable) to provide the engine or equipment owner and service mechanic with information necessary for the proper maintenance of these parts in customer use. These specifications further require engine or equipment manufacturers to make information regarding relative emissions levels available to potential ultimate purchasers. For engines used in auxiliary power systems which, in turn, are used to comply with the diesel-fueled commercial vehicle idling requirements of title 13, CCR, section 2485(c)(3)(A), additional labeling requirements for the engine or equipment manufacturers apply, as set forth in section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(b) Applicability. These specifications apply to

(1) 1995 and later small off-road engines, that have been certified to the applicable emission standards pursuant to Health and Safety Code Section 43013.

(2) Engine manufacturers and original equipment manufacturers, as applicable, that have certified such engines; and

(3) Original equipment manufacturers, regardless of whether they have certified the engine, if their equipment obscures the emissions control label of such certified engines.

(c) Engine Label Content and Location.

(1) A plastic or metal tune-up label must be welded, riveted or otherwise permanently attached by the engine manufacturer to an area on the engine (i.e., block or crankcase) in such a way that it will be readily visible to the average person after installation of the engine in the equipment. If such an attachment is not feasible, the Executive Officer may allow the label to be attached on components of the engine or equipment assembly (as applicable) that satisfy the requirements of Subsection (c)(2). Such labels must be attached on all engine assemblies (incomplete and complete) that are produced by an engine manufacturer.

(2) In selecting an acceptable location, the engine manufacturer must consider the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). Each engine label(s) must be affixed in such a manner that it cannot be removed without destroying or defacing the label, and must not be affixed to any engine (or equipment, as applicable) part that is likely to be replaced during the engine's (or equipment's, as applicable) useful life. The engine label must not be affixed to any engine (or equipment, as applicable) component that is easily detached from the engine. If the manufacturer claims there is in-

adequate space to affix the label, the Executive Officer will determine a suitable location.

(3) The engine label information must be written in the English language and use block letters and numerals (i.e., sans serif, upper-case characters) that must be of a color that contrasts with the background of the label.

(4) The engine label must contain the following information:

(A) The label heading must read: "IMPORTANT ENGINE INFORMATION" or "IMPORTANT EMISSION INFORMATION."

(B) The full corporate name or trademark of the engine manufacturer.

1. An engine manufacturer may request the Executive Officer's approval to delete its name and trademark, and substitute the name and trademark of another engine manufacturer, original equipment manufacturer, or third-party distributor.

2. Such an approval does not relieve the engine manufacturer granted an engine family Executive Order of any requirements imposed on the applicable engines by this Article.

(C) For alternate-fuel or dual-fuel engines, "THIS ENGINE IS CERTIFIED TO OPERATE ON (specify operating fuel(s))."

(D) Identification of the Exhaust Emission Control System. The method utilized to identify the exhaust emission control systems must conform to the emission-related nomenclature and abbreviations method provided in the Society of Automotive Engineers' recommended practice J1930, "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations and Acronyms—Equivalent to ISO/TR 15031-2: April 30, 2002", April 2002; and as specified in Section 1977, Title 13, California Code of Regulations.

(E) For otto-cycle engines, the maintenance specifications and adjustments recommended by the engine manufacturer, including, as applicable: valve lash, ignition timing, idle air/fuel mixture setting procedure and value (e.g., idle CO, idle speed drop), and high idle speed. For diesel-cycle engines, the specifications and adjustments recommended by the engine manufacturer, including, as applicable: initial injection timing, and fuel rate (in mm³/stroke) at rated power. These specifications must indicate the proper transmission position, (if applicable), during tune-up and what accessories, if any, should be in operation, and what systems, if any (e.g., vacuum advance, air pump), should be disconnected during the tune-up. If the engine manufacturer does not recommend adjustment of the foregoing specifications, the engine manufacturer may include in lieu of the "specifications" the single statement "NO OTHER ADJUSTMENTS NEEDED." For all engines, the instructions for tune-up adjustments must be sufficiently clear on the engine label to preclude the need for a mechanic or equipment owner to refer to another document in order to correctly perform the adjustments.

(F) Any specific fuel or engine lubricant requirements (e.g., lead content, research octane number, engine lubricant type).

(G) The date of engine manufacture (month and year).

(H) An unconditional statement of compliance with the appropriate calendar year (for 1995–1999) or model year(s) (for 2000 and later) California regulations; for example, "THIS ENGINE MEETS 2005 CALIFORNIA EXH EMISSION REGULATIONS FOR SMALLS OFF-ROAD ENGINES." For engines certified to emission standards subject to a durability period as set forth in §2403(b), the durability period must be stated in the owner's manual.

(I) Engine displacement (in cubic centimeters) of the engine upon which the engine label is attached.

(J) The engine family identification (i.e., engine family name).

(5) If there is insufficient space on the engine to accommodate an engine label that contains all of the information required in Subsection (4) above, the Executive Officer may allow the engine manufacturer to modify the engine label as follows:

(A) Exclude the information required in Subsections (4)(C), (D), (E), (F), and (I) from the engine label. The fuel or lubricant information must be specified elsewhere on the engine, or in the owner's manual.

(B) Substitute the information required in Subsection (4)(E) with the statement: "REFER TO OWNER'S MANUAL FOR MAINTENANCE

SPECIFICATIONS AND ADJUSTMENTS." When such a statement is used, the information required by Subsection (4)(E) must appear in the owner's manual.

(C) Exclude the information required by Subsection (4)(G) on the engine label if the date the engine was manufactured is stamped permanently on the engine, and this stamped date is readily visible.

(D) Make such other reasonable modifications or abbreviations as may be approved by the Executive Officer.

(d) An engine label may state that the engine conforms to any applicable federal, Canadian, or European emission standards for new equipment engines; or any other information that the engine manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the engine.

(e) Supplemental Engine Label Content and Location.

(1) When a final equipment assembly that is marketed to any ultimate purchaser is manufactured and the engine label attached by the engine manufacturer is obscured (i.e., not readily visible), the manufacturer of the final equipment assembly (i.e., original equipment manufacturer) must attach a supplemental engine label upon the engine or equipment. The supplemental engine label must be plastic or metal, must meet the visibility, durability and formatting requirements of paragraphs (f), (g) and (h), and must be welded, riveted or otherwise attached permanently to an area of the engine or equipment assembly so as to be readily visible to the average person.

(2) The original equipment manufacturer required to attach a supplemental engine label must consider the possibility of accidental damage to the supplemental engine label in the determination of the label location. Such a label must not be attached to any engine or equipment component that is likely to be replaced during the useful life of the engine or equipment (as applicable). Such a label must not be attached to any engine or equipment component that is detached easily from the engine or equipment (as applicable).

(3) The supplemental engine label information must be written in the English language and use block letters and numerals (i.e., sans serif, upper-case characters) that must be of a color that contrasts with the background of the label.

(4) A supplemental engine label must contain the information as specified in Subsection (c)(4) (and (I), as applicable), except that the date of engine manufacture specified in (c)(4)(G) may be deleted from the supplemental engine label. When the date of engine manufacture does not appear on the supplemental engine label, the responsible original equipment manufacturer must display (e.g., label, stamp, etc.) the date elsewhere on the engine or equipment so as to be readily visible.

(f) As used in these specifications, readily visible to the average person means that a label is readable from a distance of 46 centimeters (18 inches) without any obstructions from equipment or engine parts (including all engine manufacturer or original equipment manufacturer (as applicable) available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the engine and supplemental engine (as applicable) must be no smaller than 2 millimeters in height provided that no equipment or engine parts (including all manufacturer available optional equipment), except for flexible parts, obstruct the label(s).

(g) The labels and any adhesives used must be designed to withstand, for the engine's or equipment's useful life, typical equipment environmental conditions in the area where the labels required by this section are attached. Typical equipment environmental conditions include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, water, ethylene glycol). The engine manufacturer must submit, with its certification application, a statement attesting that its labels comply with these requirements.

(h) The engine manufacturer must obtain approval from the Executive Officer for all label formats and locations in conjunction with the engine family certification. Approval of the specific maintenance settings is not required; however, the format for all such settings and tolerances, if any,

(B) The Air Index Label must be noticeable from a distance of 150 centimeters (59 inches) without any obstructions by equipment or engine parts, including all engine manufacturer or original equipment manufacturer (as applicable) available optional equipment. For engines that are installed in an engine compartment that is easily accessible to the ultimate purchaser, this subsection (l)(5)(B) may be satisfied by a generic label or hang tag stating "LOOK INSIDE THE ENGINE COMPARTMENT FOR IMPORTANT EMISSIONS INFORMATION," or by other means, subject to the Executive Officer's approval.

(C) The Air Index Label must be located in at least one of the following locations:

1. included on the engine label;
2. included as an additional engine label, designed and intended for removal only by the ultimate purchaser; or
3. included as an engine or equipment hang-tag designed or intended for removal only by the ultimate purchaser;

(D) For engines 0–65 cc (up to 80 cc beginning with the 2005 model year), inclusive, the engine manufacturer must also arrange for a label with the engine family's Air Index to be attached to the equipment packaging.

(E) The Executive Officer, upon request, may waive or modify the form of the Air Index Label or may approve alternative forms, sizes or locations, provided that the intent of the Air Index Label requirement is met.

(6) The labeling and consumer information provisions of subsection (l) shall not apply to engines that are not the primary power source of the equipment in which they are installed or to engines that are installed in equipment that the engine or equipment manufacturer can demonstrate, to the Executive Officer's reasonable satisfaction, are used almost exclusively in commercial applications in which consumer information are not likely to affect a purchasing decision.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43017, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 5–1–92; operative 6–1–92 (Register 92, No. 19).
2. Amendment of section heading and subsections (b), (b)(1), (b)(4)(H) and NOTE filed 10–4–93; operative 11–3–93 (Register 93, No. 41).
3. Change without regulatory effect amending NOTE filed 12–22–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment filed 7–24–95; operative 7–24–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section heading, section and NOTE filed 3–23–99; operative 3–23–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
6. Amendment of subsection (c)(4)(A), redesignation of subsections (c)(4)(A)(i)–(ii) as (c)(4)(A)1.–2., amendment of subsections (c)(4)(D), (c)(4)(H), (d) and (l)(2), redesignation of subsections (l)(5)(C)(i)–(iii) as (l)(5)(C)1.–3. and amendment of subsection (l)(5)(D) filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).
7. Amendment of subsection (a) filed 10–16–2006; operative 11–15–2006 (Register 2006, No. 42).

§ 2405. Defects Warranty Requirements for 1995 and Later Small Off-Road Engines.

(a) Applicability. This section applies to 1995 and later small off-road engines. The warranty period begins on the date the engine or equipment is delivered to an ultimate purchaser.

(b) General Emissions Warranty Coverage. The manufacturer of each small off-road engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is:

(1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in Chapters 1 and 2, Part 5, Division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship that cause the failure of a warranted part to be identical in all material respects to the part as described in the engine manufacturer's application for certification for a period of two years.

(c) The warranty on emissions-related parts will be interpreted as follows:

(1) Any warranted part that is not scheduled for replacement as required maintenance in the written instructions required by Subsection (d) must be warranted for the warranty period defined in Subsection (b)(2). If any such part fails during the period of warranty coverage, it must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under the warranty must be warranted for the remaining warranty period.

(2) Any warranted part that is scheduled only for regular inspection in the written instructions required by Subsection (d) must be warranted for the warranty period defined in Subsection (b)(2). A statement in such written instructions to the effect of "repair or replace as necessary" will not reduce the period of warranty coverage. Any such part repaired or replaced under warranty must be warranted for the remaining warranty period.

(3) Any warranted part that is scheduled for replacement as required maintenance in the written instructions required by Subsection (d) must be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under warranty must be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article must be performed at no charge to the owner at a warranty station.

(5) Notwithstanding the provisions of Subsection (4) above, warranty services or repairs must be provided at all manufacturer distribution centers that are franchised to service the subject engines.

(6) The owner must not be charged for diagnostic labor that leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) The engine manufacturer is liable for damages to other engine components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the engine's warranty period defined in Subsection (b)(2), the engine manufacturer must maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(9) Any replacement part may be used in the performance of any warranty maintenance or repairs and must be provided without charge to the owner. Such use will not reduce the warranty obligations of the engine manufacturer.

(10) Add-on or modified parts that are not exempted by the Air Resources Board may not be used. The use of any non-exempted add-on or modified parts will be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer will not be liable under this article to warrant failures of warranted parts caused by the use of a non-exempted add-on or modified part.

(11) The Executive Officer may request and, in such case, the engine manufacturer must provide, any documents that describe that manufacturer's warranty procedures or policies.

(d) Each manufacturer must include a copy of the following emission warranty parts list with each new engine, using those portions of the list applicable to the engine.

(1) Fuel Metering System

(A) Carburetor and internal parts (and/or pressure regulator or fuel injection system).

(B) Air/fuel ratio feedback and control system.

(C) Cold start enrichment system.

(2) Air Induction System

(A) Controlled hot air intake system.

(B) Intake manifold.

(C) Air filter.

(3) Ignition System

(A) Spark Plugs.

- (B) Magneto or electronic ignition system.
 - (C) Spark advance/retard system.
 - (4) Exhaust Gas Recirculation (EGR) System
 - (A) EGR valve body, and carburetor spacer if applicable.
 - (B) EGR rate feedback and control system.
 - (5) Air injection System
 - (A) Air pump or pulse valve.
 - (B) Valves affecting distribution of flow.
 - (C) Distribution manifold.
 - (6) Catalyst or Thermal Reactor System
 - (A) Catalytic converter.
 - (B) Thermal reactor.
 - (C) Exhaust manifold.
 - (7) Particulate Controls
 - (A) Traps, filters, precipitators, and any other device used to capture particulate emissions.
 - (8) Miscellaneous items Used in Above Systems
 - (A) Vacuum, temperature, and time sensitive valves and switches.
 - (B) Electronic controls.
 - (C) Hoses, belts, connectors, and assemblies.
 - (e) Each manufacturer must furnish with each new engine written instructions for the maintenance and use of the engine by the owner. The instructions must be consistent with this article and applicable regulations contained herein.
 - (f) Each engine manufacturer must submit the documents required by Subsection (d) with the engine manufacturer's application for engine certification for approval by the Executive Officer. Approval by the Executive Officer of the documents required by Subsection (d) is a condition of certification. The Executive Officer will approve or disapprove the documents required by Subsection (d) within 90 days of the date such documents are received from the engine manufacturer. Any disapproval must be accompanied by a statement of the reasons thereof. In the event of disapproval, the engine manufacturer may file for an adjudicative hearing pursuant to Title 17, California Code of Regulations, Section 60040 et seq., to review the decision of the Executive Officer.
 - (g) In the application for engine certification, each engine manufacturer must include a statement regarding the maintenance of the engine for clean air. The statement must include, but not be limited to, information on carburetor adjustment, air filter care and replacement schedule, spark plug maintenance and inspection, proper fuel/oil ratio for low emissions, use of appropriate fuel, proper fueling and fuel mixing, proper method of disposing of oil and oil containers, engine maintenance, and a maintenance schedule to ensure that the owner returns to a servicing center to check for deposits, debris build-up, etc.
- NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of section heading, subsection (a) and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect repealing article heading and amending subsection (e) and NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment of subsections (f)-(g) filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section heading, section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
6. Amendment of subsection (c)(10) filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).
7. Redesignation of subsections (d)(1)(i)-(d)(8)(iii) as subsections (d)(1)(A)-(d)(8)(C) filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2405.1. Emission-Related Defect Reporting Requirements.

- (a) Applicability. This section applies to 2005 model year and later

small off-road engines. The requirement to report emission-related defects affecting a given class or category of engines will remain applicable for five years from the end of the calendar year in which such engines were manufactured.

(b) A manufacturer must file a defect information report whenever, on the basis of data obtained subsequent to the effective date of these regulations:

(1) The manufacturer determines, in accordance with procedures established by the manufacturer to identify either safety-related or performance defects, that a specific emission-related defect exists; and

(2) A specific emission-related defect exists in 25 or more engines of a given engine family manufactured in the same Executive Order or model year.

(c) No report must be filed under this section for any emission-related defect corrected prior to the sale of the affected engines to ultimate purchasers.

(d) The manufacturer must submit defect information reports to Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731, not more than 15 working days after an emission-related defect is found to affect 25 or more engines manufactured in the same Executive Order or model year. Information required by paragraph (e) of this section that is either not available within 15 working days or is significantly revised must be submitted the Executive Officer as it becomes available.

(e) Each defect report must contain the following information in substantially the format outlined below:

(1) The manufacturer's corporate name.

(2) A description of the defect and part number(s).

(3) A description of each class or category of engines potentially affected by the defect including make, model, model year, calendar year produced, and any other information required to identify the engines affected.

(4) For each class or category of engine described in response to paragraph (e)(3) of this section, the following must also be provided:

(A) The number of engines known or estimated to have the defect and an explanation of the means by which this number was determined.

(B) The address of the plant(s) at which the potentially defective engines were produced.

(5) An evaluation of the emissions impact of the defect and a description of any operational problems which a defective engine might exhibit.

(6) Emission data which relate to the defect.

(7) An indication of any anticipated manufacturer follow-up.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2405.2. Voluntary Emission Recall Program.

(a) When any manufacturer initiates a voluntary emissions recall campaign involving 25 or more engines, the manufacturer must submit a report describing the manufacturer's voluntary emissions recall plan as prescribed by this section within 15 working days prior to the date owner notification was issued. The report must contain the following:

(1) A description of each class or category of engines recalled including the number of engines to be recalled, the model year, the make, the model, and such other information as may be required to identify the engines recalled;

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the engines affected by the emission-related defect;

(3) A description of the method by which the manufacturer will notify engine owners and, if applicable, the method by which the manufacturer will determine the names and addresses of engine owners;

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the recall plan, an explanation of the manufacturer's reasons for imposing any such conditions, and a description of the proof to be required of an engine owner to demonstrate compliance with any such conditions;

(5) A description of the procedure to be followed by engine owners to obtain correction of the nonconformity. This may include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the defect, and the designation of facilities at which the defect can be remedied;

(6) A description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the defect;

(7) When applicable, three copies of any letters of notification to be sent engine owners;

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan, and that the supply remains both adequate and responsive to owner demand;

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan;

(10) A description of the impact of the proposed changes on fuel consumption, performance, and safety of each class or category of engines to be recalled;

(11) A sample of any label to be applied to engines which participated in the voluntary recall campaign.

(b) The manufacturer must submit at least one report on the progress of the recall campaign. Such report must be submitted no later than 18 months from the date notification was begun and include the following information:

(1) The methods used to notify both engine owners, dealers and other individuals involved in the recall campaign;

(2) The number of engines known or estimated to be affected by the emission-related defect and an explanation of the means by which this number was determined;

(3) The number of engines actually receiving repair under the plan; and

(4) The number of engines determined to be ineligible for remedial action due to a failure to properly maintain or use such engines.

(c) Send the defect report, voluntary recall plan, and the voluntary recall progress report to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar Avenue, El Monte, CA 91731.

(d) Retain the information gathered by the manufacturer to compile the reports for not less than five years from the date of the manufacture of the engines. The manufacturer must make this information available to duly authorized officials of the ARB upon request.

(e) The filing of any report under the provisions of this section does not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provision of law.

(f) The act of filing an Emission Defect Information Report is inconclusive as to the existence of a defect subject to the warranty provided by section 2405.

(g) A manufacturer may include on each page of its Emission Defect Information Report a disclaimer stating that the filing of a Defect Information Report pursuant to these regulations is not conclusive as to the applicability of the warranty provided by section 2405.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2405.3. Ordered Recalls.

(a)(1) If the Executive Officer determines that a substantial number of any class or category of engines, although properly maintained and used, do not conform to the regulations prescribed under Section 2400-2409, Chapter 9, Title 13 of the California Code of Regulations, when in actual use throughout their durability period (as defined under section 2403), the Executive Officer shall immediately notify the manufacturer of such nonconformity and require the manufacturer to submit a plan for remedying the nonconformity of the engines with respect to which such notification is given.

(A) The manufacturer's plan shall provide that the nonconformity of any such engines which are properly used and maintained will be remedied at the expense of the manufacturer.

(B) If the manufacturer disagrees with such determination of nonconformity and so advises the Executive Officer, the Executive Officer shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing pursuant to Article 1, Subchapter 1.25, Chapter 1, Division 3, Title 17, California Code of Regulations. Unless, as a result of such hearing, the Executive Officer withdraws such determination of nonconformity, the Executive Officer shall, within 60 days after the completion of such hearing, order the manufacturer to provide prompt notification of such nonconformity in accordance with paragraph (a)(2) of this section. The manufacturer shall comply in all respects with the requirements of this subpart.

(2) Any notification required to be given by the manufacturer under paragraph (a)(1) of this section with respect to any class or category of engines shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as required in section 2405.1(d).

(3)(A) Prior to an ARB ordered recall, the manufacturer may perform a voluntary emissions recall pursuant to regulations at section 2405.2. Such manufacturer is subject to the reporting and recordkeeping requirements of section 2405.2(c) and (d).

(B) Once ARB determines that a substantial number of engines fail to conform with the requirements of Section 2400-2409, Chapter 9, Title 13 of the California Code of Regulations, the manufacturer will not have the option of a voluntary recall.

(b) The manufacturer bears all cost obligation a dealer incurs as a result of a requirement imposed by paragraph (a) of this section. The transfer of any such cost obligation from a manufacturer to a dealer through franchise or other agreement is prohibited.

(c) Any inspection of an engine for purposes of paragraph (a)(1) of this section, after its sale to the ultimate purchaser, is to be made only if the owner of such engine voluntarily permits such inspection to be made, except as may be provided by any state or local inspection program.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2406. Emission Control System Warranty Statement.

(a) Each manufacturer must furnish a copy of the following statement with each new 1995 and later small off-road engine, using those portions of the statement applicable to the engine.

CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT YOUR WARRANTY RIGHTS AND OBLIGATIONS

The California Air Resources Board (and manufacturer's name, optional) is pleased to explain the emission control system warranty on your (year(s)) (equipment type or small off-road) engine. In California, new small off-road engines must be designed, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your (equipment

type or small off-road) engine for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your small off-road engine.

Your emission control system may include parts such as the carburetor or fuel-injection system, the ignition system, and catalytic converter. Also included may be hoses, belts, connectors and other emission-related assemblies.

Where a warrantable condition exists, (manufacturer's name) will repair your (equipment type or small off-road) engine at no cost to you including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

The 1995 and later small off-road engines are warranted for two years.

If any emission-related part on your engine is defective, the part will be repaired or replaced by (manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

– As the (equipment type or small off-road) engine owner, you are responsible for the performance of the required maintenance listed in your owner's manual. (Manufacturer's name) recommends that you retain all receipts covering maintenance on your (equipment type or small off-road) engine, but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.

– As the (equipment type or small off-road) engine owner, you should however be aware that (manufacturer's name) may deny you warranty coverage if your (equipment type or small off-road) engine or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

– You are responsible for presenting your (equipment type or small off-road) engine to a (manufacturer's name) distribution center as soon as a problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXX-XXXX.

(b) Commencing with the 1995 calendar year, each manufacturer must furnish with each new engine a warranty statement that generally describes the obligations and rights of the manufacturer and owner under this article. Manufacturers must also include in the warranty statement a phone number the consumer may use to obtain their nearest franchised service center.

(c) Each manufacturer must submit the documents required by Subsections (a) and (b) with the manufacturer's preliminary application for new engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of Subsections (a) and (b). Approval by the Executive Officer of the documents required by Subsections (a) and (b) will be a condition of certification. The Executive Officer will approve or disapprove the documents required by Subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval must be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of subsection (a), Manufacturer's Warranty Coverage, subsection (b) and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment of subsections (a)-(b) filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

§ 2407. New Engine Compliance and Production Line Testing—New Small Off-Road Engine Selection, Evaluation, and Enforcement Action.

(a) Compliance Test Procedures.

(1) The Executive Officer may, with respect to any new engine family or subgroup being sold, offered for sale, or manufactured for sale in California, order an engine manufacturer to make available for compliance testing and/or inspection a reasonable number of engines, and may direct that the engines be delivered to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any new engine family or subgroup being sold, offered for sale, or manufactured for sale in California, have an engine manufacturer compliance test and/or inspect a reasonable number of engines at the engine manufacturer's facility under the supervision of an ARB Enforcement Officer. Engines must be selected at random from sources specified by the Executive Officer according to a method approved by the Executive Officer, that, insofar as practical, must exclude engines that would result in an unreasonable disruption of the engine manufacturer's distribution system.

A subgroup may be selected for compliance testing only if the Executive Officer has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family as a whole.

(2) For all 1995 and subsequent small off-road engines selected for compliance testing, the selection and testing of engines and the evaluation of data must be made in accordance with the procedures set forth herein.

(3) These procedures are applicable, commencing with the 1995 calendar year, to any engine family or any subgroup within an engine family selected for compliance testing pursuant to this section.

(4) All testing must be conducted in accordance with the applicable calendar year (for 1995-1999) or model year (for 2000 and later) certification emission test procedures. Any adjustable engine parameters must be set to values or positions that are within the range available to the ultimate purchaser as determined by the ARB Enforcement Officer. For example, an engine carburetor with an adjustable idle fuel/air mixture must be compliance tested at any mixture position requested by the ARB Enforcement Officer that is within the range of adjustment available to the end-use operator. Engine service accumulation (i.e., break-in) before testing may be performed on test engines to the same extent it is performed on production line testing engines (See subsection (d)). No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on engines chosen for compliance testing without the written consent of the Executive Officer. Such consent must not be unreasonably withheld where such adjustment or alteration is required to render the engine testable and reasonably operative.

(5) If the engine manufacturer elects to specify a different break-in or adjustments, they will be performed by the engine manufacturer under the supervision of ARB personnel.

(6) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the engine is permitted only after test of the engine, except where 100 percent of the engine manufacturer's production is given that inspection or maintenance by the engine manufacturer's own personnel. The engine manufacturer may request that the engine be repaired from shipping damage, and be retested. If the Executive Officer concurs, the engine may be retested, and the original test results may be replaced by the after-repair test results.

(7) Engines must be randomly chosen from the selected engine family or subgroup. Each chosen engine must be tested according to the "California Exhaust Emission Standards and Test Procedures for 1995-2004 Small Off-Road Engines" ("Emission Standards and Test Procedures"), adopted March 20, 1992, and last amended July 26, 2004, or "California Exhaust Emission Standards and Test Procedures for 2005 and Later Small Off-Road Engines," adopted July 26, 2004, as applicable, to determine its emissions. Unique specialty hardware and personnel normally

necessary to prepare the engine for the performance of the test as set forth in the Procedures must be supplied by the engine manufacturer within seven days after the request for such speciality hardware or personnel. Failure to supply this unique speciality hardware or personnel may not be used by the engine manufacturer as a cause for invalidation of the subsequent tests.

(8) Engines must be tested in groups of five until a "Pass" or "Fail" decision is reached for each pollutant independently for the engine family or subgroup in accordance with the following table:

<i>Number of Engines Tested</i>	<i>Decide "Fail" If "U" is greater than or equal to</i>	<i>Decide "Pass" If "U" is less than or equal to</i>
5	2.18	-0.13
10	2.11	0.51
15	2.18	0.88
20	2.29	1.16

where:

$$U = \frac{\sum_{i=1}^n (x_i - \mu_0)}{\sqrt{\frac{\sum_{i=1}^n (x_i - \mu_0)^2}{n}}}$$

x_i = the projected emissions of one pollutant for the i th engine tested.

μ_0 = the applicable calendar year emission standard for that pollutant.

n = the number of engines tested.

(9) The Executive Officer will find that a group of engines has failed the compliance testing pursuant to the above table if the Executive Officer finds that the average emissions of the engines within the selected engine family or subgroup exceed the applicable calendar year new engine emission standard for at least one pollutant.

(10) If no decision can be reached after 20 engines have been tested, the Executive Officer will not make a "Fail" decision for the selected engine family or subgroup on the basis of these 20 tests alone. Under these circumstances the Executive Officer will elect to test 10 additional engines. If the average emissions from the 30 engines tested exceed any one of the exhaust emission standards for which a "Pass" decision has not been previously made, the Executive Officer will render a "Fail" decision.

(11) If the Executive Officer determines, in accordance with the procedures set forth in Subsection (a) that an engine family or any subgroup within an engine family, exceeds the emission standards for one or more pollutants, the Executive Officer will:

(A) Notify the engine manufacturer that the engine manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California, or enjoined from any further sales or distribution, of the noncompliant engines in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an engine manufacturer, the Executive Officer will consider production line test results, if any, and any additional test data or other information provided by the engine manufacturers and other interested parties, including the availability of emission reductions credits to remedy the failure.

(B) Notify the equipment manufacturer that the equipment manufacturer may be subject to being enjoined from any further sales, or distribution, of the equipment manufacturer's equipment product line(s) that are, or utilize engines that are, noncompliant with the applicable emission regulations pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an equipment manufacturer, the Executive Officer will consider production line test results, if any, and any additional test data or other information provided by the equipment manufacturer and other interested parties,

including the availability of emissions reduction credits to remedy the failure.

(12) Engines selected for inspection must be checked to verify the presence of those emissions-related components specified in the engine manufacturer's application for certification, and for the accuracy of any adjustments, part numbers and labels specified in that application. If any engine selected for inspection fails to conform to any applicable law in Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, the Executive Officer will:

(A) Notify the engine manufacturer and may seek to revoke or suspend the Executive Order authorizing sales and distribution or enjoin the engine manufacturer from any further sales, or distribution, of the applicable noncompliant engine families or subgroups within the engine families in the State of California pursuant to Section 43017 of the Health and Safety Code. Before revoking or suspending the Executive Order authorizing sales and distribution of the applicable noncompliant engine families or subgroups within the State of California, or seeking to enjoin an engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer and other interested parties, including the availability of emissions reductions credits to remedy the failure.

(B) Notify the equipment manufacturer and may seek to revoke or suspend the Executive Order authorizing sales and distribution or enjoin the equipment manufacturer from any further sales, or distribution, in the State of California of the equipment manufacturer's equipment product line(s) that are, or utilize engines that are, noncompliant with the applicable emission regulations pursuant to Section 43017 of the Health and Safety Code. Before revoking or suspending the Executive Order authorizing sales and distribution of the applicable noncompliant equipment, or seeking to enjoin an equipment manufacturer, the Executive Officer will consider any information provided by the equipment manufacturer and other interested parties, including the availability of emissions reductions credits to remedy the failure.

(b) 1996 and Subsequent Calendar (Model) Year Quality-Audit Production Line Test Procedures

(1) Small off-road engines produced in the 1996 and subsequent calendar (or model) years, that have been certified for sale in California, are subject to the quality-audit requirements specified in (b) and (d). Each engine manufacturer must use the quality-audit test procedures as specified in (b) and (d) unless it can satisfactorily provide an alternate method that shows an equivalent assurance of compliance. The purpose of providing alternate sampling, testing methods, and procedures is to help reduce sample size and testing costs, while providing a reasonable assurance that production engines comply with the applicable emission standards. The engine manufacturer must submit the method of quality-audit to the Executive Officer for approval no later than 90 days prior to 1996 calendar year production, or any subsequent calendar or model year production, as applicable, if a change is proposed.

(2) Engine Sample Selection

(A) Except as provided in subsection (b)(3), the engine manufacturer must randomly select one percent of the California sales volume of engines from each engine family for quality-audit testing. Additional engine sample criteria appear in subsection (d)(3).

(B) The Executive Officer may, upon notice to the engine manufacturer, require the sample rate to be increased to a maximum of ten percent of production (not to exceed 30 additional engines or units of equipment) of the calendar quarterly production of any engine family.

(3) Alternate Quality-Audit Engine Selection Criteria For The 1996 Through 1999 Calendar Years

(A) An engine manufacturer may use the alternate engine selection method outlined in this Subsection.

(B) Engines or equipment must be randomly selected at a rate of 1.0 percent of engine family production at the beginning of production.

When test results of the first 10 engines or units of equipment have been accumulated, an evaluation as indicated below must be made.

(C) Calculate the family mean and standard deviation of each pollutant (HC, CO, NO_x and PM, if applicable). Identify engines or units of equipment that have emission levels greater than three standard deviations above the mean. Eliminate these emission data points and recalculate the mean and standard deviation. Continue the calculation until there are no values greater than three standard deviations above the mean. Count the number of these data points greater than the emission standard (outliers). If the number of outliers is equal to or less than the allowable number in Table 1 for each pollutant, the engine family is eligible to continue to a second evaluation, shown in paragraph (D) below. Otherwise, sampling must continue at a rate of 1.0 percent of production for the rest of the month.

(D) If the allowable outlier criterion is met, the family mean standard deviation, and sample size determined for each contaminant before excluding any outliers, are substituted in the following expression:

$$\frac{(\text{emission standard} - \text{mean}) \sqrt{N}}{(\text{standard deviation})}$$

(E) If the expression is greater than C in Table 2 below, and the engine manufacturer reasonably estimates that the quarterly engine family production will exceed 5,000 engines or units of equipment, the sampling rate for the remaining portion of the calendar month following the date of selection of the last of the 10 engines or equipment is 10 per month, applied on a prorated basis. If the expression is greater than C in Table 2 below, and the engine manufacturer reasonably estimates that the quarterly engine family production will be 5,000 engines or units of equipment or less, the sampling rate for the remaining portion of the calendar month following the date of selection of the last of the 10 engines or equipment is 5 per month, applied on a prorated basis. If the expression is equal to or less than C in Table 2, the sampling rate continues to be 1.0 percent of production for the remaining portion of the month in which selection of the 10 engines or equipment is completed. The value of C is a function of the coefficient of variation (standard deviation/mean). The coefficient of variation and "C" must be rounded to the number of decimal places shown in Table 2.

Table 1

Sample Size	Allowable Outliers	Sample Size	Allowable Outliers
1-32	1	430-478	11
33-68	2	479-528	12
69-107	3	529-578	13
108-149	4	579-629	14
150-193	5	630-680	15
194-238	6	681-731	16
239-285	7	732-783	17
286-332	8	784-835	18
333-380	9	836-887	19
381-429	10	888-939	20

Table 2

Coefficient of Variation	C
0.1	0.5
0.2	1.2
0.3	1.8
0.4	2.5
0.5	3.1
0.6	3.8
0.7	4.4
0.8	5.1
0.9	5.7

(F) At the conclusion of each month of quarterly engine family production, the emission test data must be evaluated in order to determine the sampling rate as set forth in Paragraphs C and D above. This evaluation must utilize all test data accumulated in the applicable quarter. The sample rate for the next month of production must be determined as follows: ten (10) engines per month when the engine manufacturer's esti-

mated quantity of quarterly engine family production is greater than 5,000; five (5) engines per month when the engine manufacturer's estimated quantity of quarterly engine family production is equal to or less than 5,000; or, one (1) percent of the quarterly engine family production as determined by the sampling evaluation method set forth in Paragraphs D and E.

(G) For each subsequent quarter, the preceding sample selection method must be followed. The sample rate determination for the first month of each subsequent quarter must be based on the accumulated data from the previous quarter. The sample rate for the succeeding months of the quarter must be determined as previously set forth.

(H) If the start of production does not coincide with the first of a quarter, the sequence for sample rate determination must be followed, but references to remaining calendar months may not be appropriate.

(I) Where an engine manufacturer has sampled engines or equipment at a rate of 5 per month following a reasonable estimate that the quarterly engine family production will be 5,000 engines or units of equipment or less, and subsequently determines, or reasonably should determine based on information available to the engine manufacturer, that the quarterly engine family production will exceed 5,000 engines or units of equipment, the engine manufacturer must increase the sampling rate for the quarter such that the requirements of Paragraph D applicable to families reasonably estimated to exceed a quarterly production of 5,000 engines or units of equipment are satisfied.

(4) Compliance Evaluation

(A) Each engine manufacturer must review the test results of the first 10 test engines or equipment of each engine family, from each calendar quarter of production or from the start of calendar year production. It must also review the quarter's cumulative test results of each engine family at the end of each month. If 10 or more engines or units of equipment have been tested, the engine manufacturer must notify the Chief of the Mobile Source Operations Division, in writing within ten working days whenever an engine family exceeds an emission standard.

(B) At the end of the quarter, all of the data accumulated during the quarter are evaluated, and the compliance of the engine family with the family emission levels or emission standards, whichever is applicable, is determined. If a sample size for a particular production quarter is less than ten engines, the data from that quarter must be combined with all of the data from each successive quarter of the calendar year until data from at least ten engines that have been quality-audit tested are included in the quarterly evaluation. If the sample size for the first quarter's production for a calendar year does not contain at least ten engines, the data available for that quarter are evaluated. However, compliance of the engine family with the family emission levels or emission standards, whichever is applicable, is not determined until subsequent quarterly production data is available that includes evaluations of at least ten engines. If the sample size for the last final quarter's production for a calendar year does not contain at least ten engines, the data from the last final quarter must be combined with all the data from each preceding quarter of the calendar year until the sample size contains at least ten engines.

(C) When the average value of any pollutant that is rounded off to the same number of significant digits as is the standard, in accordance with ASTM E 29-93a (May 1993), exceeds the applicable family emission level or emission standard, whichever is applicable; or, when the engine manufacturer's submitted data reveal that the production line tests were performed improperly, the engine family may be determined to be in noncompliance. The Executive Officer will follow the manufacturer notification procedures in section (d)(5).

(D) A failed engine is one whose emission test results for a regulated pollutant exceeds the emission standard or FEL, as applicable.

(5) Reports

(A) Each engine manufacturer shall submit a written report to the ARB within 45 calendar days of the end of each calendar quarter.

(B) The quarterly report shall include the following:

1. The total production and sample size for each engine family.

2. engine identification numbers and explanation of the identification code.

3. The applicable emissions standards or Family Emission Levels for each engine family.

4. A description of each test engine or equipment (i.e., date of test, engine family, engine size, engine or equipment identification number, fuel system, dynamometer power absorber setting in horsepower or kilowatts, engine code or calibration number, and test location).

5. The exhaust emission data for PM, CO, NO_x and HC for each test engine or equipment. The data reported shall provide two significant figures beyond the number of significant figures in the applicable emission standard.

6. The retest emissions data, as described in paragraph (v) above for any engine or unit of equipment failing the initial test, and description of the corrective measures taken, including specific components replaced or adjusted.

7. A statistical analysis of the quality-audit test results for each engine family stating:

a. Number of engines or units of equipment tested.

b. Average emissions and standard deviations of the sample for HC, CO, NO_x and PM.

8. Every aborted test data and reason for the aborted test.

9. The applicable quarterly report shall include the date of the end of the engine manufacturer's calendar year (for 1995–1999) or model year (for 2000 and subsequent years) production for an engine family.

10. The required information for all engine families in production during the quarter regardless of sample size.

11. The start and stop dates of batch-produced engine family production.

(C) Each engine manufacturer shall submit a copy of the report that has been stored (e.g., computer discs), or may be transmitted, in an electronically digitized manner, and in a format that is specified by the Executive Officer. This electronically based submission is in addition to the written submission of the report.

(c) 2000 and Subsequent Model Cumulative Sum Production Line Test Procedures.

(1) The 2000 and subsequent model year small off-road engines, that have been certified for sale in California, are subject to production line testing performed according to either the Cumulative Sum requirements specified in (c) and (d), or to the Quality-Audit requirements specified in paragraph (b) and (d). At the time of certification, the engine manufacturer must designate which production line testing procedure, either Quality-Audit or Cumulative Sum, it will use for the model year. If an engine manufacturer uses the Cumulative Sum procedures, it must use the Cumulative Sum test procedures as specified herein.

(2) Engine Sample Selection

(A) At the start of each model year, the small off-road engine manufacturer will begin to randomly select engines from each engine family for production line testing, according to the criteria specified herein. Additional engine sample criteria appear in subsection (d)(3).

1. For newly certified engine families: After two engines are tested, the manufacturer will calculate the required sample size for the model year according to the Sample Size Equation in paragraph (B) of this section.

2. For carry-over engine families: After one engine is tested, the manufacturer will combine the test with the last test result from the previous model year and then calculate the required sample size for the model year according to the Sample Size Equation in paragraph (B) of this section.

(B)1. Manufacturers will calculate the required sample size for the model year for each engine family using the Sample Size Equation below. N is calculated from each test result. The number N indicates the number of tests required for the model year for an engine family. N, is recalculated after each test. Test results used to calculate the variables in the Sample Size Equation must be final deteriorated test results as specified in paragraph (c)(4)(C).

$$N = \left[\frac{(t_{95} \times \sigma)}{(x - FEL)} \right]^2 + 1$$

where:

N = required sample size for the model year.

t₉₅ = 95% confidence coefficient. It is dependent on the actual number of tests completed, n, as specified in the table in paragraph (B)2 of this section. It defines one-tail, 95% confidence intervals.

σ = actual test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

X_i = emission test result for an individual engine

x = mean of emission test results of the actual sample

FEL = Family Emission Level, or emission standard if no Family Emission level is established

n = The actual number of tests completed in an engine family

2. Actual Number of Tests (n) & 1-tail Confidence Coefficients (t₉₅)

n	t ₉₅	n	t ₉₅	n	t ₉₅
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

3. A manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N, evenly throughout the remainder of the model year.

4. After each new test, the required sample size, N, is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

5. A manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (B)1 through (B)4 of this section until a decision is made to stop testing as described in paragraph (B)6 of this section or a noncompliance decision is made pursuant to paragraph (c)(3)(A)5 of this section.

6. If, at any time throughout the model year, the calculated required sample size, N, for an engine family is less than or equal to the actual sample size, n, and the sample mean, x, for each regulated pollutant is less than or equal to the emission standard (or FEL, as applicable) for that pollutant, the manufacturer may stop testing that engine family except as required by paragraph (c)(3)(A)6.

7. If, at any time throughout the model year, the sample mean, x, for any regulated pollutant is greater than the emission standard (or FEL, as applicable), the manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

8. The maximum required sample size for an engine family (regardless of the required sample size, N, as calculated in paragraph (B)1 of this section) is thirty tests per model year.

9. Manufacturers may elect to test additional randomly chosen engines. All additional randomly chosen engines tested in accordance with the testing procedures specified in the Emission Standards and Test Procedures must be included in the Sample Size and Cumulative Sum equation calculations as defined in paragraphs (B)1 and (c)(3)(A)1 of this section, respectively.

(C) The manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(D) No quality control, testing, or assembly procedures will be used on any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Executive Officer approves the modification.

(3) Calculation of the Cumulative Sum Statistic

(A) Each engine manufacturer must review the test results using the following procedure:

1. Manufacturers must construct the following Cumulative Sum Equation for each regulated pollutant for each engine family. Test results used to calculate the variables in the Cumulative Sum Equation must be final deteriorated test results as defined in paragraph (c)(4)(C).

$$C_i = \max [0 \text{ or } (C_{i-1} + X_i - (\text{FEL} + F))]$$

where:

C_i = The current Cumulative Sum statistic

C_{i-1} = The previous Cumulative Sum statistic. Prior to any testing, the Cumulative Sum statistic = 0 (i.e. $C_0 = 0$)

X_i = The current emission test result for an individual engine

FEL = Family Emission Level, or emission standard if no Family Emission level is established

F = $0.25 \times \Phi$

After each test, C_i is compared to the action limit, H, the quantity that the Cumulative Sum statistic must exceed, in two consecutive tests, before the engine family may be determined to be in noncompliance for purposes of paragraphs (c)(3)(A)4 and (c)(3)(A)5.

H = The Action Limit. It is $5.0 \times \Phi$, and is a function of the standard deviation, Φ .

Φ = is the sample standard deviation and is recalculated after each test.

2. After each engine is tested, the Cumulative Sum statistic must be promptly updated according to the Cumulative Sum Equation in paragraph 1 of this section.

3. If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in Part I, Sections 28 and 29 of the 1995–2004 Emission Standards and Test Procedures, or Subpart B, §90.120 and §90.122 of the 2005 and Later Emission Standards and Test Procedures, as applicable, by performing an engine family modification (i.e., a change such as a running change involving a physical modification to an engine, a change in specification or setting, the addition of a new configuration, or the use of a different deterioration factor), all previous sample size and Cumulative Sum statistic calculations for the model year will remain unchanged.

4. A failed engine is one whose final deteriorated test results pursuant to paragraph (c)(4)(C), for a regulated pollutant exceeds the emission standard or the FEL, as applicable, for that pollutant.

5. An engine family may be determined to be in noncompliance, if at any time throughout the model year, the Cumulative Sum statistic, C_i , for a regulated pollutant is greater than the action limit, H, for two consecutive tests.

6. The engine manufacturer must perform a minimum of two tests per engine family per quarter, regardless of whether the conditions of paragraph (c)(2)(B)4 have been met.

7. All results from previous quarters of the same model year must be included in the on-going Cumulative Sum analysis, provided that the engine family has not failed (e.g., if three engines of a family were tested in the first quarter, the first test of the second quarter would be considered as the fourth test).

8. If the Cumulative Sum analysis indicates that an engine family has failed, the engine manufacturer must notify the Chief of the Mobile Source Operations Division, in writing and by telephone, within ten working days. Corrective action will be taken as noted in paragraph (d)(5), below.

9. If a manufacturer performs corrective action on a failed engine family and then resumes production, all previous tests will be void, and Cumulative Sum analysis will begin again with the next test.

(B) At the end of the quarter, or when the Cumulative Sum analysis indicates that a decision has been made, the manufacturer must provide all the data accumulated during the quarter.

(4) Calculation and Reporting of Test Results.

(A) Initial test results are calculated following the applicable test procedure specified in "California Exhaust Emission Standards and Test Procedures for 1995–2004 Small Off-Road Engines" or "California Exhaust Emission Standards and Test Procedures for 2005 and Later Small Off-Road Engines," as applicable. The manufacturer rounds these results, in accordance with ASTM E29–93a, to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure. (ASTM E29–93a has been incorporated by reference.)

(B) Final test results are calculated by summing the initial test results derived in paragraph (A) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding in accordance with ASTM E29–93a to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(C) The final deteriorated test results for each test engine are calculated by applying the appropriate deterioration factors, derived in the certification process for the engine family, to the final test results, and rounding in accordance with ASTM E29–93a to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(D) If, at any time during the model year, the Cumulative Sum statistic exceeds the applicable action limit, H, in two consecutive tests, the engine family may be determined to be in noncompliance and the manufacturer must notify the Chief of the Mobile Source Operations Division and the Manager of the Off-Road Certification/Audit Section, 9528 Telstar Avenue, El Monte, CA, 91731, within ten working days of such exceedance by the Cumulative Sum statistic.

(E) Within 45 calendar days of the end of each quarter, each engine manufacturer must submit to the Executive Officer a report that includes the following information unless the Executive Officer has approved the omission of some of the information:

1. The location and description of the manufacturer's or other's exhaust emission test facilities that were utilized to conduct testing reported pursuant to this section;

2. Total production and sample sizes, N and n, for each engine family;

3. The applicable emissions standards or Family Emissions Levels for each engine family;

4. A description of the process to obtain engines on a random basis;

5. A description of the test engines or equipment (i.e., date of test, engine family, engine size, engine or equipment identification number, fuel system, dynamometer power absorber setting in horsepower or kilowatts, engine code or calibration number, and test location);

6. The date of the end of the engine manufacturer's model year production for each engine family;

7. For each test conducted,

a. A description of the test engine, including:

i. Configuration and engine family identification,

ii. Year, make, and build date,

iii. Engine identification number and explanation of the identification code, and

iv. Number of hours of service accumulated on engine prior to testing;

b. Location where service accumulation was conducted and description of accumulation procedure and schedule;

c. Test number, date, test procedure used, initial test results before and after rounding, and final test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

d. The exhaust emission data for PM, CO, NO_x and HC (or NMHC, as applicable) for each test engine or equipment. The data reported must provide two significant figures beyond the number of significant figures in the applicable emission standard;

e. The retest emissions data, as described in Paragraph 4. above for any engine or unit of equipment failing the initial test, and description of the corrective measures taken, including specific components replaced or adjusted;

f. A complete description of any adjustment, modification, repair, preparation, maintenance, and/or testing that was performed on the test engine, was not reported pursuant to any other part of this article, and will not be performed on all other production engines;

g. A Cumulative Sum analysis, as required in paragraph (c)(3), of the production line test results for each engine family;

h. Any other information the Executive Officer may request relevant to the determination whether the new engines being manufactured by the manufacturer do in fact conform with the regulations with respect to which the Executive Order was issued;

8. For each failed engine as defined in paragraph (c)(3)(A)4, a description of the remedy and test results for all retests;

9. Every aborted test data and reason for the aborted test;

10. The start and stop dates of batch-produced engine family production;

11. The required information for all engine families in production during the quarter regardless of sample size; and

(F) Each manufacturer must submit a copy of the report that has been stored (e.g., computer disc), or may be transmitted, in an electronically digitized manner, and in a format that is specified by the Executive Officer. This electronically based submission is in addition to the written submission of the report.

(d) Procedures Applicable to All Production Line Testing

(1) Standards and Test Procedures. The emission standards, exhaust sampling and analytical procedures are those described in the Emission Standards and Test Procedures, and are applicable to engines tested only for exhaust emissions. The production line test procedures are specified in conjunction with the Emission Standards and Test Procedures. An engine is in compliance with these production line standards and test procedures only when all portions of these production line test procedures and specified requirements from the Emission Standards and Test Procedures are fulfilled, except for the provisions as follows:

(A) A handheld equipment engine manufacturer, (or a manufacturer of 2000 through 2004 model year engines 65 cc or below, or a manufacturer of 2005 and subsequent model years engines 80 cc or below,) may request that the Executive Officer allow the values of rated engine power and speed determined in the engine family certification be used in lieu of the determination of the engine power and speed of a production line engine. This request must include a specification of the particular power absorption device (e.g., dynamometer, water brake, etc.) used to apply the test load to the production engines. An engine manufacturer must request and must receive approval from the Executive Officer for this allowance before the production line tests are conducted. The engine manufacturer should establish equivalent assurance of compliance by providing emission data from a statistically valid sample of engines for comparison between the proposed procedures and the required procedures.

(B) Any adjustable engine parameters must be set to any value or position that is within the range available to the ultimate purchaser.

(2) Air Resources Board (ARB) personnel and mobile laboratories must have access to engine or equipment assembly plants, distribution facilities, and test facilities for the purpose of engine selection, testing, and observation. Scheduling of access must be arranged with the designated engine manufacturer's representative and must not unreasonably disturb normal operations (See Section 31 of the 1995–2004 Emission Standards and Test Procedures or Section 90.126 of the 2005 and Later Emission Standards and Test Procedures, as applicable).

(3) Engine Sample Selection

(A) The engine manufacturer must randomly select engines according to (b)(2) or (c)(2), as applicable, from each engine family for production line testing. The engines must be representative of the engine manufacturer's California sales. Each engine will be selected from the end of the assembly line. All engine models within the engine family must be included in the sample pool. Each selected engine for quality-audit testing must pass the inspection test, by being equipped with the appropriate emission control systems certified by the ARB. The procedure for randomly selecting engines or units of equipment must be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA, 91731, prior to the start of production for the first year of production.

(B)1. Prior to the beginning of the 2000 model year, if an engine manufacturer cannot provide actual California sales data, it must provide its total production and an estimate of California sales at the end of the model year. The engine manufacturer must also provide supporting material for its estimate.

2. For the 2000 and later model years, engine manufacturers must provide actual California sales, or other information acceptable to the Executive Officer, including, but not limited to, an estimate based on market analysis and federal production or sales.

(4) Engine Preparation and Preconditioning

(A) No emissions tests may be performed on an engine prior to the first production line test.

(B) The engine or unit of equipment must be tested after the engine manufacturer's recommended break-in period. The engine manufacturer must submit to the Executive Officer the schedule for engine break-in and any changes to the schedule with each quarterly report. This schedule must be adhered to for all production line testing within an engine family and subgroup or engine family and assembly plant as appropriate.

(C) If an engine or unit of equipment is shipped to a remote facility for production line testing, and adjustment or repair is necessary because of such shipment, the engine manufacturer must perform the necessary adjustments or repairs only after the initial test of the engine or equipment. Engine manufacturers must report to the Executive Officer in the quarterly report, all adjustments or repairs performed on engines or equipment prior to each test. In the event a retest is performed, a request may be made to the Executive Officer, within ten days of the production quarter, for permission to substitute the after-repair test results for the original test results. The Executive Officer will either affirm or deny the request by the engine manufacturer within ten working days from receipt of the request.

(D) If an engine manufacturer determines that the emission test results of an engine or unit of equipment are invalid, the engine or equipment must be retested. Emission results from all tests must be reported. The engine manufacturer must include a detailed report on the reasons for each invalidated test in the quarterly report.

(5) Manufacturer Notification of Failure

(A) The Executive Officer will notify the engine manufacturer that the engine manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California, or being enjoined from any further sales, or distribution, of the noncompliant engines in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an engine manufacturer, the Executive Officer will consider all information provided by the engine manufacturer, and other interested parties, including, but not limited to corrective actions applied to the noncompliant engine family, and for 2000 and subsequent model year engines, the availability of emissions reduction credits to remedy the failure.

(B) The Executive Officer will notify the equipment manufacturer that the equipment manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution, or being enjoined from any further sales, or distribution, of the equipment manufacturer's equipment product line(s) that are, or utilize engines that are, non-

compliant with the applicable emission regulations pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an equipment manufacturer, the Executive Officer will consider all information provided by interested parties, including, but not limited to corrective actions applied to the non-compliant engine family, and for 2000 and subsequent model year engines, the availability of emissions reduction credits to remedy the failure.

(6) Suspension and Revocation of Executive Orders.

(A) The Executive Order is automatically suspended with respect to any engine failing pursuant to paragraph (c)(3)(A)4 or (b)(4)(D) effective from the time that testing of that engine is completed.

(B) The Executive Officer may suspend the Executive Order for an engine family that is determined to be in noncompliance pursuant to paragraph (c)(3)(A)5 or (b)(4)(C). This suspension will not occur before fifteen days after the engine family is determined to be in noncompliance. Before revoking or suspending the Executive Order authorizing sales and distribution of the applicable noncompliant engine families or subgroups within the State of California, or seeking to enjoin an engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer and other interested parties, including the availability of emissions reductions credits to remedy the failure.

(C) If the results of testing pursuant to these regulations indicate that engines of a particular family produced at one plant of a manufacturer do not conform to the regulations with respect to which the Executive Order was issued, the Executive Officer may suspend the Executive Order with respect to that family for engines manufactured by the manufacturer at all other plants.

(D) Notwithstanding the fact that engines described in the application for certification may be covered by an Executive Order, the Executive Officer may suspend such Executive Order immediately in whole or in part if the Executive Officer finds any one of the following infractions to be substantial:

1. The manufacturer refuses to comply with any of the requirements of this section;
2. The manufacturer submits false or incomplete information in any report or information provided to the Executive Officer under this section;
3. The manufacturer renders inaccurate any test data submitted under this section;
4. An ARB enforcement officer is denied the opportunity to conduct activities authorized in this section and a warrant or court order is presented to the manufacturer or the party in charge of the facility in question;
5. An ARB enforcement officer is unable to conduct activities authorized in paragraph (d)(2) of this section because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities.

(E) The Executive Officer will notify the manufacturer in writing of any suspension or revocation of an Executive Order in whole or in part. A suspension or revocation is effective upon receipt of the notification or fifteen days from the time an engine family is determined to be in non-compliance pursuant to paragraph (c)(3)(A)5 or (b)(4)(C), whichever is later, except that the Executive Order is immediately suspended with respect to any failed engines as provided for in paragraph (A) of this section.

(F) The Executive Officer may revoke an Executive Order for an engine family after the Executive Order has been suspended pursuant to paragraph (B) or (C) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Executive Officer, is *one requiring a design change or changes to the engine and/or emission control system as described in the application for certification of the affected engine family.*

(G) Once an Executive Order has been suspended for a failed engine, as provided for in paragraph (A) of this section, the manufacturer must

take the following actions before the Executive Order is reinstated for that failed engine:

1. Remedy the nonconformity;
2. Demonstrate that the engine conforms to the emission standards by retesting the engine in accordance with these regulations; and
3. Submit a written report to the Executive Officer, after successful completion of testing on the failed engine, that contains a description of the remedy and test results for each engine in addition to other information that may be required by this part.

(H) Once an Executive Order for a failed engine family has been suspended pursuant to paragraph (B), (C) or (D) of this section, the manufacturer must take the following actions before the Executive Officer will consider reinstating the Executive Order:

1. Submit a written report to the Executive Officer that identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

2. Demonstrate that the engine family for which the Executive Order has been suspended does in fact comply with the regulations of this part by testing as many engines as needed so that the Cumulative Sum statistic, as calculated in paragraph (c)(3)(A)1, falls below the action limit, or the average emissions from the Quality–Audit testing as calculated in paragraph (b)(4)(C) remains below the emission standard or FEL, as applicable. Such testing must comply with the provisions of this section. If the manufacturer elects to continue testing individual engines after suspension of an Executive Order, the Executive Order is reinstated for any engine actually determined to be in conformance with the emission standards through testing in accordance with the applicable test procedures, provided that the Executive Officer has not revoked the Executive Order pursuant to paragraph (F) of this section.

(I) Once the Executive Order has been revoked for an engine family, if the manufacturer desires to continue introduction into commerce of a modified version of that family, the following actions must be taken before the Executive Officer may issue an Executive Order for that modified family:

1. If the Executive Officer determines that the proposed change(s) in engine design may have an effect on emission performance deterioration, the Executive Officer will notify the manufacturer, within five working days after receipt of the report in paragraph (H)1 of this section, whether subsequent testing under this section will be sufficient to evaluate the proposed change or changes or whether additional testing will be required; and

2. After implementing the change or changes intended to remedy the nonconformity, the manufacturer must demonstrate that the modified engine family does in fact conform with the regulations of this section by testing as many engines as needed from the modified engine family so that the Cumulative Sum statistic, as calculated in paragraph (c)(3)(A)1 falls below the action limit, or the average emissions from the Quality–Audit testing as calculated in paragraph (b)(4) remains below the emission standard or FEL, as applicable. When both of these requirements are met, the Executive Officer will reissue the Executive Order or issue a new Executive Order, as the case may be, to include that family. As long as the Cumulative Sum statistic remains above the action limit, or the average emissions from the Quality–Audit testing exceeds the emission standard or FEL, as applicable, the revocation remains in effect.

(J) At any time subsequent to a suspension of an Executive Order for a test engine pursuant to paragraph (A) of this section, but not later than 15 days (or such other period as may be allowed by the Executive Officer) after notification of the Executive Officer's decision to suspend or revoke an Executive Order in whole or in part pursuant to paragraphs (B), (C), or (F) of this section, a manufacturer may request a hearing as to

whether the tests have been properly conducted or any sampling methods have been properly applied.

(K) Any suspension of an Executive Order under paragraph (D) of this section:

1. must be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with all applicable requirements and;
2. need not apply to engines no longer in the possession of the manufacturer.

(L) After the Executive Officer suspends or revokes an Executive Order pursuant to this section and prior to the commencement of a hearing, if the manufacturer demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the Executive Order was based on erroneous information, the Executive Officer will reinstate the Executive Order.

(M) To permit a manufacturer to avoid storing non-test engines while conducting subsequent testing of the noncomplying family, a manufacturer may request that the Executive Officer conditionally reinstate the Executive Order for that family. The Executive Officer may reinstate the Executive Order subject to the following condition: the manufacturer must commit to recall all engines of that family produced from the time the Executive Order is conditionally reinstated if the Cumulative Sum statistic does not fall below the action limit, or the average emissions from the Quality-Audit testing remains above the emission standard or FEL, as applicable, and must commit to remedy any nonconformity at no expense to the owner.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 5-1-92; operative 6-1-92 (Register 92, No. 19).
2. Amendment of subsections (a)(2)-(3), (a)(7), (b)(2), (b)(4)(A) and NOTE filed 10-4-93; operative 11-3-93 (Register 93, No. 41).
3. Change without regulatory effect repealing article heading and amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
4. Amendment filed 7-24-95; operative 7-24-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
5. Amendment of section heading, section and NOTE filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
6. Amendment filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2408. Emission Reduction Credits — Certification Averaging, Banking, and Trading Provisions.

(a) Applicability. The requirements of this section are applicable to all small off-road engines produced in the 2000 and later model years. Engines certified to the voluntary standards in subsection 2403(b)(2) are not eligible for participation in this program. Participation in the averaging, banking and trading program is voluntary, but if a manufacturer elects to participate, it must do so in compliance with the regulations set forth in this section. The provisions of this section are limited to HC+NO_x (or NMHC+NO_x, as applicable) and Particulate Matter emissions.

(b) General provisions.

(1) The certification averaging, banking, and trading provisions for HC+NO_x and Particulate Matter emissions from eligible engines are described in this section.

(2) An engine family may use the averaging, banking and trading provisions for HC+NO_x and NMHC+NO_x and Particulate Matter emissions if it is subject to regulation under this article with certain exceptions specified in paragraph (3) of this section. HC+NO_x and Particulate Matter credits are interchangeable subject to the limitations on credit generation, credit usage, cross-class averaging and other provisions described in this section.

(3) A manufacturer must not include in its calculation of credit generation and may exclude from its calculation of credit usage, any new engines that are exported from California, or that are not destined for California, unless the manufacturer has reason or should have reason to

believe that such engines have been or will be imported in a piece of equipment.

(4) For an engine family using credits, a manufacturer may, at its option, include its entire production of that engine family in its calculation of credit usage for a given model year.

(5) A manufacturer may certify engine families at Family Emission Limits (FELs) above or below the applicable emission standard subject to the limitation in paragraph (6) of this section, provided the summation of the manufacturer's projected balance of credits from all credit transactions for each engine class in a given model year is greater than or equal to zero, as determined under paragraph (f).

(A) A manufacturer of an engine family with an FEL exceeding the applicable emission standard must obtain positive emission credits sufficient to address the associated credit shortfall via averaging, banking, or trading.

(B) An engine family with an FEL below the applicable emission standard may generate positive emission credits for averaging, banking, or trading, or a combination thereof.

(C) In the case of a production line test failure, credits may be used to cover subsequent production of engines for the family in question if the manufacturer elects to recertify to a higher FEL. Credits may be used to remedy a nonconformity determined by production line testing or new engine compliance testing, at the discretion of the Executive Officer.

(D) In the case of a production line testing failure pursuant to section 2407, a manufacturer may revise the FEL based upon production line testing results obtained under section 2407 and upon Executive Officer approval. The manufacturer may use certification credits to cover both past production and subsequent production as needed.

(6) No engine family may have an FEL that is greater than the emission levels in the table below.

Model Year	Displacement Category	HC+NO _x level g/kW-hr g/bhp-hr
2000-2004	0-65 cc, inclusive	180
	> 65 cc - < 225 cc	24.1
	≥ 225 cc	20
2005 and subsequent	< 50 cc	241.4
	50-80 cc, inclusive	186
2005-2006	> 80 cc - < 225 cc	32.3
	≥ 225 cc	26.8
2007	> 80 cc - < 225 cc	16.1
	≥ 225 cc	26.8
2008 and subsequent	> 80 cc - < 225 cc	16.1
	≥ 225 cc	12.1

(7) Manufacturers must demonstrate compliance under the averaging, banking, and trading provisions for a particular model year by 270 days after the end of the model year. An engine family generating negative credits for which the manufacturer does not obtain or generate an adequate number of positive credits by that date from the same or previous model year engines will violate the conditions of the Executive Order. The Executive Order may be voided *ab initio* for this engine family.

(c) Averaging.

(1) Negative credits from engine families with FELs above the applicable emission standard must be offset by positive credits from engine families having FELs below the applicable emission standard, as allowed under the provisions of this section. Averaging of credits in this manner is used to determine compliance under paragraph (f)(2).

(2) Subject to the limitations above, credits used in averaging for a given model year may be obtained from credits generated in the same model year by another engine family, credits banked in previous model years, or credits of the same or previous model year obtained through trading. The restrictions of this paragraph notwithstanding, credits from a given model year may be used to address credit needs of previous model year engines as allowed under paragraph (f)(3).

(d) Banking.

(1) Beginning with the 1999 model year, a manufacturer of an engine family with an FEL below the applicable emission standard for 2006 and subsequent years may bank credits in that model year for use in averaging and trading. Negative credits may be banked only according to the requirements of paragraph (f)(3) of this section.

(2) A manufacturer may bank emission credits only after the end of the model year and after ARB has reviewed the manufacturer's end-of-year reports. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for trading or averaging in the end-of-year report and final report.

(3) Credits declared for banking from the previous model year that have not been reviewed by ARB may be used in averaging or trading transactions. However, such credits may be revoked at a later time following ARB review of the end-of-year report or any subsequent audit actions.

(e) Trading.

(1) An engine manufacturer may exchange emission credits with other engine manufacturers in trading.

(2) Credits for trading can be obtained from credits banked in previous model years or credits generated during the model year of the trading transaction.

(3) Traded credits can be used for averaging or banking.

(4) Traded credits are subject to the limitations on use for past model years, and the use of credits from early banking as set forth in paragraph (c)(2).

(5) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases involving fraud. The Executive Officer may void Executive Orders of all engine families participating in a negative trade *ab initio*.

(f) Credit calculation and manufacturer compliance with emission standards.

(1) For each engine family, HC+NO_x and Particulate Matter certification emission credits (positive or negative) are to be calculated according to the following equation and rounded to the nearest gram. Consistent units are to be used throughout the equation.

$$\text{Credits} = (\text{Standard} - \text{FEL}) \times \text{Sales} \times \text{Power} \times \text{EDP} \times \text{Load Factor}$$

Where:

Standard = the current and applicable small off-road engine HC+NO_x (NMHC+NO_x) or Particulate Matter emission standard as determined in Section 2403.

FEL = the family emission limit for the engine family in grams per brake-horsepower hour or g/kW-hr as applicable.

Sales = eligible sales as defined in section 2401. Annual sales projections are used to project credit availability for initial certification. Actual sales volume is used in determining actual credits for end-of-year compliance determination.

Power = the sales weighted maximum modal power, in horsepower or kilowatts as applicable. This is determined by multiplying the maximum modal power of each configuration within the family by its eligible sales, summing across all configurations and dividing by the eligible sales of the entire family. Manufacturers may use an alternative if approved by the Executive Officer (for example, maximum modal power of the test engine).

EDP = the Emissions Durability Period for which the engine family was certified.

Load Factor = For Test Cycle A and Test Cycle B, the Load Factor = 47% (i.e., 0.47). For Test Cycle C, the Load Factor = 85% (i.e., 0.85). For approved alternate test procedures, the load factor must be calculated according to the following formula:

$$\sum_{i=1}^n (\% \text{MTT mode}_i) \times (\% \text{MTS mode}_i) \times (\text{WF mode}_i)$$

Where:

%MTT mode_i = percent of the maximum torque for mode i

%MTS mode_i = percent of the maximum engine rotational speed for mode i

WF mode_i = the weighting factor for mode i

(2) Manufacturer compliance with the emission standard is determined on a corporate average basis at the end of each model year. A manufacturer is in compliance when the sum of positive and negative emission credits it holds is greater than or equal to zero, except that the sum of positive and negative credits for a given class may be less than zero as allowed under paragraph (3) of this section.

(3) If, as a result of production line testing as required in section 2407, an engine family is determined to be in noncompliance, the manufacturer may raise its FEL for past and future production as necessary. Further, a manufacturer may carry a negative credit balance (known also as a credit deficit) for the subject class and model year forward to the next model year. The credit deficit may be no larger than that created by the nonconforming family. If the credit deficit still exists after the model year following the model year in which the nonconformity occurred, the manufacturer must obtain and apply credits to offset the remaining credit deficit at a rate of 1.2 grams for each gram of deficit within the next model year. The provisions of this paragraph are subject to the limitations in paragraph (4) of this section.

(4) Regulations elsewhere in this section notwithstanding, if an engine manufacturer experiences two or more production line testing failures pursuant to the regulations in section 2407 of this article in a given model year, the manufacturer may raise the FEL of previously produced engines only to the extent that such engines represent no more than 10% of the manufacturer's total eligible sales for that model year. For any additional engines determined to be in noncompliance, the manufacturer must conduct offsetting projects approved in advance by the Executive Officer.

(5) If, as a result of production line testing under section 2407, a manufacturer desires to lower its FEL, it may do so subject to Executive Officer approval and demonstration that the family would meet the new FEL in the production line testing using the existing data.

(6) Except as allowed at paragraph (c) of this section, when a manufacturer is not in compliance with the applicable emission standard by the date 270 days after the end of the model year, considering all credit calculations and transactions completed by then, the manufacturer will be in violation of these regulations and the Executive Officer may, void *ab initio* the Executive Orders of engine families for which the manufacturer has not obtained sufficient positive emission credits.

(g) Certification Using Credits.

(1) In the application for certification a manufacturer must:

(A) Submit a statement that the engines for which certification is requested will not, to the best of the manufacturer's belief, cause the manufacturer to be in noncompliance under paragraph (f)(2) when all credits are calculated for all the manufacturer's engine families.

(B) Declare an FEL for each engine family for HC+NO_x (NMHC+NO_x) and Particulate Matter, if applicable. The FEL must have the same number of significant digits as the emission standard.

(C) Indicate the projected number of credits generated/needed for this family; the projected applicable eligible sales volume and the values required to calculate credits as given in paragraph (f).

(D) Submit calculations in accordance with paragraph (f) of projected emission credits (positive or negative) based on production projections for each family.

(E)1. If the engine family is projected to generate negative emission credits, state specifically the source (manufacturer/engine family or reserved) and quantity of the credits necessary to offset the credit deficit according to projected production.

2. If the engine family is projected to generate credits, state specifically the recipient (manufacturer/engine family or reserved) and quantity of the credits used to offset a deficit, banked, or traded, according to where the projected credits will be applied.

(2) The manufacturer may supply the information required above in subparagraphs (C), (D), and (E) by use of a spreadsheet detailing the manufacturer's annual production plans and the credits generated or consumed by each engine family.

(3) All Executive Orders issued are conditional upon manufacturer compliance with the provisions of this section both during and after the model year of production.

(4) Failure to comply with all provisions of this section will be considered to be a failure to satisfy the conditions upon which the Executive Order was issued, and the Executive Order may be determined to be void *ab initio*.

(5) The manufacturer bears the burden of establishing to the satisfaction of the Executive Officer that the conditions upon which the Executive Order was issued were satisfied or waived.

(6) Projected credits based on information supplied in the certification application may be used to obtain an Executive Order. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Executive Officer.

(h) Maintenance of records.

(1) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine family:

(A) ARB engine family identification code,

(B) Family Emission Limit (FEL) or FELs where FEL changes have been implemented during the model year,

(C) Maximum modal power for each configuration sold or an alternative approved by the Executive Officer.

(D) Projected sales volume for the model year, and

(E) Records appropriate to establish the quantities of engines that constitute eligible sales for each power rating for each FEL.

(2) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on a quarterly basis for each such engine family:

(A) The engine family,

(B) The actual quarterly and cumulative applicable production/sales volume,

(C) The values required to calculate credits as given in paragraph (f),

(D) The resulting type and number of credits generated/required,

(E) How and where credit surpluses are dispersed, and

(F) How and through what means credit deficits are met.

(3) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy or reduced to microfilm, diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(4) Nothing in this section limits the Executive Officer's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(5) Pursuant to a request made by the Executive Officer, the manufacturer must submit to the Executive Officer the information that the manufacturer is required to retain.

(6) ARB may void *ab initio* the Executive Order for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Executive Officer upon request.

(i) End-of-year and final reports.

(1) End-of-year and final reports must indicate the engine family, the actual sales volume, the values required to calculate credits as given in paragraph (f), and the number of credits generated/required. Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report must include a calculation of credit balances to show that the credit summation for each class of engines is equal to or greater than zero (or less than zero in cases of negative credit balances as permitted in paragraph (f)(3)).

(2) The calculation of eligible sales (as defined in section 2401) for end-of-year and final reports must be based on the location of the point of first retail sale (for example, retail customer or dealer) also called the final product purchase location. Upon advance written request, the Executive Officer will consider other methods to track engines for credit calculation purposes, such as shipments to distributors of products intended for sale in California, that provide high levels of confidence that eligible sales are accurately counted.

(3)(A) End-of-year reports must be submitted within 90 days of the end of the model year to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731.

(B) Unless otherwise approved by the Executive Officer, final reports must be submitted within 270 days of the end of the model year to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731.

(4) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for any engines subject to regulation under this section is a violation of Section 2403 for each engine.

(5) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by ARB. Use of projected credits pending ARB review is not permitted in these circumstances.

(6) Errors discovered by ARB or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report.

(7) If ARB or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to ARB under this section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by ARB.

(8) If within 270 days of the end of the model year, ARB review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, ARB must restore the credits for use by the manufacturer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

2. Amendment of subsections (a) and (a)(6), repealer of subsections (a)(6)(A)-(C), amendment of subsection (f)(1) and redesignation of subsections (g)(1)(E)(i)-(ii) as (g)(1)(E)1.-2. filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2409. Emission Reduction Credits — Production Credit Program for New Engines.

(a) Applicability. The 1998 model year and later small off-road engines subject to the provisions of this article are eligible to participate in the production emission credit program described in this section for HC + NO_x (or NMHC + NO_x, as applicable) and Particulate Matter emissions.

(b) General provisions.

(1) The production credit program for eligible small off-road engines is described in this section. Participation in this program is voluntary.

(2) Any 2000 model year or later engine family subject to the provisions of this article is eligible to participate in the production emissions credit program described in this section provided it conforms with the requirements of section 2403.

(3) Credits generated and used in the certification averaging, banking, and trading program pursuant to the provisions of section 2408 may not be used in the production credit program.

(4) An engine family with a compliance level, as determined by production line testing pursuant to section 2407, below the applicable FEL to which the engine family is certified may generate emission credits for averaging, banking, or trading in the production credit program.

(5) Positive credits generated in a given model year may be used in that model year and/or in any subsequent model year.

(c) Averaging.

(1) A manufacturer may use averaging across engine families to demonstrate a zero or positive credit balance for a model year. Positive credits to be used in averaging may be obtained from credits generated by another engine family of the same model year, credits banked in previous model years, or credits obtained through trading.

(2) Production emission credits used for the certification emission credit program must be discounted 1.1 grams to 1 gram.

(d) Banking.

(1) A manufacturer of an engine family with a production compliance level below the FEL to which the engine family is certified for a given model year may bank positive production credits for that model year for use in certification averaging, trading, or, at the Executive Officer's discretion, to remedy noncompliance of another engine family.

(2) Unless otherwise approved by the Executive Officer, a manufacturer that generates positive production credits must wait 30 days after it has both completed production testing for the model year for which the credits were generated and submitted the report required by paragraph (g)(1) before it may bank credits for use in future averaging or trading. During the 30 day period, the Executive Officer will work with the manufacturer to correct any error in calculating banked credits, if necessary.

(e) Trading.

(1) An engine manufacturer may exchange positive production emission credits with other engine manufacturers through trading.

(2) Production credits for trading can be obtained from credits banked for model years prior to the model year of the engine family requiring production credits.

(3) Traded production credits can be used for certification averaging or banking.

(4) Unless otherwise approved by the Executive Officer, a manufacturer that generates positive production credits must wait 30 days after it has both completed production testing for the model year for which the credits were generated and submitted the report required by paragraph (g)(1) before it may transfer credits to another manufacturer or broker.

(5) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases involving fraud. Engine families participating in a trade that leads to a negative credit balance may be subject to suspension or revocation of the Executive Order if the engine manufacturer having the negative credit balance is unable or unwilling to obtain sufficient credits in the time allowed.

(f) Credit calculation. For each participating engine family, and for each regulated pollutant ($\text{HC}+\text{NO}_x$ ($\text{NMHC}+\text{NO}_x$) and Particulate Matter) emission credits (positive or negative) are to be calculated according to the following equation and rounded to the nearest gram. Consistent units are to be used throughout the equation:

$$\text{Credits} = (\text{FEL} - \text{CL}) \times \text{Sales} \times \text{Power} \times \text{EDP} \times \text{Load Factor}$$

Where:

FEL = The applicable Family Emission level to which the engine family was certified.

CL = compliance level of the deteriorated production line testing results for the subject pollutant in g/bhp-hr or g/kW-hr as applicable.

Sales = sales or eligible sales as defined in section 2401.

Power = the sales weighted maximum modal power, in horsepower or kilowatts as applicable, as calculated from the applicable test procedure as described in Section 2403. This is determined by multiplying the maximum modal power of each configuration within the family by its eligible

sales, summing across all configurations and dividing by the eligible sales of the entire family. Where testing is limited to certain configurations designated by the Executive Officer, the maximum modal power for the individual configuration(s) must be used. Manufacturers may use an alternative if approved by the Executive Officer.

EDP = the Emissions Durability Period for which the engine family was certified.

Load Factor = For Test Cycle A and Test Cycle B, the Load Factor = 47% (i.e., 0.47). For Test Cycle C, the Load Factor = 85% (i.e., 0.85). For approved alternate test procedures, the load factor must be calculated according to the Load Factor formula found in paragraph (f)(1) of Section 2408.

(g) Maintenance of records.

(1) Any manufacturer that is participating in the production credit program set forth in this section must establish, maintain, and retain the records required by paragraph (h) of Section 2408 with respect to its participation in the production credit program.

(2) The Executive Officer may void *ab initio* an Executive Order for an engine family for which the manufacturer fails to retain the records required under this section or to provide such information to the Executive Officer upon request.

(h) Reporting requirements.

(1) Any manufacturer who participates in the production credit program is required to submit a production credit report with the end of the model year production testing report required under Section 2407 within 90 days of the end of the production testing of a given model year's engine families. This report must show the calculation of credits from all the production testing conducted by the manufacturer for a given model year's engines. Such report must show the applications of credits, the trading of credits, the discounting of credits that are used and the final credit balance. The manufacturer may submit corrections to such end of model year reports in a final report for a period of up to 270 days after the end of the production testing of a given model year's engine families.

(2) The calculation of eligible sales (as defined in section 2401) for end-of-year and final reports must be based on the location of the point of first retail sale (for example, retail customer or dealer) also called the final product purchase location. Upon advance written request, the Executive Officer will consider other methods to track engines for credit calculation purposes, such as shipments to distributors of products intended for sale in California, that provide high levels of confidence that eligible sales are accurately counted.

(3) Reports must be submitted to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731.

(4) A manufacturer that fails to submit a timely end of year report as required in paragraph (h)(1) of this section will be considered ineligible to have participated in the production credit program.

(5) If the Executive Officer or the manufacturer determines that a reporting error occurred on an end of model year report previously submitted under this section, or an engine family production testing report submitted under section 2407, the manufacturer's credits and credit calculations will be recalculated. Erroneous positive credits will be void. Erroneous negative credits may be adjusted by the Executive Officer. An update of previously submitted "point of first retail sale" information is not considered an error and no increase in the number of credits will be allowed unless an actual error occurred in the calculation of credits due to an error in the "point of first retail sale" information from the time of the original end of model year report.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).

2. Amendment of subsections (c)(2) and (f) filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

Article 3. Off-Highway Recreational Vehicles and Engines

§ 2410. Applicability.

(a)(1) This article applies to all new off-highway recreational vehicles and engines manufactured for use in such vehicles produced on or after January 1, 1997, for sale, lease, use, and introduction into commerce in California. (See Note below.)

(2) New off-highway recreational vehicles and engines used in such vehicles, subject to any of the standards set forth in Article 3, shall be certified for use and sale by the Air Resources Board and covered by an Executive Order, pursuant to Section 2412 of this Article.

(b) Each part of this article is severable, and in the event that any part of this chapter or article is held to be invalid, the remainder of this article continues in full force and effect.

(c) This article includes provisions for certification, labeling requirements, emission standard enforcement, recall, and use restrictions.

NOTE: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43104, 43105, 43107 and 43205.5, Health and Safety Code. Reference: Sections 43013, 43018, 43101, 43104, 43105, 43107 and 43205.5, Health and Safety Code.

HISTORY

1. New article 3 (sections 2410-2414) and section filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
2. U.S. EPA granted California authorization on December 23, 1996 (61 Fed. Reg. 69093, December 31, 1996).
3. Amendment of subsection (a)(1) filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
4. Amendment filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

§ 2411. Definitions.

(a) The definitions in Section 1900(b), Chapter 1, Division 3, Title 13 of the California Code of Regulations, apply with the following additions:

(1) "All-Terrain Vehicle (ATV)" means any off-highway motor vehicle 50 inches (1270 mm) or less in overall width that has all of the following features and characteristics: designed to travel on four or more low pressure tires, having a single seat designed to be straddled by the operator or a single seat designed to be straddled by the operator and a seat for no more than one passenger, having handlebars for steering control, and is powered by an internal combustion engine. Width shall be exclusive of accessories and optional equipment. A golf cart, off-road sport vehicle, off-road utility vehicle, or sand car is not, for purposes of this regulation, to be classified as an all-terrain vehicle.

(2) "ARB Enforcement Officer" means any employee of the Air Resources Board so designated in writing by the Executive Officer of the Air Resources Board or by the Executive Officer's designee.

(3) "Assembly-Line Tests" are those tests or inspections which are performed on or at the end of the assembly-line.

(4) "Confirmatory testing" means an ARB directed follow-up emissions test and inspection of the test engine or test vehicle that had been used by the manufacturer to obtain test data for submittal with the certification application. The emissions tests can be conducted at ARB or contracted-out facilities or at the manufacturer's facility.

(5) "Crankcase Emissions" means airborne substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

(6) "Emission Control System" includes any component, group of components, or engine modification which controls or causes the reduction of substances emitted from an engine.

(7) "End of Assembly-Line" is defined as that place where the final inspection test or quality-audit test is performed by the manufacturer.

(8) "Exhaust Emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust port of an engine.

(9) "Final Calendar Quarter Production" is defined as the calendar quarter in which the production of an engine family ends.

(10) "Fuel System" means the combination of any of the following components: fuel tank, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, evaporative controls and all fuel system vents.

(11) "Golf Cart" means a vehicle used to convey equipment and no more than two persons, including the driver, to play the game of golf in an area designated as a golf course. Golf carts are designed to have an unladen weight of less than 1,300 pounds and carry not more than 100 pounds, excluding passengers, accessories and optional equipment. A golf cart is not used for grounds keeping or maintenance purposes.

(12) "Manufacturer" means the engine or vehicle manufacturer that applies to have the vehicle or engine certified.

(13) "Off-Highway Recreational Vehicle Engines" or "Engines" are identified as: two-stroke or four-stroke, air-cooled, liquid-cooled, gasoline, diesel, or alternate fuel powered engines or electric motors that are designed for powering off-road recreational vehicles and engines included in the following: off-road motorcycles, all-terrain vehicles, off-road sport vehicles, off-road utility vehicles, sand cars, and golf carts. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(14) "Off-Highway Vehicle (OHV) Area" is defined as a public land area in which the riding of off-highway recreational vehicles is allowed. These areas are managed by public land agencies, such as the California Department of Parks and Recreation, the Bureau of Land Management, the United States Forest Service, cities, counties, and other jurisdictions.

(15) "Off-Road Equipment and Vehicle" means any non-stationary device, powered by an internal combustion engine or electric motor, used primarily off the highways, to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power, and used in, but not limited to the following applications: Marine Vessels, Construction/Farm Equipment, Locomotives, Utility engines and Lawn and Garden Equipment, Off-Road Motorcycles, and Off-Highway Vehicles.

(16) "Off-Road Motorcycle" means any two- or three-wheeled vehicle equipped with an internal combustion engine and weighing less than 1,499 pounds. An off-road motorcycle is primarily designed for use off highways. These vehicles are mainly used for recreational riding on dirt trails but are not limited to this purpose.

(17) "Off-Road Sport Vehicle" means any off-highway motor vehicle that has all of the following features and characteristics: designed to travel on four wheels, having bench or bucket seating for one or more persons, having a steering wheel for steering control, designed for operation over rough terrain, having a rear payload not exceeding 600 pounds, having an internal combustion engine with a displacement less than or equal to one liter, and is capable of speeds 25 miles per hour or more. Vehicles otherwise meeting the definition for sand cars but powered by an engine with a displacement less than or equal to one liter are considered off-road sport vehicles.

(18) "Off-Road Utility Vehicle" means any off-highway motor vehicle that has all of the following features and characteristics: designed

to travel on four or more wheels, having bench or bucket seating for two or more persons, having a steering wheel for steering control, designed for operation over rough terrain, having an internal combustion engine with a displacement less than or equal to one liter, having a maximum brake power less than or equal to 30 kilowatts, capable of speeds 25 miles per hour or more, and having either 1) a rear payload of 350 pounds or more, or 2) seating for six or more passengers.

(19) "Sand Car" means any off-highway motor vehicle that has all of the following features and characteristics: designed to travel on four wheels, having bench or bucket seating for one or more persons, having a steering wheel for steering control, designed primarily for operation over sand dunes, and is powered by an internal combustion engine with a displacement greater than one liter. Vehicles otherwise meeting the criteria in the previous sentence that are powered by an engine with a displacement less than or equal to one liter are considered off-road sport vehicles.

(20) "Scheduled Maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the manufacturer which is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(21) "Ultimate Purchaser" means the first person who in good faith purchases or leases a new engine, vehicle, or piece of equipment for purposes other than resale.

(22) "Unscheduled Maintenance" means any inspection, adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems which is performed to correct or diagnose a part failure which was not anticipated.

(23) "Vehicle Identification Number (VIN)" means an alpha numeric code which has been permanently assigned by the manufacturer to a vehicle. The VIN is unique to each vehicle and may contain information deemed necessary by governing agencies. If a manufacturer cannot obtain a federal VIN from the National Highway Traffic Safety Administration for their vehicles, an alternative VIN approved by the Executive Officer of the Air Resources Board may be used. Unless otherwise noted, the VIN and alternate VIN will follow formats specified in the Code of Federal Regulations 49, Chapter V, Parts 565, 566, and 571, which are incorporated herein by reference.

(24) "Zero Emission Vehicle" means any vehicle which produces zero exhaust emissions of any criteria pollutant under any and all possible operational modes.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43107, Health and Safety Code. Reference: Sections 43013, 43018, 43101 and 43107, Health and Safety Code.

HISTORY

1. New section filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(c)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
2. U.S. EPA granted California authorization on December 23, 1996 (61 Fed.Reg. 69093, December 31, 1996).
3. Repealer of subsection (a)(19) and subsection renumbering filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
4. Amendment filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
5. Amendment of subsections (a)(1) and (a)(13), new subsections (a)(17)-(19) and subsection renumbering filed 7-16-2007; operative 8-15-2007 (Register 2007, No. 29).

§ 2412. Emission Standards and Test Procedures — New Off-Highway Recreational Vehicles and Engines.

(a) This section applies to all off-highway recreational vehicles and engines used in such vehicles produced on or after January 1, 1997.

(b) For purposes of certification in California, manufacturers must comply with the following exhaust and evaporative emissions from new off-highway recreational vehicles and engines that are sold, leased, used, or introduced into commerce in California.

(1) Exhaust emissions must not exceed:

Exhaust Emission Standards Based on Chassis-Based Testing

<i>Vehicle & Model Year</i>	<i>Hydrocarbon (HC)</i>	<i>Oxides of Nitrogen (NO_x)</i>	<i>Carbon Monoxide (CO)</i>	<i>Particulate Matter⁽⁴⁾</i>
Off-Road Motorcycles and All-Terrain Vehicles with Engines Greater Than 90 cc ⁽¹⁾ 1997 and Later (g/km) ⁽²⁾	1.2 ⁽³⁾	—	15.0	—
Off-Road motorcycles and All-Terrain Vehicles with Engines 90 cc or Less 1999 and Later (g/km)	1.2 ⁽³⁾	—	15.0	—
Off-Road Motorcycle and All-Terrain Vehicle Option: 1997 and Later Vehicles with Engines Greater Than 90 cc, and 1999 and Later Vehicles with Engines 90 cc or Less	Vehicles and engines that do not meet the emissions standards noted above may be certified subject to the use restrictions described in subsection (f) below.			
Off-Road Sport Vehicles and Off-Road Utility Vehicles 2007 and Later (g/km)	1.2 ⁽³⁾	—	15.0	—
Sand Cars 2007 and Later (g/km)	1.2 ⁽³⁾	—	15.0	—
Golf Carts in Federal Ozone Non-Attainment Areas 1997 and Later	ZERO	ZERO	ZERO	ZERO

1. Cubic centimeters.

2. Grams per kilometer.

3. Compliance with the 1.2 grams per kilometer HC standard to be applied as a "corporate average" shall be determined as provided in subsection (d). Each engine family shall have only one applicable standard.

4. Applicable to diesel and two-stroke spark ignited engines only.

Emission Standards Based on Optional Engine-Based Testing⁽¹⁾

<i>Vehicle & Model Year</i>	<i>Hydrocarbon plus Oxides of Nitrogen (HC + NO_x)</i>	<i>Carbon Monoxide (CO)</i>	<i>Particulate Matter⁽³⁾</i>
All-Terrain Vehicles with engines less than 225 cc ⁽²⁾ 1997 and Later (g/kW-hr) ⁽³⁾	16.1 ⁽⁴⁾	400	—
All Terrain Vehicles with engines greater than or equal to 225 cc 1997 and Later (g/kW-hr)	13.4 ⁽⁴⁾	400	—
Off-Road Sport Vehicles and Off-Road Utility Vehicles 2007 and Later (g/kW-hr)	12.0 ⁽⁴⁾	400	—
Sand Cars 2007 and Later (g/kW-hr)	13.4 ⁽⁴⁾	400	—

1. All-Terrain Vehicles, Off-Road Sport Vehicles, Off-Road Utility Vehicles, and Sand Cars may use the utility test procedures set forth in the "California Exhaust Emission Standards and Test Procedures for 1995-2004 Small Off-Road

Engines," as incorporated by reference in CCR, title 13, section 2403(d). The test cycle is limited to the 6-mode Test Cycle A only.

2. Cubic centimeters.

3. Grams per kilowatt-hour.

4. Compliance with the optional HC+NO_x standard to be applied as a "corporate average" shall be determined as provided in subsection (d). Each engine family shall have only one applicable standard.

5. Applicable to diesel and two-stroke spark ignited engines only.

(2) Evaporative emissions. With the exception of vehicles certified solely with compression-ignition engines, evaporative emissions must not exceed:

Evaporative Emissions			
Vehicle & Model Year	Emission Component	Permeation Standard	Test Temperature
ALL Off-Highway Recreational Vehicles 2008 and Later g/m ² /day ⁽¹⁾	Fuel Tank Permeation	1.5	28 °C (82 °F)
	Hose Permeation	15.0	23 °C (73 °F)

1. Grams per square meter per day.

(c)(1) The test procedures for determining certification and compliance with the standards for exhaust and evaporative emissions from new off-highway recreational vehicles are set forth in "California Exhaust Emission Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines," adopted November 23, 1994, and last amended August 15, 2007, which are hereby incorporated by reference herein and which in turn incorporate by reference Subparts E and F of Part 86, and Subparts A, B, C, F and I of Part 1051, Title 40, Code of Federal Regulations. Manufacturers of the following are not required to perform emissions testing, but must file an application of certification and comply with the administrative requirements outlined in the procedures to certify their vehicles for sale in California:

(A) Golf carts,

(B) Off-road motorcycles and all-terrain vehicles, and engines used in such vehicles, as described in subsection (f) below.

(2) The test procedures for determining certification and compliance with the standards for exhaust emissions from all-terrain vehicle, off-road sport vehicle, off-road utility vehicle, and sand car engines (those engines utilizing the engine-based optional standards noted in (b) above) are set forth in "California Exhaust Emission Standards and Tests Procedures for 1995-2004 Small Off-Road Engines," adopted March 20, 1992, and last amended July 26, 2004.

(d)(1) For chassis-based testing, compliance with a standard to be applied as a "corporate average" shall be determined as follows:

$$\frac{\sum_{j=1}^n (\text{PROD})_{jx} (\text{STD})_{jx}}{\sum_{j=1}^n (\text{PROD})_{jx}} = \text{STD}_{ca}$$

n = Off-highway recreational vehicle engine families.

PROD_{jx} = Number of units in engine family j produced for sale in California in model year x

STD_{jx} = The manufacturer designated HC exhaust emission standard for engine family j in model year x , which shall be determined by the manufacturer subject to the following conditions: (1) no individual engine family exhaust emission standard shall exceed 2.5 g/km, and (2) no engine family designation or engine family exhaust emission standard shall be amended in a model year after the engine family is certified for the model year, and (3) prior to sale or offering for sale in California, each engine family shall be certified in accordance with "California Exhaust Emissions Standards and Test Procedures for 1997 and Later Off-Highway Recreational Vehicles and Engines" adopted November 23, 1994, and shall be required to meet the manufacturer's designated HC exhaust emission standard as a condition of the certification Executive Order. Prior to certification the manufacturer shall also submit estimated

production volumes for each engine family to be offered for sale in California.

STD_{ca} = A manufacturer's corporate average HC exhaust emissions from those California off-highway recreational vehicles subject to the California corporate average HC exhaust emissions standard, as established by an Executive Order certifying the California production for the model year. This order must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year and shall include but not be limited to the following requirements in subsection (e) below:

(2) For the optional engine-based testing, compliance with a standard to be applied as a "corporate average" shall be determined as follows:

$$\sum_{j=1}^n \frac{(\text{FEL}_j)(\text{Sales}_j)(\text{Power}_j)(\text{Load Factor})(\text{EDP}_j)}{(\text{Sales}_j)(\text{Power}_j)(\text{Load Factor})(\text{EDP}_j)} = \text{STD}_{ca}$$

where

n = the number of small off-road engine families.
 FEL = the Family Emission Level for an engine family.
 Sales_j = the eligible sales of engine family j .
 Power_j = the sales-weighted maximum modal power (in kilowatts) of engine family j , or an alternative approved by the Executive Officer.
 EDP_j = the Emissions Durability Period of engine family j .
 Load Factor = the Load Factor is 47% (i.e., 0.47).
 STD_{ca} = A manufacturer's corporate average HC+NO_x exhaust emissions from those California off-highway recreational vehicles subject to the California corporate average HC+NO_x exhaust emissions standard, as established by an Executive Order certifying the California production for the model year. This order must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year and shall include but not be limited to the following requirements in subsection (e) below:

(e)(1) During the manufacturer's production year, for each vehicle produced for sale in California, the manufacturer must provide the following information to the Executive Officer within 30 days after the last day in each calendar quarter:

(A) vehicle identification numbers and an explanation of the identification code if applicable;

(B) model number and engine size of vehicle;

(C) the total number of vehicles marketed and produced for sale in California and their applicable designated emissions standards.

(2) The manufacturer's average HC or HC+NO_x exhaust emissions, as applicable, shall meet the corporate average standard at the end of the manufacturer's production for the model year.

(3) Production and sale of vehicles which result in non-compliance with the California standard for the model year shall cause a manufacturer to be subject to civil penalties, according to applicable provisions of the Health and Safety Code. All excess emissions resulting from non-compliance with the California standard shall be made up in the following model year.

(4) For a period of up to one year following the end of the model year, for each model the manufacturer shall submit California sales and registration data as it becomes available.

(f) Off-road motorcycles and ATVs, and engines used in such vehicles, that do not meet the emissions standards in subsection (b) above may operate only during certain periods of time at certain off-highway vehicle (OHV) riding areas. Section 2415 of this Article lists these California OHV riding areas and their associated riding seasons for off-highway recreational vehicles that are subject to use restrictions.

(g)(1) On or after January 1, 1997, no new engines greater than 90 cc may be produced for sale to replace off-road motorcycles, all-terrain vehicles and engines used in such vehicles, unless those engines comply with the emission control standards in effect at the time of replacement.

(2) On or after January 1, 1997, manufacturers may not produce for sale in federal ozone non-attainment areas of California new, non-zero emission engines for golf carts.

(3) On or after January 1, 1999, no new engines 90 cc or less may be produced for sale to replace off-road motorcycle and all-terrain vehicle engines, unless those engines comply with the emission control standards in effect at the time of replacement.

(4) On or after January 1, 2007, no new engines may be produced for sale to replace engines in off-road sport vehicles, off-road utility vehicles, or sand cars, unless those engines comply with the emission control standards in effect at the time of replacement.

(h) The Executive Officer may find that any off-highway recreational vehicles or engines used in such vehicles certified to comply with California emission standards and test procedures for on-road or other off-road applications are in compliance with these regulations.

(i) No crankcase emissions shall be discharged into the ambient atmosphere from the following vehicles, or from engines used in such vehicles:

(1) 1997 and later off-road motorcycles, all-terrain vehicles, golf carts;

(2) 2007 and later off-road sport vehicles, off-road utility vehicles, and sand cars.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43107, Health and Safety Code. Reference: Sections 43013, 43018, 43102, 43104 and 43107, Health and Safety Code.

HISTORY

1. New section filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
2. U.S. EPA granted California authorization on December 23, 1996 (61 Fed. Reg. 69093, December 31, 1996).
3. Editorial correction of subsections (d) and (e) (Register 97, No. 8).
4. Amendment of Table in subsection (b) and footnote 6 filed 2-20-97; operative 2-20-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 8).
5. Change without regulatory effect amending subsection (b) table filed 5-14-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 20).
6. Amendment filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
7. Amendment of subsection (b) — Emissions Standards table and amendment of subsection (c)(1) filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
8. Amendment filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
9. Change without regulatory effect amending subsection (b) filed 4-14-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 16).
10. Amendment of section and NOTE filed 7-16-2007; operative 8-15-2007 (Register 2007, No. 29).

§ 2413. Emission Control Labels — New Off-Highway Recreational Vehicles.

(a) Purpose. The Air Resources Board recognizes that certain emissions—critical or emissions—related parts must be properly identified and maintained in order for off-highway recreational vehicles, and engines used in such vehicles, to comply with the applicable emission standards. The purpose of this section is to require off-highway recreational vehicle engine manufacturers to attach a label (or labels) on each production vehicle (or engine) in order to provide vehicle owners and service mechanics with information necessary for the proper maintenance of these vehicles and engines in customer use.

(b) Applicability

(1) All off-highway recreational vehicles, and engines used in such vehicles, except those certified according to section 2412(f), produced on or after January 1, 1997, for sale, lease, use or introduction into commerce in California, shall comply with these labeling requirements.

(2) Any off-road motorcycle, all-terrain vehicle, and engines used in such vehicles, that are exempt from exhaust emission standards pursuant to title 13 of the California Code of Regulations shall also be exempt from the requirements of this section.

(3) The responsibility for compliance with this section rests with the manufacturer who has been granted certification in order to offer these vehicles and engines for sale in California.

(c) Label Content and Location

(1) A tune-up label made of a permanent material shall be welded, riveted or otherwise permanently attached to an area on the off-highway recreational vehicle or engine in such a manner that the label will be readily visible to the average person after the engine installation.

(2) In selecting an acceptable location, the manufacturer shall consider the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). Each label shall be affixed in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any part that is likely to be replaced during the vehicle's useful life.

(3) The tune-up label shall be in the English language, and use block letters and numerals, which shall be of a color that contrasts with the background color of the label.

(4) The tune-up label shall contain the following information:

(A) A label heading that shall read: "Vehicle Emission Control Information."

(B) The complete corporate name and trademark of the manufacturer.

(C) Engine family name and engine displacement (in cubic centimeters).

(D) Identification of the Exhaust Emission Control System Abbreviations may be used and shall conform to the nomenclature and abbreviations found in the Society of Automotive Engineers' document J1930, which is incorporated by reference in section 1977, title 13, CCR, entitled "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms."

(E) The tune-up specifications and adjustments recommended by the manufacturer, including, if applicable: valve lash, ignition timing, idle air fuel mixture setting procedure and value (e.g., CO, idle speed drop), and high idle speed. These specifications shall indicate the proper transmission position during tune-up and what accessories, if any, should be in operation, and what systems, if any (e.g., vacuum advance, air pump), should be disconnected during the tune-up. Any tune-up specifications or adjustment instructions that appear on labels shall be sufficiently clear and complete so as to preclude the need for a mechanic or vehicle owner to consult other references in order to correctly perform the adjustments. The manufacturer shall include the single statement: "No other adjustments needed," in lieu of any tune-up adjustment instruction, when the manufacturer does not recommend a tune-up specification or an adjustment.

(F) Any specific fuel or engine lubricant requirements (e.g., research octane number, engine lubricant type, etc.).

(G) An unconditional statement of compliance with the appropriate model-year California regulations. For example, "This (specify off-road motorcycle, all-terrain vehicle, off-road sport vehicle, off-road utility vehicle, sand car, or engine, as applicable) conforms to California regulations applicable to (specify applicable model year) model-year new (specify off-road motorcycles, all-terrain vehicles, off-road sport vehicles, off-road utility vehicles, sand cars, or engines, as applicable). The statement shall also include the phrase, "is certified to (specify applicable HC standard in grams per kilometer) HC engine family exhaust emission standard in California" or the phrase "is certified to (specify applicable HC+NO_x standard in grams per kilowatt-hour) HC+NO_x engine family exhaust emission standard in California."

(H) Statements such as those in (G) shall not appear on labels placed on off-highway recreational vehicles or engines that do not comply with all applicable California regulations.

(5) A manufacturer may elect to use a supplemental label when the original label lacks sufficient space to include all the required information. A supplemental label shall conform to all of the specifications as the original label. The original label shall be indicated as "1 of 2" and the supplemental label shall be indicated as "2 of 2" whenever a supplemental label is utilized.

(6) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such off-highway recreational vehicle or engine conforms to any applicable federal emission standards for new off-road motorcycles, all-terrain vehicles, off-road utility vehicles or engines used in such vehicles, or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of such off-highway vehicles or engines.

(7) As used in this Section 2413(c), readily visible to the average person means that the label shall be readable from a distance of 18 inches (46 centimeters) without any obstructions from vehicle or engine parts (including all manufacturer available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the label shall be no smaller than 8 point type size (2 millimeters in height) provided that no vehicle or engine parts (including all manufacturer available optional equipment), except for flexible parts, obstruct the label.

(8) The labels and any adhesives used shall be designed to withstand, for the off-highway recreational vehicle's total expected life, typical off-highway recreational vehicle environmental conditions at the location where a label has been attached. Typical off-highway recreational vehicle environmental conditions include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, brake fluids, ethylene glycol), engine operating temperatures, steam cleaning, and paints or paint solvents. The manufacturer must submit, with its certification application, a statement attesting that its labels comply with this requirement.

(9) The manufacturer must obtain approval from the Executive Officer for all emission control label formats and locations prior to certification. Approval of the specific tune-up specifications and adjustments is not required; however, the format for all such specifications and adjustments, if any, is subject to review. If the Executive Officer finds that the information on the label is vague or subject to misinterpretation, or that the location does not comply with these specifications, the Executive Officer may require that the label or its location be modified accordingly.

(10) Samples of all actual production emission control labels used within an engine family shall be submitted to the Executive Officer of the state Air Resources Board within thirty days after the start of production.

(11) The Executive Officer may approve alternate label locations or may, upon request and when the Executive Officer determines warranted, waive or modify one or more of the label content requirements, provided that the intent of this section is satisfied.

(12) If the Executive Officer finds any off-highway recreational vehicle or engine manufacturer using emission control labels that are different from those approved or that do not substantially comply with the readability or durability requirements set forth in this section, the Executive Officer may invoke section 2109, title 13, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43105 and 43107, Health and Safety Code. Reference: Sections 43013, 43018, 43102, 43105 and 43107, Health and Safety Code.

HISTORY

1. New section filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.

2. U.S. EPA granted California authorization on December 23, 1996 (61 Fed. Reg. 69093, December 31, 1996).
3. Amendment of subsection (b) filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
4. Repealer of subsection (a) designator and repealer of subsection (b) filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
5. Amendment filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
6. Amendment of section and NOTE filed 7-16-2007; operative 8-15-2007 (Register 2007, No. 29).

§ 2414. New Off-Highway Recreational Vehicle Engine Emission Standards, Enforcement and Recall Provisions, Warranty, Quality Audit, and New Engine Testing.

This section applies to off-road motorcycles, all-terrain vehicles, and engines used in such vehicles, except those certified according to section 2412(f), produced on or after January 1, 1997, for sale, lease, use or introduction into commerce in California. Off-road motorcycles, all-terrain vehicles, and engines used in such vehicles are subject to Title 13, California Code of Regulations, Chapter 2, Articles 2.1 through 2.3, and the incorporated Appendix A, "California In-Use Vehicle Emission-Related Recall Procedures, Enforcement Test Procedures, and Failure Reporting Procedures for 1982 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, Heavy-Duty Vehicles and Engines, and Motorcycles", which are incorporated by reference herein.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43105, 43107, 43205.5 and 43210, Health and Safety Code. Reference: Sections 43013, 43018, 43105, 43107, 43205.5 and 43210, Health and Safety Code.

HISTORY

1. New section filed 1-26-95; operative 1-26-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 4). Note: Under section 209(e)(2) of the Federal Clean Air Act (42 U.S.C. § 7543(e)(2)), California is required to receive authorization from the Administrator of the U.S. Environmental Protection Agency (U.S. EPA) prior to enforcing its regulations regarding new off-road vehicles and engines. Accordingly, the Air Resources Board will not seek to enforce the off-highway recreational vehicle regulations until such time as it receives authorization from the U.S. EPA.
2. U.S. EPA granted California authorization on December 23, 1996 (61 Fed. Reg. 69093, December 31, 1996).
3. Amendment of subsection (b) filed 3-23-99; operative 3-23-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 13).
4. Repealer of subsection (a) designator and repealer of subsection (b) filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
5. Amendment filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

§ 2415. California Off-Highway Vehicle Areas and Riding Seasons for Off-Highway Recreational Vehicles with Use Restrictions.

(a) The following table lists public off-highway vehicle (OHV) areas in California that are designated for off-highway recreational vehicle operation. Although not every type of off-highway recreational vehicle may be eligible to operate at every OHV area due to restrictions by the designated Public Land Management Agency other than this section, vehicles that meet the emission standards in section 2412(b) are not subject to the riding season restrictions noted below. Model year 2003 and later off-road motorcycles and ATVs that are certified pursuant to section 2412(f) are permitted to operate in the public areas designated for OHV use noted below, only during the applicable riding seasons noted. This table contains the following information: Public Land Management entities, OHV riding area names, and the applicable riding seasons. The OHV areas are listed in order of location, from north to south.

Table 1
OHV Areas and Their Riding Seasons for Vehicles With Use
Restrictions

Public Land Management

Ranger District:

United States Forest Service

Field Office:

Bureau of Land Management

State Vehicular Recreation Area (SVRA):

California State Parks

	<i>Riding Areas</i>	<i>Riding Seasons</i>	
	<i>OHV Area Name</i>	<i>Beginning</i>	<i>End</i>
Mc Cloud Ranger District	McCloud OHV Area		Year round
Arcata Field Office	Samoa Dunes		Year round
Hayfork Ranger District	Hayfork OHV Area		Year round
Redding Field Office	Chappie-Shasta ORV Area	1-Oct	30-June
Eagle Lake Field Office	Fort Sage OHV Area		Year round
Mt. Hough Ranger District	Mt. Hough OHV Area		Year round
Feather River Ranger District	Feather River OHV Area		Year round
Downieville Ranger District	Downieville OHV Area		Year round
Beckworth Ranger District	Beckworth OHV Area		Year round
Army Corps of Engineers	Black Butte Lake		Year round
Upper Lake Ranger District	Upper Lake OHV Areas		Year round
Grindstone Ranger District	Grindstone OHV Areas		Year round
Ukiah Field Office	South Cow Mountain Recreation Area		Year round
Ukiah Field Office	Knoxville Recreation Area		Year round
SVRA	Clay Pit	1-Sep	30-Jun
City of Marysville	Eugene Chappie OHV Park		Year round
SVRA	Mammoth Bar		Year round
Nevada City Ranger District	Nevada City OHV Areas		Year round
Truckee Ranger District	Truckee OHV Areas		Year round
Lake Tahoe Basin Management Unit	Lake Tahoe OHV Area		Year round
American River Ranger District	American River OHV Areas		Year round
Georgetown Ranger District	Georgetown OHV Areas		Year round
Placerville Ranger District	Placerville OHV Areas		Year round
Amador Ranger District	Amador OHV Areas		Year round
Pacific Ranger District	Pacific OHV Areas		Year round
SVRA	Prairie City	1-Oct	30-Apr
Calaveras Ranger District	Calaveras OHV Areas		Year round
Summit Ranger District	Summit OHV Areas		Year round
Mi-Wuk Ranger District	Mi-Wuk OHV Areas	1-Oct	31-May
SVRA	Carnegie	1-Oct	30-Apr
Santa Clara County	Metcalf Motorcycle Park	1-Oct	30-Apr
Stanislaus County	Stanislaus OHV Areas	1-Oct	30-Apr
Groveland Ranger District	Groveland OHV Areas	1-Oct	31-May
Bass Lake Ranger District	Bass Lake OHV Areas	1-Oct	31-May
SVRA	Hollister Hills	1-Oct	31-May
Hollister Field Office	Clear Creek Management Area	1-Oct	31-May
High Sierra Ranger District	High Sierra OHV Areas	1-Oct	31-May
Bishop Field Office	Bishop Resource Area		Year round

Public Land Management

Ranger District:

United States Forest Service

Field Office:

Bureau of Land Management

State Vehicular Recreation Area (SVRA):

California State Parks

	<i>Riding Areas</i>	<i>Riding Seasons</i>	
	<i>OHV Area Name</i>	<i>Beginning</i>	<i>End</i>
Hume Lake Ranger District	Hume Lake OHV Areas	1-Oct	31-May
SVRA	Oceano Dunes	Year round	
Santa Lucia Ranger District	Santa Lucia OHV Areas	Year round	
Kern River Ranger District	Kern River OHV Areas	1-Oct	31-May
Tule River/Hot Springs Ranger District	Tule River/Hot Springs OHV Areas	1-Oct	31-May
Ridgecrest Field Office	Olancha Dunes	Year round	
Ridgecrest Field Office	Jawbone Canyon, Dove Springs	1-Sep	31-May
Ridgecrest Field Office	Spangler Hill	1-Sep	31-May
White Mountain Ranger District	White Mountain OHV Areas	Year round	
Mt. Pinos Ranger District	Mt. Pinos OHV Areas	1-Oct	30-Apr
SVRA	Hungry Valley	1-Oct	30-Apr
Santa Barbara Ranger District	Santa Barbara OHV Areas	1-Oct	30-Apr
Ojai Ranger District	Ojai OHV Areas	1-Oct	30-Apr
Santa Clara/Mojave Rivers Ranger District	Santa Clara/Mojave Rivers OHV Areas	1-Oct	30-Apr
San Gabriel River Ranger District	San Gabriel River OHV Areas	1-Oct	30-Apr
Front Country Ranger District	Front Country OHV Areas	1-Oct	30-Apr
Mountain Top Ranger District	Mountain Top OHV Areas	1-Oct	30-Apr
San Jacinto Ranger District	San Jacinto OHV Areas	1-Oct	31-May
Barstow Field Office	Dumont Dunes	Year round	
Barstow Field Office	El Mirage	1-Oct	30-Apr
Barstow Field Office	Stoddard Valley	1-Sep	31-May
Barstow Field Office	Rasor	1-Sep	31-May
Barstow Field Office	Johnson Valley	1-Sep	31-May
Needles Field Office	Eastern Mojave Desert Areas	Year round	
San Bernardino County	Park Moabi	Year round	
Lake Havasu Field Office	Parker Strip	Year round	
Palm Springs Field Office	Colorado Desert Areas	1-Oct	30-Apr
Trabuco Ranger District	Trabuco OHV Areas	1-Oct	30-Apr
Descanso Ranger District	Descanso OHV Areas	1-Oct	30-Apr
El Centro Field Office	Lark Canyon	1-Oct	30-Apr
SVRA	Ocatillo Wells	1-Oct	31-May
SVRA	Heber Dunes	Year round	
El Centro Field Office	Arroyo Salado	1-Oct	31-May
El Centro Field Office	Superstition Mountain	1-Oct	31-May
El Centro Field Office	Plaster City	1-Oct	31-May
El Centro Field Office	Imperial Dunes-Mammoth Wash	Year round	
El Centro Field Office	Imperial Dunes-Glamis/Gecko	Year round	
El Centro Field Office	Imperial Dunes-Buttercup Valley	Year round	

(b) The Executive Officer shall publish in the California Regulatory Notice Register and notify potentially affected OHV Area Managing Entities regarding revisions to Table 1 in subsection (a) at least 30 days before the revisions take effect, in the following situations:

(1) The Executive Officer may revise Table 1 in subsection (a) where there is a change in the designation (with respect to California Ambient Air Quality Standards), from zone nonattainment to attainment, of an area in which an OHV area is located, provided that the attainment area is not identified as an upwind contributor to significant impacts to transport of ozone or ozone precursors as identified and defined in Section 70500, Title 17, California Code of Regulations.

(2) The Executive Officer may revise Table 1 in subsection (a) to reflect changes in the physical characteristics or identity of OHV Areas, including but not limited to changes in ownership or control of listed areas, addition or deletion of areas, or changes in the geographic domain of listed areas.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43107, Health and Safety Code; and Sections 38020 and 38390, Vehicle Code. Reference: Sections 43013, 43018 and 43107, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

2. Amendment of subsection (a) filed 4-27-2004; operative 5-27-2004 (Register 2004, No. 18).
3. Amendment of section and NOTE filed 7-16-2007; operative 8-15-2007 (Register 2007, No. 29).

Article 4. Off-Road Compression-Ignition Engines and Equipment

§ 2420. Applicability.

(a)(1) This article shall be applicable to new heavy-duty off-road compression-ignition engines, including all heavy-duty off-road alternate-fueled compression-ignition engines, including those engines derived from existing diesel cycle engines (hereinafter all such engines shall be referred to as compression-ignition engines), produced on or after January 1, 1996, and all other new 2000 model year and later off-road compression-ignition engines, with the exception of all engines and equipment that fall within the scope of the preemption of Section 209(e)(1) of the Federal Clean Air Act (42 U.S.C. 7543(e)(1) and as defined by regulation of the U.S. Environmental Protection Agency.

(2) For any engine that is not a distinctly compression-ignition engine nor derived from such, the Executive Officer shall determine whether the engine shall be subject to these regulations, taking into consideration the relative similarity of the engine's torque-speed characteristics with those of compression-ignition engines.

(3) Every new off-road compression-ignition engine that is manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into California and that is subject to any of the standards prescribed in this article and documents incorporated by reference therein, is required to be certified for use and sale by the manufacturer through the Air Resources Board and covered by an Executive Order, issued pursuant to Chapter 9, Article 4, Section 2423.

(b) Each part of this article shall be deemed severable, and in the event that any part of this chapter or article is held to be invalid, the remainder shall continue in full force and effect.

(c) This article and documents incorporated by reference herein, include provisions for certification, labeling requirements, warranty, in-use compliance testing, quality-audit testing, and certification testing.

(d)(1) For purposes of this article, military tactical vehicles or equipment means vehicles or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(2) This article shall not apply to engines used in off-road military tactical vehicles or equipment which have been exempted from regulations under the federal national security exemption, 40 CFR, subpart J, section 89.908. It shall also not apply to those vehicles and equipment covered by the definition of military tactical vehicle that are commercially available and for which a federal certificate of conformity has been issued under 40 CFR Part 89, subpart B.

(3) On January 1, 1997, the U.S. Department of Defense shall submit to the ARB a list of all vehicle and equipment types that are exempted under the above provisions and which are located in the State of California. If any additional vehicle and equipment types are added to the list during the previous 12 months, the U.S. Department of Defense shall update the list and submit it to the ARB by January 1 of the following year.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New chapter 11 (sections 2420-2427) filed 6-9-93; operative 7-9-93 (Register 93, No. 24).
2. Editorial correction restoring inadvertently omitted chapter heading (Register 93, No. 48).
3. Change without regulatory effect deleting chapter heading and amending article heading, section and NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

[The next page is 291.]

4. New subsections (d)(1)–(d)(3) filed 7–3–96; operative 7–3–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 27).
5. Amendment of subsections (a)(1)–(a)(3) and (c) and amendment of NOTE filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
6. Amendment of article heading and amendment of subsection (a)(1) filed 12–7–2005; operative 1–6–2006 (Register 2005, No. 49).

§ 2421. Definitions.

(a) The definitions in Section 1900 (b), Chapter 3, Title 13 of the California Code of Regulations, shall apply with the following additions:

(1) “1996–1999 Heavy-Duty Test Procedures” means the document entitled “California Exhaust Emission Standards and Test Procedures for New 1996–1999 Heavy-Duty Off-Road Compression-Ignition Engines, Part I–A,” which includes the standards and test procedures applicable to 1996–1999 heavy-duty off-road compression-ignition engines, as adopted May 12, 1993, and as amended January 28, 2000. This document is incorporated by reference herein.

(2) “1996–1999 Smoke Test Procedures” means the document entitled “California Smoke Test Procedures for New 1996–1999 Off-Road Compression-Ignition Engines, Part III,” which includes the standards and test procedures applicable to 1996–1999 heavy-duty off-road compression-ignition engines, as adopted May 12, 1993, and as amended January 28, 2000. This document is incorporated by reference herein.

(3) “2000 Plus Limited Test Procedures” means the document titled “California Exhaust Emission Standards and Test Procedures for New 2000 and Later Tier 1, Tier 2, and Tier 3 Off-Road Compression-Ignition Engines, Part I–B,” which includes the standards and test procedures applicable to 2000 and later off-road compression-ignition engines, as adopted January 28, 2000, and as amended October 20, 2005. This document is incorporated by reference herein.

(4) “2008 and Later Test Procedures” means the document titled “California Exhaust Emission Standards and Test Procedures for New 2008 and Later Tier 4 Off-Road Compression-Ignition Engines,” which includes the standards and test procedures applicable to 2008 and later off-road compression-ignition engines, as adopted October 20, 2005. This document is incorporated by reference herein.

(5) “Adjustable parameter” means any device, system, or element of design that is capable of being adjusted manually (even if difficult to access), and which may affect emissions or engine performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing and fueling rate. A parameter that is difficult to access may be excluded upon request to the Executive Officer if the parameter cannot be adjusted to a degree that affects emissions without significantly degrading engine performance, or if demonstrated that it will not be adjusted in a way that affects emissions during in-use operation.

(6) “Alternate fuel” means any fuel that will reduce non-methane hydrocarbons (on a reactivity-adjusted basis), NO_x, CO, and the potential risk associated with toxic air contaminants as compared to gasoline or diesel fuel and would not result in increased deterioration of the engine. Alternate fuels include, but are not limited to, methanol, ethanol, liquefied petroleum gas, compressed natural gas, and electricity.

(7) “ARB Enforcement Officer” means any officer or employee of the Air Resources Board so designated in writing by the Executive Officer (or by his designee).

(8) “Assembly-line tests” are those tests or inspections that are performed on or at the end of the assembly-line.

(9) “Auxiliary emission-control device” means any element of design that senses temperature, motive speed, engine speed, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission-control system.

(10) “Blue Sky Series engine” means an off-road compression-ignition engine meeting the requirements of Section 2423(b)(4).

(11) “Calendar year” is defined as the twelve-month period commencing on January 1 through December 31.

(12) “Certification” means, with respect to new off-road compression-ignition engines, the obtaining of an Executive Order for an engine family complying with the off-road compression-ignition engine emission standards and requirements specified in this article.

(13) “Certified configuration” or “certified emissions configuration” means the assembled state of an engine that is equipped with a complete set of emission-related components and systems that are equivalent from an emissions standpoint (i.e., tolerances, calibrations, and specifications) to those components and systems that (A) were originally installed on the engine when it was issued an Executive Order, (B) have been approved by the engine manufacturer to supersede any of the original emission-related components and systems for that engine, or (C) are direct replacement parts equaling or exceeding the emissions-related performance of the original or superseded components and systems.

(14) “Compression-ignition engine” means a type of engine with operating characteristics significantly similar to the theoretical Diesel combustion cycle. The non-use of a throttle to regulate intake flow for controlling power during normal operation is indicative of a compression-ignition engine. A compression-ignition engine may be petroleum-fueled (i.e., diesel-fueled) or alternate-fueled. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1) of the Federal Clean Air Act (42 U.S.C. 7543(e)(1)) and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(15) “Constant-speed engine” means (A) for engines subject to the 2000 and Later Plus Limited Test Procedures, an off-road compression-ignition engine that is governed to operate only at rated speed, or (B) for engines subject to the 2008 and Later Test Procedures, an off-road compression-ignition engine certified to operate only at constant speed. Constant-speed operation means engine operation with a governor that controls the operator input to maintain an engine at a reference speed, even under changing load. For example, an isochronous governor changes reference speed temporarily during a load change, then returns the engine to its original reference speed after the engine stabilizes. Isochronous governors typically allow speed changes up to 1.0 %. Another example is a speed-droop governor, which has a fixed reference speed at zero load and allows the reference speed to decrease as load increases. With speed-droop governors, speed typically decreases (3 to 10) % below the reference speed at zero load, such that the minimum reference speed occurs near the engine’s point of maximum power.

(16) “Crankcase emissions” means airborne substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

(17) “Compliance testing” means ARB directed emissions tests and inspections of a reasonable number of production engines and/or vehicles that are offered for sale, or manufactured for sale, in California in order to verify compliance with the applicable certification emission standards. The emissions tests may be conducted at ARB or contracted out facilities or at the manufacturer’s facility. The testing will be done at the expense of the manufacturer.

(18) “Confirmatory testing” means ARB directed emissions tests and inspections of the test engines and/or test vehicles used by the manufacturer to obtain test data for submittal with the certification application. The emissions tests may be conducted at ARB or contracted out facilities or at the manufacturer’s facility. The testing will be done at the expense of the manufacturer.

(19) “Dealer” means that person or entity engaged in the selling of new off-road compression-ignition engines, vehicles or equipment to ultimate purchasers.

(20) “Deterioration factor” means the relationship between emissions at the end of useful life and emissions at the low-hour test point, expressed in one of the following ways, whichever is applicable: (A) For multiplicative deterioration factors, the ratio of emissions at the end of useful life to emissions at the low-hour test point; (B) For additive deterioration factors, the difference between emissions at the end of useful life and emissions at the low-hour test point.

(21) "Diesel cycle engine" means a type of engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The primary means of controlling power output in a diesel cycle engine is by limiting the amount of fuel that is injected into the combustion chambers of the engine. A diesel cycle engine may be petroleum-fueled (i.e., diesel-fueled) or alternate-fueled.

(22) "Emission control system" includes any component, group of components, or engine modification that controls or causes the reduction of substances emitted from an engine.

(23) "End of assembly line" is defined as that place where the final inspection test or quality-audit test is performed.

(24) "Engine manufacturer" or "manufacturer" means any person who is engaged in the manufacturing or assembling of new off-road engines or the importing of new off-road engines for resale and who has been granted certification, or any person who acts for and is under the control of a manufacturer in connection with the distribution of new off-road engines. "Engine manufacturer" or "manufacturer" does not include a dealer who receives new off-road engines for sale in commerce.

(25) "Exhaust emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust port of an off-highway engine.

(26) "Family emission limit" (FEL) means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for certification purposes and for the averaging, banking, and trading program, as defined in Title 13, California Code of Regulations, Section 2423. A FEL must be expressed to the same number of decimal places as the applicable emission standard.

(27) "Final calendar quarter production" is defined as the calendar quarter in which the production of an engine family ends.

(28) "First calendar quarter production" is defined as the calendar quarter in which the production of an engine family begins.

(29) "Fuel system" means the combination of any of the following components: fuel tank, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, or all fuel system vents.

(30) "Gross engine malfunction" is defined as one yielding an emission value greater than the sum of the mean plus three (3) times the standard deviation. This definition shall apply only for determination of control limits.

(31) "Heavy-duty off-road compression-ignition engines" or "engines" are identified as: 1996 through 1999 model year diesel or alternate fuel powered diesel cycle internal combustion engines 175 horsepower and greater, operated on or in any device by which any person or property may be propelled, moved or drawn upon a highway, but are primarily used off a highway. The engines are designed for powering construction, farm, mining, forestry and industrial implements and equipment. They are designed to be used in, but are not limited to use in, the following applications: agricultural tractors, backhoes, excavators, dozers, log skidders, trenchers, motor graders, portable generators and compressors and other miscellaneous applications.

Specifically excluded from this category are: (A) engines operated on or in any device used exclusively upon stationary rails or tracks; (B) marine diesel engines; (C) internal combustion engines attached to a foundation at a location; (D) transportable engines subject to District permitting rules which have been operated at a location for a period of one year or more on January 1, 1997; and (E) stationary or transportable gas turbines for power generation.

(32) "Identification number" means a specification (for example, model, number/serial number combination) that allows a particular off-road compression-ignition to be distinguished from other similar engines.

(33) "Marine diesel engine" means a compression-ignition engine that is installed or intended to be installed on a vessel. There are two types of Marine Diesel Engines: (A) Propulsion marine compression-ignition engines, which are those that move or are intended to move a vessel through water or direct the movement of a vessel, and (B) Auxiliary marine diesel engines, which are integral to the vessel, but which do not propel

the vessel. This definition includes portable auxiliary marine engines or generators only if their fueling, cooling, or exhaust systems are an integral part of the vessel.

(34) "Maximum Engine Power" means the maximum brake power point on the nominal power curve for a specific engine configuration, rounded to the nearest whole kilowatt. The "nominal power curve" of an engine configuration means the relationship between maximum available engine brake power and engine speed for a specific engine configuration, as determined using the mapping procedures specified in Part 1065 of the 2008 and Later Test Procedures, based on the manufacturer's design and production specifications for that engine. This relationship may also be expressed by a torque curve that relates maximum available engine torque with engine speed. The nominal power curve shall be within the normal production variability of actual power curves for production engines of the same engine configuration. This definition of Maximum Engine Power shall be applicable for all references to a specific power value or range of power values with respect to engines subject to the 2008 and Later Test Procedures, except as otherwise noted or permitted by the Executive Officer. Maximum Engine Power shall be used as the basis for categorizing engine families into appropriate Tier 4 power categories.

(35) "Maximum Rated Power" means the maximum brake kilowatt output of an engine at rated speed as stated by the manufacturer in the manufacturer's sales and service literature and in the application for certification. Maximum Rated Power shall be used as the basis for categorizing engine families into appropriate Tier 1, Tier 2, and Tier 3 power categories, except as otherwise noted or permitted by the Executive Officer.

(36) "Maximum Test Speed" has the same meaning as defined in Part 1065.1001 of the 2008 and Later Test Procedures.

(37) "Model year" means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.

(38) "Off-road compression-ignition engine":

(A) Except as specified in paragraph (B) of this definition, an off-road compression-ignition engine is any internal combustion engine:

1. in or on a piece of equipment that is self-propelled or serves as a dual purpose by both propelling itself and performing another function and is primarily used off the highways (such as garden tractors, off-highway mobile cranes and bulldozers); or

2. in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

3. that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to wheels, skids, carrying handles, dolly, trailer, or platform.

(B) An internal combustion engine is not an off-road compression-ignition engine if:

1. the engine is used to propel a vehicle subject to the emission standards contained in Title 13, California Code of Regulations, Sections 1950-1978, or a vehicle used solely for competition, or is subject to standards promulgated under Section 202 of the federal Clean Air Act (42 U.S.C. 7521); or

2. the engine is regulated by a federal New Source Performance Standard promulgated under Section 111 of the federal Clean Air Act (42 U.S.C. 7511); or

3. the engine otherwise included in paragraph (A)3. of this definition remains or will remain at a location for more than 12 consecutive months or a shorter time for an engine located at a seasonal source. A location is any single site at a building, structure, facility, or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at a single location approximately three

months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

(39) "Off-road vehicle" or "Off-road equipment" means a vehicle or equipment that is powered by an off-road compression-ignition engine.

(40) "Off-road vehicle manufacturer" or "Off-road equipment manufacturer" means any person engaging in the manufacturing or assembling of new off-road vehicles or equipment, or importing of new off-road vehicles or equipment for resale, or acting for and under the control of any person in connection with distributing new off-road vehicles and equipment. An off-road vehicle manufacturer or off-road equipment manufacturer does not include a dealer, nor any person engaging in the manufacturing or assembling of new off-road engines or equipment who does not install an engine as part of that manufacturing or assembling process. All off-road vehicle or equipment manufacturing entities that are under the control of the same person are considered to be a single off-road vehicle manufacturer or off-road equipment manufacturer.

(41) "Opacity" means the fraction of a beam of light, expressed in percent, which fails to penetrate a plume of smoke.

(42) "Otto cycle engine" means a type of engine with operating characteristics significantly similar to the theoretical Otto combustion cycle. The primary means of controlling power output in an Otto cycle engine is by limiting the amount of air and fuel that can enter the combustion chambers of the engine. Gasoline-fueled engines are Otto cycle engines.

(43) "PM and Test Cycle Limited Procedures" means the document titled "California Exhaust Emission Standards and Test Procedures for New 1996 and Later Tier 1, Tier 2, and Tier 3 Off-Road Compression-Ignition Engines, Part II," which includes the standards and test procedures applicable for 1996 and later heavy-duty off-road compression-ignition engines, as adopted May 12, 1993, and as amended October 20, 2005. This document is incorporated by reference herein.

(44) "Post-manufacture marinizer" means a person who produces a marine compression-ignition engine by substantially modifying a certified or uncertified complete or partially complete engine, and is not controlled by the manufacturer of the base engine or by an entity that also controls the manufacturer of the base engine. For the purpose of this definition, "substantially modify" means changing an engine in a way that could change engine emission characteristics.

(45) "Power category" means a specific range of maximum power that defines the applicability of standards. For example, references to the 56–130 kW power category and $56 \leq \text{kW} < 130$ include all engines with maximum power at or above 56 kW but below 130 kW. Also references to 56–560 kW power categories or $56 \leq \text{kW} \leq 560$ include all engines with maximum power at or above 56 kW, but at or below 560 kW, even though these engines span multiple power categories. Note that in some cases, FEL caps are based on a subset of a power category. The Tier 4 applicable power categories are defined as follows:

(A) Engines with maximum engine power below 19 kW.

(B) Engines with maximum engine power at or above 19 kW but below 56 kW.

(C) Engines with maximum engine power at or above 56 kW but below 130 kW.

(D) Engines with maximum engine power at or above 130 kW but at or below 560 kW.

(E) Engines with maximum engine power above 560 kW.

(46) "Propulsion marine compression-ignition engine" means a marine compression-ignition engine that is intended to move a vessel through water or direct the movement of a vessel.

(47) "Quality-audit test" is defined as the test performed on a sample of production engines produced for sale in California.

(48) "Rated speed" is the maximum full load governed speed for governed engines and the speed of maximum horsepower for ungoverned engines.

(49) "Representative engine sample" means that the sample is typical of the engine family or engine family group as a whole (as defined in applicable test procedures). Except as provided in Section 2427, a represen-

tative sample would not include a low-volume subgroup of the engine family or engine family group.

(50) "Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the manufacturer that is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(51) "Small off-road engine" has the meaning specified in Title 13, California Code of Regulations, Section 2401.

(52) "Small-volume engine manufacturer" means a small business engine manufacturer that had engine families certified to meet the requirements of 40 CFR part 89 before 2003, had annual U.S.-directed production of no more than 2,500 units in 2002 and all earlier calendar years, and has 1000 or fewer employees. For manufacturers owned by a parent company, the production limit applies to the production of the parent company and all its subsidiaries and the employee limit applies to the total number of employees of the parent company and all its subsidiaries.

(53) "Tier 1 engine" means an engine subject to the Tier 1 emission standards listed in Section 2423(b)(1)(A) of this article.

(54) "Tier 2 engine" means an engine subject to the Tier 2 emission standards listed in Section 2423(b)(1)(A) of this article.

(55) "Tier 3 engine" means an engine subject to the Tier 3 emission standards listed in Section 2423(b)(1)(A) of this article.

(56) "Tier 4 engine" means an engine subject to the Tier 4 emission standards listed in Section 2423(b)(1)(B) of this article.

(57) "Ultimate purchaser" means the first person who in good faith purchases a new engine or equipment for purposes other than resale.

(58) "Unscheduled maintenance" means any inspection, adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems that is performed to correct or diagnose a part failure which was not anticipated.

(59) "Useful life" means:

(A) For all engines rated under 19 kilowatts, and for constant-speed engines rated under 37 kilowatts with rated speeds greater than or equal to 3,000 revolutions per minute, a period of use of five years or 3,000 hours of operation, whichever first occurs.

(B) For all other engines rated at or above 19 kilowatts and under 37 kilowatts, a period of use of seven years or 5,000 hours of operation, whichever first occurs.

(C) For all engines rated at or above 37 kilowatts, a period of use of ten years or 8,000 hours, whichever first occurs.

(60) "Vessel" has the meaning specified in Section 9840 of the California Vehicle Code.

(61) "Warrantable condition" means any condition of an engine that triggers the responsibility of the manufacturer to take corrective action pursuant to Section 2425.

(62) "Warranted part" means any emissions-related part installed on an engine by the equipment or engine manufacturer, or installed in a warranty repair, which is listed on the warranty parts list.

(63) "Warranty period" means the period of time, either in years or hours of operation, that the engine or part is covered by the warranty provisions.

(64) "Warranty station" means a service facility authorized by the equipment or engine manufacturer to perform warranty repairs. This shall include all manufacturer distribution centers that are franchised to service the subject equipment or engines.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 6–9–93; operative 7–9–93 (Register 93, No. 24).

2. Change without regulatory effect amending NOTE filed 12–22–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).

3. Amendment filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).

4. Amendment of subsection (a)(3), new subsections (a)(4)–(5), (a)(9), (a)(13), (a)(20), (a)(34), (a)(36), (a)(45)–(a)(45)(E), (a)(52) and (a)(56), subsection renumbering and amendment of newly designated subsections (a)(14)–(15), (a)(31), (a)(33), (a)(35), (a)(43) and (a)(53)–(55) filed 12–7–2005; operative 1–6–2006 (Register 2005, No. 49).

§ 2422. [Reserved].

HISTORY

1. Change without regulatory effect adopting new section number 2422 filed 12–22–93 pursuant to title I, section 100, California Code of Regulations (Register 93, No. 52).

§ 2423. Exhaust Emission Standards and Test Procedures—Off-Road Compression-Ignition Engines.

(a) This section shall be applicable to new heavy-duty off-road com-

pression-ignition engines, produced on or after January 1, 1996, and all other new 2000 and later model year off-road compression-ignition engines. For the purposes of this section, these engines shall be called “compression-ignition engines.”

(b)(1)(A) Exhaust emissions from new off-road compression-ignition engines, as sold in this state and as appropriate based on model year and maximum rated power, shall not exceed the levels contained in Table 1a with respect to steady-state testing. Table 1a follows:

Table 1a. – Tier 1, Tier 2, and Tier 3 Exhaust Emission Standards
(grams per kilowatt-hour)

Maximum Rated Power (kW) ¹	Tier	Model Year	NO _x ²	HC ³	NMHC+NO _x ⁴	CO ⁵	PM ⁶
kW<8	Tier 1	2000–2004	—	—	10.5	8.0	1.0
	Tier 2	2005–2007 ⁷	—	—	7.5	8.0	0.80
8≤kW<19	Tier 1	2000–2004	—	—	9.5	6.6	0.80
	Tier 2	2005–2007 ⁷	—	—	7.5	6.6	0.80
19≤kW<37	Tier 1	2000–2003	—	—	9.5	5.5	0.80
	Tier 2	2004–2007 ⁷	—	—	7.5	5.5	0.60
37≤kW<56	Tier 1	2000–2003	9.2	—	—	—	—
	Tier 2	2004–2007	—	—	7.5	5.0	0.40
	Tier 3 ⁸	2008–2011	—	—	4.7	5.0	0.40
56≤kW<75	Tier 1	2000–2003	9.2	—	—	—	—
	Tier 2	2004–2007	—	—	7.5	5.0	0.40
	Tier 3	2008–2011	—	—	4.7	5.0	0.40
75≤kW<130	Tier 1	2000–2003	9.2	—	—	—	—
	Tier 2	2003–2002	—	—	6.6	5.0	0.30
	Tier 3	2007–2011	—	—	4.0	5.0	0.30
130≤kW<225	Tier 1	1996–2002	9.2	1.3	—	11.4	0.54
	Tier 2	2003–2005	—	—	6.6	3.5	0.20
	Tier 3	2006–2010	—	—	4.0	3.5	0.20
225≤kW<450	Tier 1	1996–2000	9.2	1.3	—	11.4	0.54
	Tier 2	2001–2005	—	—	6.4	3.5	0.20
	Tier 3	2006–2010	—	—	4.0	3.5	0.20
450≤kW≤560	Tier 1	1996–2001	9.2	1.3	—	11.4	0.54
	Tier 2	2002–2005	—	—	6.4	3.5	0.20
	Tier 3	2006–2010	—	—	4.0	3.5	0.20
kW>560	Tier 1	2000–2005	9.2	1.3	—	11.4	0.54
	Tier 2	2006–2010	—	—	6.4	3.5	0.20

1. kW means kilowatts.

2. NO_x means Oxides of Nitrogen.

3. HC means Hydrocarbons.

4. NMHC+NO_x means Non-Methane Hydrocarbons plus Oxides of Nitrogen.

5. CO means Carbon Monoxide.

6. PM means Particulate Matter.

7. Tier 2 standards for propulsion marine compression-ignition engines below 37 kW remain in effect beyond the 2007 end date.

8. Manufacturers may optionally certify engine families to the interim Tier 4 standards in Table 1b for this power category through 2012.

(B) Exhaust emissions from new off-road compression-ignition engines, as sold in this state and as appropriate based on model year and maximum engine power, shall not exceed the levels contained in Table 1b, with respect to steady-state testing, transient testing, and, after ap-

plication of the criteria in Table 1c, not-to-exceed testing, as applicable. Other compliance options are permissible as provided in the 2008 and Later Test Procedures.

Table 1b. – Tier 4 Exhaust Emission Standards
(grams per kilowatt-hour)

<i>Maximum Engine Power</i>	<i>Model Year</i>	<i>Type</i>	<i>PM</i>	<i>NMHC+ NOX</i>	<i>NMHC</i>	<i>NOX</i>	<i>CO</i>
<i>grams per kilowatt-hour</i>							
kW<8 ¹	2008 and later	Final	0.40 ²	7.5	—	—	8.0
8≤kW19 ¹							6.6
19≤kW<37 ¹	2008–2012	Interim	0.30	7.5	—	—	5.5
	2013 and later	Final	0.03	4.7			
37≤kW<56 ³	2008–2012	Interim	0.30	4.7	—	—	5.0
	2013 and later	Final	0.03				
56≤kW<75	2012–2014 ⁴	Phase-In	0.02	—	—	0.40	5.0
		Phase-Out		4.7	—	—	
	2015 and later	Final		—	0.19	3.4 ⁵ 0.40	
75≤kW<130	2012–2014 ⁴	Phase-In	0.02	—	0.19	0.40	5.0
		Phase-Out		4.0	—	—	
	2015 and later	Final		—	0.19	3.4 ⁵ 0.40	
130≤kW≤560	2011–2013	Phase-In	0.02	—	0.19	0.40	3.5
		Phase-Out		4.0	—	—	
	2014 and later	Final		—	0.19	0.20 0.40	
560 kW≤ GEN ⁶ ≤900 kW	2011–2014	Interim	0.10	—	0.40	3.5	3.5
	2015 and later	Final	0.03		0.19	0.67	
GEN>900 kW	2011–2014	Interim	0.10	—	0.40	0.67	3.5
	2015 and later	Final	0.03		0.19		
ELSE ⁷ > 560 kW	2011–2014	Interim	0.10	—	0.40	3.5	3.5
	2015 and later	Final	0.04		0.19		

Notes:

¹ Propulsion marine compression-ignition engines below 37 kW are not subject to Tier 4 standards or requirements. All previously adopted requirements remain applicable for these engines.

² The Tier 4 PM standard for hand-start, air cooled, direct injection engines below 8 kW is 0.60 g/kW-hr, but is not required until 2010.

³ Engine families in this power category may alternately meet Tier 3 PM standards from 2008–2011 in exchange for introducing final PM standards in 2012.

⁴ Manufacturers have the option of complying with the Tier 4 standards over a two year period at 50% per year using banked Tier 2 credits or over a three year period at 25% per year without the use of Tier 2 credits. The three year phase-in period is shown. The 2014 model year cannot extend beyond December 30, 2014, when the 3 year phase-in option is used.

⁵ Manufacturers may comply with the standards during the transitional implementation years using either a phase-in / phase-out approach or by using the Alternate NOx approach. The three year 25% alternate NOx standard is shown in the table. The two year 50% phase-in NOx standard would be 2.3 g/kW-hr.

⁶ “GEN” refers to generator engines only.

⁷ “ELSE” refers to all mobile machinery excluding generator engines.

Table 1c. – Criteria for Determining NTE Limits¹

<i>Pollutant</i>	<i>Apply NTE Multiplier of 1.25 when ...</i>	<i>Apply NTE Multiplier of 1.50 when ...</i>
NOx	NOx Standard or FEL ≥ 2.5 g/kW–hr	NOx Standard ² or FEL < 2.5 g/kW–hr
NMHC	NOx Standard or FEL ≥ 2.5 g/kW–hr	NOx Standard ² or FEL < 2.5 g/kW–hr
NMHC+NOx	NOx Standard or FEL ≥ 2.7 g/kW–hr	NMHC+NOx Standard ² or FEL < 2.7 g/kW–hr
PM	PM Standard or FEL ≥ 0.07 g/kW–hr	PM ² Standard or FEL ³ < 0.07 g/kW–hr
CO	Always	Never

Notes:

¹ Other provisions described in the 2008 and Later Test Procedures may affect the calculation of NTE limits.

² Engines must be certified to these standards without the use of ABT credits.

³ For engines certified to a PM FEL less than or equal to 0.01 g/kW–hr, the PM NTE limit shall be 0.02 g/kW–hr.

(2) Manufacturers may elect to include engine families in one of two averaging, banking, and trading (ABT) programs, corresponding to the engine family's model year and emissions categorization. The provisions

of these separate ABT programs are specified in Part 89, Subpart C of the 2000 Plus Limited Test Procedures and Part 1039, Subpart H of the 2008 and Later Test Procedures.

(A) For engine families subject to the 2000 Plus Limited Test Procedures, the manufacturer must set a family emission limit (FEL) not to exceed the levels contained in Table 2a. The FEL established by the manufacturer serves as the emission standard for that engine family. Table 2a follows:

Table 2a – Upper Limit for Tier 1, Tier 2, and Tier 3 Family Emission Limits (FEL)
(grams per kilowatt–hour)

<i>Maximum Rated Power (kW)</i>	<i>Tier</i>	<i>Model Year</i>	<i>NO_x</i>	<i>NMHC+NO_x</i>	<i>PM FEL</i>
kW < 8	Tier 1	2000–2004		16.0	1.2
	Tier 2	2005–2007		10.5	1.0
8 ≤ kW < 19	Tier 1	2000–2004		16.0	1.2
	Tier 2	2005–2007		9.5	0.80
19 ≤ kW < 37	Tier 1	2000–2003		16.0	1.2
	Tier 2	2004–2007		9.5	0.80
37 ≤ kW < 56	Tier 1	2000–2003	14.6		
	Tier 2	2004–2007		11.5	1.2
	Tier 3 ¹	2008–2011		7.5	1.2
56 ≤ kW < 75	Tier 1	2000–2003	14.6		
	Tier 2	2004–2007		11.5	1.2
	Tier 3	2008–2011		7.5	1.2
75 ≤ kW < 130	Tier 1	2000–2002	14.6		
	Tier 2	2003–2006		11.5	1.2
	Tier 3	2007–2011		6.6	1.2
130 ≤ kW < 225	Tier 1	2000–2002	14.6		
	Tier 2	2003–2005		10.5	0.54
	Tier 3	2006–2010		6.6	0.54
225 ≤ kW < 450	Tier 1	2000	14.6		
	Tier 2	2001–2005		10.5	0.54
	Tier 3	2006–2010		6.4	0.54
450 ≤ kW ≤ 560	Tier 1	2000–2001	14.6		
	Tier 2	2002–2005		10.5	0.54
	Tier 3	2006–2010		6.4	0.54
kW > 560	Tier 1	2000–2005	14.6		
	Tier 2	2006–2010		10.5	0.54

¹ Manufacturers may optionally certify engine families to the interim Tier 4 FEL caps in Table 2b for this power category through 2012.

(B) For engine families subject to the 2008 and Later Test Procedures, the manufacturer must set a family emission limit (FEL) not to exceed, as applicable, the levels contained in Table 2b. Three distinct FEL types (primary, interim, and alternate) are available conditionally. Primary FEL types are applicable to all power categories indefinitely, whereas interim and alternate FEL types are of variable duration and may be selectively applied to total or partial engine family production volumes as de-

scribed in the 2008 and Later Test Procedures. The FEL established by the manufacturer serves as the emission standard for that engine family, and is used for determining NTE limits in conjunction with the criteria in Table 1c. Temporary compliance adjustment factors, as explained in the 2008 and Later Test Procedures, shall be applied by the manufacturer to compensate for the use of transitional alternate FELs (Type ALT 20% in Table 2b) when calculating emission credits. Table 2b follows:

Table 2b – Upper Limit for Tier 4 Family Emission Limits (FELs) and Alternate Allowances
Part 1

<i>Maximum Engine Power</i>	<i>FEL Type</i>	<i>Model Year</i>	<i>PM</i>	<i>NOX grams per kilowatt-hour</i>	<i>NMHC+ NOX</i>
kW<8	Primary	2008 and later	0.80	—	10.5
8kW<19	Primary	2008 and later	0.80	—	9.5
19<kW<37	Interim	2008–2012	0.60	—	9.5
	Primary	2013 and later	0.05	—	7.5
	ALT 20% ¹	2013–2016	0.30	—	7.5
	ALT 5% ²	2017 and later			
37≤kW<56	Interim	2008–2012 ³	0.40	—	7.5
	Primary	2013 and later ³	0.05	—	7.5
	ALT 20%	2013–2016 ³	0.30	—	7.5
	ALT 5%	2017 and later ³			
56≤kW<75	Phase-in	2012–2013	0.04	0.80	—
	Phase-out			—	7.5
	Alternate NOx Std ⁴	2012–2013	0.04	3.0 ⁷	—
		2012–2014		4.4	
	Primary	2014/2015 ⁵ and later	0.04	0.80	—
	ALT 20% PM	2012–2015	0.40		—
	ALT 20% NOX	2014–2015 ⁶		4.4	—
	ALT 5%	2016 and later	0.40	4.4	—

Notes:

¹ This alternate FEL option is transitional for the four years specified and applies to at most 20% of a manufacturer's U.S. directed population of engine families per year.

² This alternate FEL option is available indefinitely, but only applies to 5% of a manufacturer's U.S. directed population of engine families per year.

³ These dates correspond to the compliance option of meeting interim standards in 2008; else the primary and alternate FEL caps would begin and end one year earlier, and 2008–2011 engines would not be eligible for participation in the Tier 4 ABT program.

⁴ Two alternate NOx standards and corresponding FEL caps are available for this category with corresponding alternate phase-in options.

⁵ The effective date of the primary FEL cap follows the phase-in period of the selected NOx FEL cap.

⁶ If interim Tier 4 standards are not met in 2008, the alternate NOx FEL would only be available for 2015.

⁷ If neither the alternate phase-in option nor banked Tier 2 credits are used, either NOx standard and corresponding FEL may be applied for this category.

Table 2b – Upper Limit for Tier 4 Family Emission Limits (FELs) and Alternate Allowances
Part 2

Maximum Engine Power	FEL Type	Model Year	PM	NOx grams per kilowatt-hour	NMHC+ NOx
75≤kW<130	Phase-in	2012–2013		0.80	—
	Phase-out			—	6.6
	Alternate NOx Std ⁴	2012–2013	0.04	3.0 ⁷	—
		2012–2014		3.8	—
	Primary	2014/2015 ⁵ and later		0.80	—
	ALT 20% PM	2012–2015	0.30	—	—
	ALT 20% NOx	2014–2015 ⁶		3.8	—
130≤kW≤560	ALT 5%	2016 and later	0.30	3.8	—
	Phase-in	2011–2013		0.80	—
	Phase-out			—	6.6/6.4 ⁸
	Alternate NOx Std	2011–2013	0.04	2.7	—
	Primary	2014 and later		0.80	—
	ALT 20% PM	2011–2014	0.20	—	—
	ALT 20% NOx	2014		3.8	—
GEN>560kW	ALT 5%	2015 and later	0.20	3.8	—
	Interim	2011–2014	0.20	6.2	—
	Primary	2015 and later	0.05	1.07	—
	ALT 20%	2015–2018	0.10	3.5	—
ELSE>560kW	ALT 5%	2019 and later		—	—
	Interim	2011–2014	0.20	—	—
	Primary	2015 and later	0.07	6.2	—
	ALT 20%	2015–2018	0.10	—	—
	ALT 5%	2019 and later		—	—

Notes:

⁴ Two alternate NOx standards and corresponding FEL caps are available for this category with corresponding alternate phase-in options.

⁵ The effective date of the primary FEL cap follows the phase-in period of the selected NOx FEL cap.

⁶ If interim Tier 4 standards are not met in 2008, the alternate NOx FEL would only be available for 2015.

⁷ If neither the alternate phase-in option nor banked Tier 2 credits are used, either NOx standard and corresponding FEL may be applied for this category.

⁸ The phase-out NMHC+NOx FEL cap is 6.6 g/kW-hr for engines <225 kW, and 6.4g/kW-hr for engines ≥ 225kW in this category.

(C) Split family provision. For generating or using credits in the 56 ≤ kW ≤ 560 power categories during the phase-in of Tier 4 standards, engine manufacturers may elect to split an engine family into two subfamilies (e.g., one which uses credits and one which generates credits for the same pollutant). The engine manufacturer must indicate in the application for certification that the engine family is to be split, and may calculate emission credits relative to different emissions standards (i.e., phase-in and phase-out standards) for different sets of engines within the engine family, but must certify the engine family to a single set of standards and FELs. The engine manufacturer shall calculate NMHC+NOx emission credits by adding the NOx FEL to the NMHC phase-in standard for comparison with the applicable NMHC+NOx phase-out standard. Any engine family certified under the provisions of this paragraph (C) must meet the applicable phase-in standard for NMHC. The engine manufacturer shall be responsible for assigning the number and configurations of engines within the respective subfamilies before the due date of the final report required in Part 1039, Subpart H of the 2008 and Later Test Procedures. The same label must be applied to each engine in the family, and must include the NOx FEL to which the engine is certified.

(3)(A) The opacity of smoke emissions from new 1996 through 1999 model year heavy-duty off-road compression-ignition engines 175 to 750 horsepower, inclusive, or from all new 2000 and later model year compression-ignition engines sold in this state, shall not exceed, based on the applicable measurement techniques specified in Part 89, Subpart B of the 2000 Plus Limited Test Procedures and Part 1039, Subpart B of the 2008 and Later Test Procedures, the following:

1. 20 percent during the engine acceleration mode.
2. 15 percent during the engine lugging mode.
3. 50 percent during the peaks in either mode.

(B) The following engines are exempt from the requirements of this paragraph (3):

1. Single-cylinder engines.

2. Propulsion marine compression-ignition engines.

3. Constant-speed engines.

4. Engines certified to a PM emission standard or FEL of 0.07 grams per kilowatt-hour or lower

(4) Low-emitting Blue Sky Series engines requirements.

(A) Voluntary standards. Engines subject to the standards in (b)(1)(A) may be designated “Blue Sky Series” engines by meeting the voluntary standards contained in Table 3, which apply to all certification and in-use testing. Blue Sky Series engines shall not be included in the Averaging, Banking, and Trading program. Table 3 follows:

Table 3. – Voluntary Emission Standards
(grams per kilowatt-hour)

Maximum Rated Power (kW)	NMHC+NO _x	PM
kW<8	4.6	0.48
8≤kW<19	4.5	0.48
19≤kW<37	4.5	0.36
37≤kW<75	4.7	0.24
75≤kW<130	4.0	0.18
130≤kW≤560	4.0	0.12
kW>560	3.8	0.12

(B) Additional standards. Blue Sky Series engines are subject to all provisions that would otherwise apply under this part, except as specified in (C) of this section.

(C) Test Procedures. NOx, NMHC, and PM emissions are measured using the procedures set forth in 40 CFR part 86, subpart N (July 1, 1999), which is incorporated by reference, in lieu of the procedures set forth in subpart E of the 2000 Plus Limited Test Procedures. CO emissions may be measured using procedures set forth in 40 CFR part 86, subpart N (July 1, 1999), or in subpart E of the 2000 Plus Limited Test Procedures. Manufacturers may use an alternate procedure to demonstrate the desired level of control if approved in advance by the Executive Officer. Engines meeting the requirements to qualify as Blue Sky Series engines must be

capable of maintaining a comparable level of emission control when tested using the procedures set forth in both Section 89.112(c) and subpart E of the 2000 Plus Limited Test Procedures. The numerical emission levels measured using the procedures from subpart E of the 2000 Plus Limited Procedures may be up to 20 percent higher than those measured using procedures from 40 CFR part 86, subpart N (July 1, 1999), and still be considered comparable.

(5)(A) No crankcase emissions shall be discharged into the ambient atmosphere from any new 1996–1999 model year heavy-duty off-road compression-ignition engine or any Tier 2 or later off-road compression-ignition engine subject to the 2000 Plus Limited Test Procedures. This provision does not apply to petroleum-fueled diesel cycle engines using turbochargers, pumps, blowers, or superchargers for air induction.

(B) For off-road compression-ignition engines subject to the 2008 and Later Test Procedures, no crankcase emissions shall be discharged directly into the ambient atmosphere from any engine, unless the sum of those discharged emissions are added to the exhaust emissions (either physically or mathematically) during all emission testing. To be eligible for this option, a manufacturer must design its engines so that all crankcase emissions can be routed into the applicable sampling systems specified in the 2008 and Later Test Procedures, and must account for deterioration in crankcase emissions when determining exhaust deterioration factors. Crankcase emissions that are routed to the exhaust upstream of exhaust aftertreatment during all operation are not considered to be discharged directly into the ambient atmosphere. Furthermore, engines using charge-air compression that are certified to a transitional alternate FEL (Type ALT 20% in Table 2b) during the first four years of the Tier 4 standards for the applicable power category are exempt from this subsection, but must instead comply with the requirements in Section 2423(b)(5)(A).

(6) Engine manufacturers that voluntarily certify engines to the Tier 4 standards in Table 1b earlier than required under this article may, according to the provisions in the 2008 and Later Test Procedures, generate additional ABT credits, or as an alternative, offset future Tier 4 compliance requirements should the equipment manufacturer that was provided the engine decline to use its early introduction incentives according to the provisions in Section 2423(d)(9). Table 4, as follows, summarizes the incentives for the early introduction of Tier 4 engines and some of the conditions that determine eligibility.

Table 4. – Early Introduction Incentives for Engine Manufacturers

Early Introduction	Power Category	Qualifying Standards ¹ grams per kilowatt-hour	Per-Engine Incentive
Final Tier 4 PM-Only ²	19 ≤ kW < 56 56 ≤ kW < 560	0.03 PM 0.02 PM	3 for 2 PM-Only
Final Tier 4 All	19 ≤ kW < 56 56 ≤ kW ≤ 560 GEN > 560 ELSE ≥ 560	0.03 PM / 4.7 NMHC+NOx 0.02 PM / 0.40 NOx / 0.19 NMHC 0.03 PM / 0.67 NOx / 0.19 NMHC 0.04 PM / 3.5 NOx / 0.19 NMHC	3 for 2
Ultra Low NOx	kW ≥ 19	Final Tier 4 PM & NMHC / 0.20 NOx	2 for 1

Notes:

¹ All engines must meet the Tier 4 crankcase emissions requirements. Engines must certify using all test and other requirements otherwise required for final Tier 4 standards such as for transient and not-to-exceed limits.

² Offsets must be earned prior to the start of phase-in requirements (prior to 2013 for 19 ≤ kW < 56 engines, prior to 2012 for 56 ≤ kW < 130 engines, prior to 2011 for 130 ≤ kW ≤ 560 engines, prior to 2015 for > 560 kW engines)

(7) Provisions for small-volume manufacturers. Small-volume engine manufacturers are entitled to special compliance provisions under this paragraph, but must notify the Executive Officer in writing before January 1, 2008, of the intent to use the provisions.

(A) Small-volume engine manufacturers may delay complying with certain otherwise applicable Tier 4 emission standards and requirements as described in the following table:

Table 5. – Small-Volume Engine Manufacturer Provisions

Maximum Engine Power	Temporary Relief Replacement Standards	Delay End Date (Model Year)
kW < 19	Tier 2	2011
19 ≤ kW < 37	Interim Tier 4	2016
37 ≤ kW < 56	See paragraph (7)(B) of this section for special provisions that apply for engines in this power range.	
56 ≤ kW < 130	Tier 3	2015

(B) The provisions of this paragraph (7) for engines 37 ≤ kW < 56 are applicable per one of the following options:

1. Manufacturers that comply with the 0.30 g/kW-hr PM standard in all model years from 2008 through 2012 without using PM credits may continue meeting that standard through 2015.

2. Manufacturers that choose not to comply with paragraph (7)(B)1. of this section may continue to comply with the standards and requirements in the 2000 Plus Limited Test Procedures for model years through 2012, but must begin complying in 2013 with the Tier 4 standards and requirements specified in Table 1b for model years 2013 and later.

(C) After the period of relief indicated in paragraphs (7)(A) and (B) of this section has expired, small-volume engine manufacturers must comply with the same Tier 4 standards and requirements as all other manufacturers.

(D) For engines not in the 19 ≤ kW < 56 power range, small volume engine manufacturers must meet the following conditions for the model years in which compliance with the otherwise applicable standards under this paragraph (7) is delayed:

1. Produce engines that meet all the emission standards and other requirements under the 2000 Plus Limited Test Procedures applicable for that model year, except as noted in this paragraph (7).

2. Meet the labeling requirements in the 2000 Plus Limited Test Procedures, but must use the following in place of the otherwise required statement of compliance in Section 2424(c)(2): “THIS ENGINE COMPLIES WITH CALIFORNIA REGULATIONS FOR [CURRENT MODEL YEAR] OFF-ROAD COMPRESSION-IGNITION ENGINES UNDER 13 CCR 2423(b)(7).” The referencing of similar federal requirements under this provision is permitted.

3. Small-volume engine manufacturers must notify the equipment manufacturer that the engines produced under this section are excluded from the production volumes associated with the equipment manufacturer flexibility program in Section 2423(d).

(E) For engines in the 19 ≤ kW < 56 power range, small-volume engine manufacturers must meet the following conditions for the model years in which compliance with the otherwise applicable standards under this paragraph (7) is delayed:

1. Produce engines in those model years that meet all the emission standards and other requirements that applied for model year 2008 engines in the same power category.

2. Meet the labeling requirements in Section 2424(c)(3), but use the following compliance statement instead of the compliance statement in Section 2423(c)(3): “THIS ENGINE COMPLIES WITH CALIFORNIA REGULATIONS FOR [CURRENT MODEL YEAR] OFF-ROAD COMPRESSION-IGNITION ENGINES UNDER 13 CCR 2423(b)(7).” The referencing of similar federal requirements under this provision is permitted.

3. Notify the equipment manufacturer that engines produced under this section are excluded from the production volumes associated with the equipment-manufacturer allowance program in Section 2423(d).

(F) The provisions of this paragraph (7) may not be used to circumvent the requirements of this article.

(8) Useful life. For purposes of certification, a manufacturer must demonstrate compliance with the standards set forth in this paragraph (b) over the full useful life of the engine, as defined in the applicable test procedures.

(9) NTE deficiencies. A manufacturer may petition the Executive Officer to accept an off-road compression-ignition engine as compliant

with the NTE requirements specified in the 2008 and Later Test Procedures even though specific elements of those requirements may not be fully met. Such grants of compliance, otherwise known as deficiencies, shall be limited to engines that have functioning emission-control hardware capable of allowing the engine to comply with the NTE limits. Deficiencies shall be granted by the Executive Officer according to the following stipulations:

(A) A manufacturer must apply for specific deficiencies at the time of, or prior to, submitting its application for certification. Deficiencies shall be assigned for an engine model within an engine family. The Executive Officer shall not approve deficiencies that are requested retroactively to cover engines already certified. The scope of each deficiency must be clearly identified in the certification application, and any auxiliary emission control device(s) used to control emissions to the lowest practical level must be identified with respect to each deficiency that is being requested.

(B) Deficiencies shall only be approved if compliance would be infeasible or unreasonable considering factors such as the technical feasibility of the given hardware, the availability of lead time, production cycles including the phase-in or phase-out of engines or vehicle designs, and planned computers upgrades. Other relevant factors may be considered.

(C) Deficiencies shall expire after a single model year and may be limited to specific engine configurations. The Executive Officer may approve a manufacturer's request for the same deficiency in the following model year if correcting the deficiency would require extreme hardware or software modifications and the manufacturer has demonstrated an acceptable level of effort toward complying.

(D) The number of deficiencies available to a manufacturer shall not be limited during the first three model years in which NTE limits apply to the manufacturer's engines. For the next four model years, up to three deficiencies per engine family shall be available to a manufacturer. Deficiencies of the same type that apply similarly to different power ratings within a family shall count as one deficiency per family. The Executive Officer may conditionally approve additional deficiencies during these four years, but may impose stipulations on their applicability as appropriate. Deficiencies shall not be approved beyond the seven-year period specified in this paragraph (8).

(10) Adjustable parameters. Manufacturers that design engines with adjustable parameters must meet all the requirements of this paragraph (b) for any adjustment in the physically adjustable range. An operating parameter is not considered adjustable if it is permanently sealed or if it is not normally accessible using ordinary tools. The Executive Officer may require that the adjustable parameters be set to any specification within the adjustable range during any testing, including certification testing, selective enforcement auditing, or in-use testing.

(11) Prohibited controls. A manufacturer shall not design engines with emission control devices, systems, or elements of design that cause or contribute to an unreasonable risk to public health, welfare, or safety while operating.

(12) Defeat devices. Engines equipped with a defeat device shall not be certified for sale in California. A defeat device is a component or system that reduces the effectiveness of emission controls under conditions that the engine may reasonably be expected to encounter during normal operation and use. This prohibition does not apply to auxiliary-emission control devices identified in the certification application if one of more of the following is true:

(A) The operating conditions where the auxiliary-emission control device is active were substantially encountered during all testing requirements as described in Part 1039, Subpart F of the 2008 and Later Test Procedures.

(B) The design of the auxiliary-emission control device is shown to be necessary for preventing engine (or equipment) damage or accidents.

(C) The auxiliary-emission control device only reduces the effectiveness of emissions control during engine starting.

(c)(1) The test procedures for determining certification and compliance with the standards for gaseous exhaust emissions from new

1996–1999 heavy-duty off-road compression-ignition engines sold in the state are set forth in the 1996–1999 Heavy-Duty Test Procedures.

(2)(A) The test procedures for determining certification and compliance with the standards for gaseous exhaust emissions and the standards for opacity of smoke emissions from new 2000 model year and later off-road compression-ignition engines for which the standards in paragraph (b)(1)(A) are applicable, and sold in the state, are set forth in the 2000 Plus Limited Test Procedures.

(B) The test procedures for determining certification and compliance with the standards for gaseous exhaust emissions, particulate exhaust emissions, opacity of smoke emissions, and not-to-exceed emissions from new 2008 model year and later off-road compression-ignition engines for which the limits in paragraph (b)(1)(B) are applicable, and sold in the state, are set forth in the 2008 and Later Test Procedures.

(3) The test procedures for determining certification and compliance with the standards for particulate exhaust emissions from new 1996 and later off-road compression-ignition engines for which the standards in paragraph (b)(1)(A) are applicable, and sold in the state, are set forth in the PM and Test Cycle Limited Test Procedures.

(4) The test procedures for determining certification and compliance with the standards for the opacity of smoke emissions from new 1996–1999 off-road compression-ignition engines sold in the state are set forth in the 1996–1999 Smoke Test Procedures.

(d) Implementation flexibility for equipment and vehicle manufacturers and post-manufacture marinizers. For a limited time, off-road equipment and vehicle manufacturers and post-manufacture marinizers may produce equipment with engines that are subject to less stringent emission standards than required by Tables 1a and 1b for new 2000 model year and later off-road equipment and vehicles and marine compression-ignition engines, subject to the requirements of paragraph (e) of this section. Separate provisions are provided for equipment with engines subject to the 2000 Plus Limited Test Procedures versus equipment with engines subject to the 2008 and Later Test Procedures, and are identified accordingly in the following subsections. Only manufacturers that have primary responsibility for designing and manufacturing equipment, and have manufacturing procedures for installing engines in equipment, are eligible to participate in the equipment manufacturer flexibility program provided by the 2008 and Later Test Procedures. Equipment manufacturers participating in this flexibility program must comply with the notification and reporting requirements specified in Section 2423(d)(7). Engines produced for this flexibility program using FELs greater than the applicable standards must be offset with sufficient ABT credits. The following allowances apply separately to each engine power category subject to standards under Section 2423(b)(1):

(1) Percent-of-production allowances.

(A) Equipment rated at or above 37kW and subject to the 2000 Plus Limited Test Procedures. A manufacturer may produce equipment and vehicles with engines rated at, or above, 37kW that are exempted from meeting current model year emission standards for a portion of its California-directed production volume. These percent-of-production flexibility allowances must be used within the seven years immediately following the date on which Tier 2 engine standards first apply to engines used in such equipment and vehicles, provided that the seven-year sum of the U.S.-directed portion of the manufacturer's percent-of-production flexibility allowances does not exceed 80 percent, expressed in cumulative yearly percentage increments, and provided that all such equipment and vehicles contain only engines that have been certified to the Tier 1 or Tier 2 standards;

(B) Equipment rated under 37kW and subject to the 2000 Plus Limited Test Procedures. A manufacturer or post-manufacture marinizer may produce equipment and vehicles and marine engines with engines rated under 37kW that are exempt from meeting current model year emission standards for a portion of its California-directed production volume. These percent-of-production flexibility allowances must be used within the seven years immediately following the date on which Tier 1 engine standards first apply to engines used in such equipment and vehicles and

marine engines, provided that the seven-year sum of the U.S.-directed portions of the manufacturer's percent-of-production flexibility allowances, does not exceed 80 percent, expressed in cumulative yearly percentage increments;

(C) Equipment subject to the 2008 and Later Test procedures. A manufacturer may produce equipment and vehicles with engines that are exempt from meeting current model year emission standards for a portion of its California-directed production volume. These percent-of-production flexibility allowances must be used within one of the seven-year flexibility usage periods specified in Table 6 for each applicable power category, provided that the seven-year sum of the U.S.-directed portion of the manufacturer's percent-of-production flexibility allowances does not exceed 80 percent, expressed in cumulative yearly percentage increments, except as provided for in paragraph (d)(6) or (f). Equipment used as percent-of-production flexibility allowances must contain only engines that have been certified to, at least, the standards listed in Table 6, corresponding to the flexibility usage period selected by the manufacturer. All flexibility allowances for a power category must be used within the same flexibility usage period.

Table 6. — Tier 4 Flexibility Allowance Options

<i>Power Category</i>	<i>7 Year Usage Period</i>	<i>Flexibility Standard</i>
< 19 kW	2008–2014	Tier 2
19 ≤ kW < 56	2008–2014 ¹	Tier 3 ²
	2012–2018	2008 Interim Tier 4
56 ≤ kW < 130	2012–2018	Tier 3
	2014–2020	2012 Interim Tier 4
130 ≤ kW ≤ 560	2011–2017	Tier 3
	2014–2020	2011 Interim Tier 4
> 560 kW	2011–2017	Tier 2
	2015–2021	2011 Interim Tier 4

Notes:

¹ This usage period is not available for allowances greater than or equal to 37 kW unless interim Tier 4 standards have been met starting in 2008.

² Flexibility allowances under 37kW may contain engines certified to the Tier 2 standards.

(2)(A) Small volume allowances subject to the 2000 Plus Limited Test Procedures. An off-road equipment or vehicle manufacturer or post-manufacture marinizer may exceed the production percentages in paragraphs (d)(1)(A) and (B) of this section for a portion of its California-directed production, provided that in each regulated power category the manufacturer's total number of U.S.-directed off-road equipment and vehicles and marine diesel applications that contain engines which are exempt from meeting current model year emission standards over the years in which the percent-of-production allowance applies:

1. does not exceed 100 units times the number of years in which the percent-of-production allowance applies, and
2. does not exceed 200 units in any year, and
3. does not use engines from more than one engine family.

(B) Small volume allowances subject to the 2008 and Later Test Procedures. As an alternative to the percent-of-production allowance in Section 2423(d)(1)(C), an off-road equipment or vehicle manufacturer may produce equipment with engines that are exempt from meeting current model year emission standards for a portion of its California-directed production volume, provided that the exempt equipment is a subset of the manufacturer's U.S.-directed volume of exempt equipment and the manufacturer is in compliance with the following provisions:

1. Single engine family provision. A manufacturer may claim up to 700 U.S.-directed flexibility allowances within a power category during one of the seven-year flexibility usage periods specified in Table 6, but no more than 200 allowances in a single year within a power category, except as provided for in paragraph(d)(6) or (f). Engines within a power category that are used in these flexibility allowances must be from a single engine family within a given year.

2.a. Multiple engine family provision for flexibility allowances below 130 kW. A manufacturer may claim up to 525 U.S.-directed flexibility allowances within a power category during one of the seven-year flexi-

bility usage periods specified in Table 6, but no more than 150 allowances in a single year within a power category, except as provided for in paragraph (d)(6) or (f). Engines within a power category that are used in these flexibility allowances may be from multiple engine families within a given year.

b. Multiple engine family provision for flexibility allowances at or above 130 kW. A manufacturer may produce up to 350 U.S.-directed flexibility allowances within a power category during one of the seven-year flexibility usage periods specified in Table 6, but no more than 100 allowances in a single year within a power category, except as provided for in paragraph (d)(6) or (f). Engines within a power category that are used in these flexibility allowances may be from multiple engine families within a given year.

(3)(A) Inclusion of previous-tier engines. Off-road equipment and vehicles and marine diesel engines built with previous tier or noncertified engines under the existing inventory provisions of the 2000 Plus Limited Test Procedures (40 CFR Section 89.1003(b)(4)) need not be included in determining compliance with paragraphs (d)(1)(A) and (B) and (d)(2)(A) of this section.

(B) Inclusion of engines not subject to Tier 4 requirements. Off-road equipment and vehicles built with engines otherwise exempt from the requirements of the 2008 and Later Test Procedures are not required to be counted toward the percentage, or number, of claimed flexibility allowances under the provisions in Subsections (d)(1)(C) and (d)(2)(B). Such exempted engines include unused inventories produced prior to the effective date of the Tier 4 standards, excluding stockpiled engines, and hand-startable, air cooled, direct-injection engines below 8 kW in 2008 and 2009 that do not meet the Tier 4 PM standard. Nonetheless, manufacturers may choose to include these engines in the count of total equipment produced from which the percentage of flexibility allowances in Subsection (d)(1)(C) is derived.

(4) Early-use of flexibility allowances. Manufacturers may start using a portion of the flexibility allowances in Subsections (d)(1)(C) and (d)(2)(B) for equipment and vehicles containing engines not yet subject to the Tier 4 standards, provided that the seven-year period for using flexibility allowances under the 2000 Plus Limited Test Procedures flexibility program has expired. All equipment and vehicles claimed as flexibility allowances under this early-use provision must contain engines that have been certified to, at least, the Tier 1 standards. Manufacturers must count these Tier 2 or Tier 3 equipment and vehicles toward the total percentage, or number, of flexibility allowances permitted under the provisions of Sections (d)(1)(C) and (d)(2)(B). The maximum cumulative early-use allowance is 10 percent under the percent-of-production provision in Section (d)(1)(C), or 100 units under the small volume provision in Section (d)(2)(B). Table 7 shows the applicable years for using early-use flexibility allowances. Table 7 follows:

Table 7. — Years for Early-Use Flexibility Allowances

<i>Maximum Engine Power</i>	<i>Calendar Years</i>
kW < 19	2007
19 ≤ kW < 37	2006–2011
37 ≤ kW < 56	2011
56 ≤ kW < 75	2011
75 ≤ kW < 130	2010–2011
130 ≤ kW < 225	2010
225 ≤ kW < 450	2008–2010
450 ≤ kW ≤ 560	2009–2010
> 560 kW	—

(5) Labeling requirements. Allowances claimed under the Tier 2/3 or Tier 4 equipment flexibility programs must be labeled, as appropriate, per the following:

(A) Engine labeling. Except for engines used in flexibility allowances prior to January 1, 2007, engine manufacturers shall meet the labeling requirements provided in Section 2424 with the following substitutions:

For flexibility engines meeting previous year emission requirements, the engine manufacturer shall substitute the following for the statement of compliance required in Sections 2424(c)(1)(E)6 and 2424(c)(2):

"THIS ENGINE COMPLIES WITH CALIFORNIA EMISSION REQUIREMENTS UNDER 13 CCR 2423(d). SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN FOR THE EQUIPMENT FLEXIBILITY PROVISIONS CITED MAY BE A VIOLATION OF STATE LAW SUBJECT TO CIVIL PENALTY." [Insert Engine Family Name]

For flexibility engines less than 37 kW and not subject to emission requirements under the Tier 2/3 program, the engine manufacturer shall substitute the following for the statement of compliance required in Section 2424(c)(1)(E)6:

"THIS ENGINE QUALIFIES FOR USE IN EQUIPMENT RATED BELOW 37 KW BY PROVISION OF 13 CCR 2423(d). SELLING OR INSTALLING THIS ENGINE FOR ANY PURPOSE OTHER THAN FOR THE EQUIPMENT FLEXIBILITY PROVISIONS CITED MAY BE A VIOLATION OF CALIFORNIA LAW SUBJECT TO CIVIL PENALTY."

As an alternative for flexibility engines produced under the Tier 2/3 program, and for which the engine manufacturer offers proof to the Executive Officer that the otherwise required statements of compliance in this subsection would be unduly burdensome or costly to implement, engine manufacturers may instead use the following:

"THIS ENGINE CONFORMS TO CALIFORNIA OFF-ROAD COMPRESSION-IGNITION ENGINE REGULATIONS UNDER 13 CCR 2423(d)." [Insert Engine Family Name if Certified]

These revised statements of compliance do not preclude the referencing of similar federal requirements that would be satisfied simultaneously by meeting the provisions of Section 2423(d). Furthermore, the Executive Officer may, upon request, approve alternate labeling specifications that are equivalent to the specifications in this subsection.

(B) Equipment Labeling. For all allowances claimed under the Tier 4 flexibility program, equipment manufacturers shall affix a permanent label to the engine, or to a readily visible section of the equipment that cannot be easily removed. The label shall be in the English language, shall supplement the manufacturer's emission control information label, and shall include the following information:

1. The label heading "EMISSION CONTROL INFORMATION".
2. The equipment manufacturer's corporate name and trademark.
3. The calendar year in which the equipment is manufactured.
4. The name, e-mail address, and phone number of a person to contact for further information.
5. The following statement:

"THIS EQUIPMENT [or identify the type of equipment] HAS AN ENGINE THAT MEETS CALIFORNIA EMISSION STANDARDS UNDER 13 CCR 2423(d)."

This label content does not preclude the referencing of similar federal requirements that would be satisfied simultaneously by meeting the provisions of Section 2423(d).

(6) Technical hardship allowances. Equipment manufacturers may apply for additional flexibility allowances should extreme and unusual circumstances occur leading to technical obstacles in complying with the Tier 4 requirements. A manufacturer may request additional allowances for power categories $19 \leq \text{kW} \leq 560$ if it claims allowances under the provisions of Section 2423(d)(1)(C), but may only request additional allowances for power categories $19 \leq \text{kW} < 56$ if it claims allowances under the provisions of Section 2423(d)(2)(B). Additional flexibility allowances shall not be provided when the engine and equipment are produced by the same manufacturer, or affiliate. The Executive Officer shall review requests for additional flexibility allowances according to the following stipulations:

(A) The manufacturer requesting additional allowances must demonstrate that the circumstances necessitating them were outside the control of the manufacturer and could not have been avoided with reasonable discretion. The manufacturer must also demonstrate that it has exercised prudent planning and has taken reasonable steps to minimize the scope of the request.

(B) Manufacturers applying for additional flexibility allowances must do so in writing to the Chief of the Mobile Source Operations Division, or designee, prior to the earliest date in which the applying manufacturer would be in violation of Section 2423(b)(1). All applications shall provide, at a minimum, the following information:

1. A description of the manufacturer's equipment design process.
2. A description of the relationship with the engine supplier regarding product design.
3. An explanation of the technical hardship leading to this request, why it cannot be addressed without additional flexibility allowances, and an explanation of the circumstances behind the technical hardship and why it was unavoidable.
4. A description of the information and products provided by the engine supplier related to equipment design, including specifications, performance data, prototypes, and the dates of delivery.
5. A comparison of the design processes of the equipment model(s) for which additional allowances are needed versus those of other models that do not need additional allowances, and an explanation of how the technical differences between the models justify the request for additional allowances.
6. A description of all efforts to find and use other compliant engines, or otherwise an explanation why none are available.
7. A description of the steps taken to minimize the scope of the manufacturer's request, and any other relevant information.
8. An estimation of the number of additional allowances needed for each equipment model covered by the request, subject to Sections 2423(d)(6)(C) and (d)(6)(D) below.

Notwithstanding, the Executive Officer may require additional information as deemed necessary before making a determination for relief.

(C) The following limits shall apply for additional flexibility allowances granted in connection to the percent-of-production provisions in Section 2423(d)(1)(C):

1. A manufacturer's California-directed share of additional flexibility allowances for each power category shall be a subset of its U.S.-directed allowances for the same power category, provided that the additional U.S.-directed allowances do not exceed 70 percent of the U.S.-directed volume of production for the power category for one year.

2. All primary percent-of-production allowances must be completely used up prior to the use of any additional flexibility allowances.

3. All additional allowances shall expire 24 months after the start of the applicable flexibility usage period for each power category, as specified in Table 6. These allowances shall only be used for the specific equipment models covered in the manufacturer's written application for relief.

(D) The following limits shall apply for additional flexibility allowances granted in connection to the small volume provisions in Section 2423(d)(2)(B):

1. Only small equipment manufacturers, as defined below, that have not been granted additional flexibility allowances for the $19 \leq \text{kW} < 56$ power category under Section 2423(d)(6)(C), are eligible to request additional flexibility allowance under this provision.

"Small equipment manufacturer," for the purpose of this provision, means a federally defined small-business equipment manufacturer that had an annual U.S.-directed production volume of equipment using off-road diesel engines $19 \leq \text{kW} < 56$ of no more than 3,000 units in 2002 and all earlier calendar years, and has 750 or fewer employees (500 or fewer employees for nonroad equipment manufacturers that produce no construction equipment or industrial trucks). For manufacturers owned by a parent company, the production limit applies to the production of the parent company and all its subsidiaries and the employee limit applies to the total number of employees of the parent company and all its subsidiaries.

2. All primary small volume allowances for the $19 \leq \text{kW} < 56$ power category must be completely used up for a given year prior to the use of additional flexibility allowances.

3. Additional allowances shall only be used for equipment with engines rated $19 \leq \text{kW} < 37$.

4. A manufacturer's California-directed share of additional flexibility allowances under this provision shall be a subset of its U.S.-directed allowances, which shall not exceed 1,100.

5. All additional allowances shall expire 36 months after the start of the applicable flexibility usage period for each power category, as specified in Table 6. The allowances shall only be used for the specific equipment models covered in the manufacturer's written application for relief. The additional allowances are not subject to small volume annual limits.

(7) Notification and reporting requirements for using Tier 4 flexibility allowances. As a prerequisite to using any Tier 4 flexibility allowances, the equipment manufacturer shall notify the ARB of its intent to use such allowances. The manufacturer shall also send an annual report after each year that flexibility allowances have been used to verify that the allowances claimed do not exceed the number of allowances permitted.

(A) Before January 1 of the first year that flexibility provisions will be used, a written notice informing ARB of the manufacturer's intent to use flexibility allowances must be sent to the Chief of the Mobile Source Operations Division, or designee, containing the following information:

1. The equipment manufacturer's name and address, and the name and address of the parent company, if applicable.

2. The name and telephone number of a person to contact for more information.

3. The calendar years for which the Tier 4 flexibility provisions shall apply.

4. The engine manufacturer's name and address that produces the engines which will be used in the equipment claimed as flexibility allowances.

5. An accurate estimate of the number of flexibility allowances in each power category that will be produced under the percent-of-production provisions in Section 2423(d)(1)(C), or the small volume provisions in Section 2423(d)(2)(B).

6. A tabulation of U.S.-directed flexibility allowances in each power category that have been sold in previous calendar years under the provisions of Section 2423(d) and 40 CFR 89.102(d).

(B) For each year that Tier 4 flexibility allowances are used, the equipment manufacturer shall submit, by March 31 of the following year, a written report to the Chief of the Mobile Source Operations Division, or designee, documenting the utilization of those allowances. This report shall include the total number of equipment sold by the manufacturer during the preceding year for each power category, based on actual U.S.-directed production information, and shall identify the flexibility allowances in each power category by reporting the percentages of U.S.-directed flexibility production corresponding to the number of equipment in each power category. The report shall also identify the cumulative yearly totals and percentages for all flexibility allowances sold for each power category. Alternatively, the percentage figures may be omitted from the report if the report states that percent-of-production allowances were not used. If available, end of year percentage figures for California-directed sales shall also be included in this report.

(8) Import restrictions on the use of Tier 4 flexibility allowances. Foreign equipment manufacturers may only import equipment with exempted flexibility engines into California according to the stipulations in Section 1039.626 of the 2008 and Later Test Procedures. These stipulations address the potential for abuse whereby individual importers could collectively import more flexibility allowances than permitted based on the foreign equipment manufacturer's total production for the United States market. The stipulations include acceptance by the foreign equipment manufacturer of random audits by the ARB or its representatives, and the posting of a monetary bond for each imported engine to cover the cost of any potential enforcement actions. Foreign equipment manufacturers who comply with the stipulations will be eligible to receive the same flexibility allowances as domestic manufacturers.

(9) Early introduction incentives for equipment manufacturers. In addition to the equipment flexibility allowances provided in Subsections

(d)(1)(C) and (d)(2)(B), equipment manufacturers, as provided in the 2008 and Later Test Procedures, may earn additional allowances for the early introduction of equipment with engines meeting the Tier 4 standards in Table 1b. Equipment manufacturers installing engines at or above 19 kW that comply with the final Tier 4 PM and NOx standards could earn one flexibility allowance for each early Tier 4 compliant engine used in its equipment. Equipment manufacturers installing engines $56 \leq \text{kW} \leq 560$ that comply with the final Tier 4 PM standard and the alternative NOx standard could earn one-half of a flexibility allowance for each early Tier 4 engine used in its equipment. Table 8, below, summarizes the incentives for the early introduction of Tier 4 compliant equipment and some of the conditions that determine eligibility. Should an equipment manufacturer decline flexibility allowances earned with this provision, the allowances would then be available to the engine manufacturer that had supplied the early introduction engine, subject to the provisions in Section 2423(b)(6).

Table 8. – Early Introduction Incentives for Equipment Manufacturers

<i>Power Category</i>	<i>Qualifying Standards (g.kW-hr)</i>	<i>Installation Deadline</i>	<i>Flexibility Allowance</i>
$19 \leq \text{kW} < 56$	0.03 PM / 4.7 NMHC+NOx	December 31, 2012 ¹	1 for 1
$56 \leq \text{kW} \leq 130$	0.02 PM / 0.40 NOx / 0.19 NMHC	December 31, 2011	1 for 1
	0.02 PM / 3.4 NOx / 0.19 NMHC ²		1 for 2
$130 \leq \text{kW} \leq 560$	0.02 PM / 0.40 NOx / 0.19 NMHC	December 31, 2010	1 for 1
	0.02 PM / 2.0 NOx / 0.19 NMHC ²		1 for 2
GEN > 560	0.03 PM / 0.67 NOx / 0.19 NMHC		
ELSE > 560	0.04 PM / 3.5 NOx / 0.19 NMHC	December 31, 2014	1 for 1

Notes:

¹ The installation date for $37 \leq \text{kW} \leq 56$ engines purchased from manufacturers choosing to opt out of the 2008 model year Tier 4 standards and instead comply with the Tier 4 standards beginning in 2012 would be December 31, 2011.

² To be eligible, engines must meet the 0.02 g/kW-hr PM standard and the alternate NOx standards.

(e) Recordkeeping and calculation to verify compliance. The following shall apply to off-road equipment or vehicle manufacturers and post-manufacture marinizers who produce flexibility equipment or vehicles or marine diesel engines under both the Tier 2/3 and Tier 4 flexibility provisions of paragraph (d) of this section, except as otherwise noted:

(1) For each power category in which excepted off-road equipment or vehicles or marine diesel engines are produced, a calculation to verify compliance with the requirements of paragraph (d) of this section shall be made by the off-road equipment or vehicle manufacturer or post-manufacture marinizer. This calculation shall be made for flexibility allowances under the Tier 2/3 program no later than December 31 of the year following the last year in which allowances are used, and as indicated in Subsection (d)(7)(B) for flexibility allowances under the Tier 4 program. The calculation shall be based on actual national production information from the subject years. If both the percent-of-production and small volume allowances have been exceeded, then the manufacturer is in violation of Section 2420(a)(3), except as provided under Subsection (d)(6) and paragraph (f) of this section.

(2) An off-road equipment or vehicle manufacturer or post-manufacture marinizer shall keep records of all off-road equipment and vehicles and marine diesel engines sold in California under the provisions of paragraph (d) of this section, for each power category in which flexibility allowances are claimed. These records shall include equipment and engine model numbers, serial numbers, and dates of manufacture, engine rated power for Tier 2/3 flexibility engines, and maximum engine power for Tier 4 flexibility engines. In addition, the manufacturer shall keep records sufficient to demonstrate the verifications of compliance required in paragraph (e)(1) of this section and the notifications and reports specified in Section 2423(d)(7), as applicable. All records shall be kept until at least two full years for flexibility allowances under the Tier 2/3 program and five full years for flexibility allowances under the Tier 4 pro-

gram after the final year in which allowances are available for each power category, and shall be made available to the Executive Officer upon request.

(f) Economic hardship relief. Off-road equipment and vehicle manufacturers and post-manufacture marinizers may request relief from the Executive Officer, or designee, subject to the following requirements:

(1) The application for relief must be submitted for approval to the Chief of the Mobile Source Operations Division, or designee, in writing prior to the earliest date in which the applying manufacturer would be in violation of Section 2423(b)(1). The off-road equipment or vehicle manufacturer applying for hardship relief must submit evidence for approval, showing that the following requirements have been met:

(A) The off-road equipment or vehicle manufacturer applying for hardship relief must not be the manufacturer of the engines used in the equipment for which relief is sought. This requirement does not apply to post-manufacture marinizers.

(B) The conditions causing the impending violation must not be substantially the fault of the applying manufacturer.

(C) The conditions causing the impending violation must be such that the off-road equipment or vehicle manufacturer applying for hardship relief will experience serious economic hardship if relief is not granted.

(D) The off-road equipment or vehicle manufacturer applying for hardship relief must demonstrate that no allowances under paragraph (d) of this section will be available to avoid the impending violation.

(2) Any relief granted must begin within one year after the implementation date of the standard applying to the engines being used in the equipment, or to the marine diesel engines, for which relief is requested, and may not exceed 12 months (24 months for small volume manufacturers) in duration.

(3) The Executive Officer may impose other conditions on the granting of relief, including provisions to recover the lost environmental benefit. The labeling requirements in the 2008 and Later Test Procedures apply.

(g) Alternative Flexibility for Post-Manufacture Marinizers. Post-manufacture marinizers may elect to delay the effective date of the Tier 1 standards for marine propulsion diesel engines rated under 37kW by one year, instead of using the provisions of paragraphs (d) and (f) of this section. Post-manufacture marinizers wishing to take advantage of this provision must inform the Executive Officer of their intent to do so in writing before the date that the standards would otherwise take effect.

(h) Allowance for the production of engines. To meet the demand for engines created under paragraph (d), (f), or (g) of this section, engine manufacturers may produce engines that do not meet current year emission requirements. However, engine manufacturers must receive written assurance from each equipment manufacturer, prior to production, that a certain number of these engines are needed for the equipment manufacturer's Tier 4 equipment flexibility allowances. Engine manufacturers shall provide to the Executive Officer annually, as part of the certification application, a list of the equipment manufacturers requesting such engines for their Tier 2/3 and Tier 4 equipment flexibility allowances. The list shall include the equipment manufacturers' names, engine models, and estimated national production volumes. A copy of the original correspondence from the equipment manufacturer requesting the production of flexibility engines shall be kept on file by the engine manufacturer in addition to, and in accordance with, the provisions of § 1039.250 of the 2008 and Later Test Procedures, and shall be made available without delay to the Executive Officer upon request. Furthermore, all engines produced for sale in California under either of the transitional flexibility provisions for equipment manufacturers, must be covered by an Executive Order starting January 1, 2007. To obtain an Executive Order for these engines, the engine manufacturer shall comply with the following:

(1) Prior to the start of production, submit a letter to the Chief of the Mobile Source Operations Division, or designee, requesting certification for flexibility engines intended for sale in California, and

(2) Provide written assurance that the flexibility engines to be produced will be identical in all material respects to those for which a valid Executive Order has been issued in a previous model year. The engine family name of the previously certified engine family must be included in the manufacturer's request for certification.

Upon determination that the conditions in paragraphs (1) and (2) have been satisfied, the Executive Officer shall provide the engine manufacturer with an Executive Order covering the requested flexibility engine families for the current model year. The engine family names included in the Executive Order shall either be the same as, or a subset of the previously certified engine family names, and shall remain the same for as long as the engines continue to qualify as flexibility allowances regardless of model year. These engine family names shall be used by the engine manufacturer to comply with the labeling requirements of 2423(d)(5)(A).

(i) [Reserved]

(j)(1) A new compression-ignition off-road engine intended solely to replace an engine in a piece of off-road equipment that was originally produced with an engine manufactured prior to the applicable implementation date as specified in Section 2423, shall not be subject to the emission requirements of Section 2423 provided that:

(A) the engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this article, is available with the appropriate physical or performance characteristics to repower the equipment; and

(B) unless an alternative control mechanism is approved in advanced by the Executive Officer, the engine manufacturer or its agent takes ownership and possession of the engine being replaced; and

(C) the engine manufacturer does not use the replacement-engine exemption to circumvent the regulations; and

(D) the replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Executive Officer:

"THIS ENGINE DOES NOT COMPLY WITH CALIFORNIA AND FEDERAL OFF-ROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE FOR AN ENGINE MANUFACTURED PRIOR TO JANUARY 1 [INSERT APPROPRIATE YEAR] IS A VIOLATION OF CALIFORNIA AND FEDERAL LAW SUBJECT TO CIVIL PENALTY."

(2) At the conclusion of each of the 2000 and later model years, the manufacturer must provide, by engine model, the actual number of replacement engines produced for California during the model year, and a description of the physical or performance characteristics of those models that indicate certified replacement engine(s) were not available as per paragraph (1).

(k) Any new engine certified to comply with California emission standards and test procedures for on-road applications may, upon approval by the Executive Officer, be considered to be in compliance with these regulations.

(l) Practices and labeling requirements for rebuilt engines. This subsection shall apply as provided in paragraph (1) below to all off-road compression-ignition engines subject to the requirements of Section 2423 that are rebuilt after December 31, 2006, including those engines that were originally manufactured on, or prior to, December 31, 2006.

(1) Practices. The rebuilding practices described in Part 89.130 of the incorporated 2000 Plus Limited Test Procedures, including the exemption for engines equal to or greater than 37 kW that meet the Tier 1 standard, and Part 1068.120 of the 2008 and Later Test Procedures shall apply. These practices are summarized in paragraphs (1)(A) and (1)(B) below, which are provided as respective references for the labeling requirements in paragraphs (2)(A) and (2)(B) of this subsection.

(A) Any person who rebuilds an engine that either remains installed in a piece of equipment during the rebuilding process or will be rein-

stalled after the rebuilding process has been completed shall rebuild the engine to the same certified configuration or the certified configuration of a later model year engine. For the purposes of this section, these engines shall be referred to as "rebuilt original engines."

(B) Any person who replaces the engine in a piece of equipment with a rebuilt engine (this includes engines that have been substantially assembled from parts originally belonging to one or more other engines) shall use a replacement engine with a certified configuration that is at least equivalent, from an emissions standpoint, to that of the engine being replaced. For the purposes of this section, these engines shall be referred to as "rebuilt replacement engines."

(2) Labeling Requirements.

(A) Rebuilt Original Engines. Any person who rebuilds engines for which the practices in paragraph (1)(A) of this subsection apply shall ensure that the rebuilt engines are labeled as follows:

1. An original engine that is rebuilt to the same emissions configuration employed by the engine at the time it was issued an Executive Order shall retain the emissions control label described in Section 2424. The rebuilder shall not remove or deface in any manner the original label and must take care to protect it from the effects of sandblasting, acid dipping, or any other restorative processes. Notwithstanding the preceding requirements and prohibitions of this paragraph (2)(A)1., the rebuilder shall substitute a new permanent label containing the text in paragraph (2)(A)2. below for the original emission control label if the rebuilder determines that the label has been irreparably corrupted due to extreme and unintentional circumstances (e.g., fire or collision). The rebuilder shall provide to the Executive Officer annually a list of all rebuilt engines for which original labels have been removed under this provision no later than two months after the end of each calendar year. The rebuilder shall retain all removed labels, or otherwise document the degree to which the labels were damaged or missing (e.g., photographic proof of the corruption), for a period of no less than eight years following the date of renovation, and shall make these available to the Executive Officer upon request. The rebuilder shall be subject to civil penalty under State law should the Executive Officer determine that the original emission control label did not warrant replacement or that the rebuilder is abusing this provision;

2. An original engine that is rebuilt to a more stringent emissions configuration shall be permanently re-labeled using the following text:

"THIS ENGINE HAS BEEN REBUILT UNDER 13 CCR 2423(I) USING MATCHED COMPONENTS OF THE SAME SPECIFICATIONS AND CALIBRATIONS AS THOSE OF A CERTIFIED TIER [*insert the numerical tier designation of the rebuilt engine*] OFF-ROAD COMPRESSION-IGNITION ENGINE. IF PLACED INTO SERVICE IN AN OFF-ROAD APPLICATION, THIS ENGINE MUST BE INSTALLED IN EQUIPMENT ORIGINALLY SOLD WITH A TIER [*insert the numerical tier designation of the rebuilt engine*] OR EARLIER ENGINE. [*insert the engine family name of the reference engine*]."

For the purpose of this label, "MATCHED" means a complete set of components corresponding to the certified emissions configuration being referenced (see the definition of "certified emissions configuration" in Section 2421(a)(13)). The reference engine is the engine family name corresponding to the certified emissions configuration to which the engine has been rebuilt. The label shall conform to the provisions of Section 2424 regarding location and visibility.

(B) Rebuilt Replacement Engines. Any person who rebuilds engines for which the practices in paragraph (1)(B) of this subsection apply shall ensure that the rebuilt engines are labeled as follows:

1. A replacement engine that is rebuilt to the same California emissions configuration employed by the engine at the time it was issued an Executive Order shall either retain the emission control label described in Section 2424 or be permanently re-labeled using the text in paragraph (2)(A)2 of this subsection. A replacement engine that is rebuilt to the same emissions configuration employed by the engine at the time it was issued a federal Certificate of Conformity, and for which no Executive

Order exists, shall be permanently re-labeled using the text in paragraph (2)(A)2 of this subsection, prior to being installed in equipment that was originally sold with a California certified engine;

2. A replacement engine that is rebuilt to a more stringent emissions configuration shall be permanently re-labeled using the text in paragraph (2)(A)2. above;

3. An incomplete rebuilt replacement engine shall be permanently re-labeled using the text specified below. For the purposes of this subsection, "incomplete rebuilt replacement engine" means a rebuilt replacement engine that is sold or offered for sale in California without all the necessary components to enable engine operation including, but not necessarily limited to, the fuel system and the air system:

"THIS ENGINE HAS BEEN REBUILT UNDER 13 CCR 2423(I) AS AN INCOMPLETE ENGINE USING ONLY MATCHED COMPONENTS OF THE SAME SPECIFICATIONS AND CALIBRATIONS AS THOSE FOUND IN OFF-ROAD COMPRESSION-IGNITION ENGINES CERTIFIED TO THE [*insert the numerical tier or multiple tiers designation of the rebuilt engine*]."

Any person who completes an incomplete rebuilt replacement engine with components that are not matched components, and the resulting engine is placed into service in California, is in violation of the rebuilding practices referenced under paragraph (1) of this subsection and subject to civil penalty under State law.

(C) Supplemental Labeling Requirements. Except as noted below, any person who sells or offers for sale any rebuilt engine subject to the provisions of subsection (I) shall affix a supplemental label to the rebuilt engine that:

1. states the name of the rebuilder, year of rebuild, and other pertinent information as determined by the rebuilder or specified by the Executive Officer; and
2. is clearly visible without the need to remove any engine components; and
3. does not obscure in any way the visibility of the original emission control label or the labels required under paragraphs (2)(A)2. or (2)(B)3. of this subsection; and
4. does not state or imply that the rebuilt engine is "new" or that it belongs to an engine family other than the one to which it was originally certified; and
5. has sufficient durability to remain intact and legible throughout all mandatory record keeping periods for rebuilt engines.

The requirement for a supplemental label shall be waived in cases where the rebuilder alternately chooses to incorporate the information in (C)1. above into the new permanent label specified in subsection (2)(A)2. or (2)(B)3.

(D) Rebuilt New Engines. Notwithstanding any other requirement of this subsection (I), any person who rebuilds an engine to comply with current-year emission requirements (including, but not limited to, durability and warranty), with the intent to sell or offer for sale the rebuilt engine as "new" under the coverage of a new and unique Executive Order, shall replace the original emission control label on that engine with one identifying the engine as belonging to a family meeting current-year emission requirements in accordance with the provisions of Section 2424. If desired, the rebuilder of a such an engine may optionally affix to it a supplemental label, but such a label would be required to comply with the same requirements specified in paragraph (C) of this subsection for any other rebuilt engine.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43104 and 43211–43212, Health and Safety Code.

HISTORY

1. New article 2 and section filed 6–9–93; operative 7–9–93 (Register 93, No. 24).
2. Change without regulatory effect repealing article heading and amending NOTE filed 12–22–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Amendment of section heading and section filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).

4. Amendment filed 12–7–2005; operative 1–6–2006 (Register 2005, No. 49).

§ 2424. Emission Control Labels—1996 and Later Off-Road Compression-Ignition Engines.

(a) Purpose. The Air Resources Board recognizes that certain emissions—critical or emissions—related parts must be properly identified and maintained in order for engines to meet the applicable emission standards. The purpose of these specifications is to require engine manufacturers to affix a label (or labels) on each production engine (or equipment) to provide the engine or equipment owner and service mechanic with information necessary for the proper maintenance of these parts in customer use. For engines used in auxiliary power systems which, in turn, are used to comply with the diesel-fueled commercial vehicle idling requirements of title 13, CCR, section 2485(c)(3)(A), additional labeling requirements for the engine or equipment manufacturers apply, as set forth in section 35.B.4 of the “California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles,” as incorporated by reference in title 13, CCR, section 1956.8(b).

(b) Applicability.

(1) These specifications shall apply to 1996–1999 model year heavy-duty off-road compression-ignition engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code Section 43013.

(2) These specifications shall apply to 2000 and later model year compression-ignition engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code Section 43013.

(3) Engine manufacturers who have certified such engines shall be responsible for complying with these specifications.

(c) Label Content and Location.

(1) For 1996–1999 heavy-duty off-road compression-ignition engines:

(A) A tune-up label shall be permanently attached to the engine block or other major component in such a way that it will be readily visible after installation of the engine in the equipment. If the equipment obscures the label on the engine, the equipment manufacturer shall attach a supplemental label such that it is readily visible.

(B) In selecting an acceptable location, the manufacturer shall consider the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). Each label shall be affixed in such a manner that it cannot be removed without destroying or defacing the label, and shall not be affixed to any part which is likely to be replaced during the equipment’s useful life. The label(s) shall not be affixed to any component which is easily detached from the engine.

(C) In addition, an engine serial number shall be stamped on the engine block or stamped on a metal label riveted to the engine block. Engine manufacturers shall keep records such that the engine serial number can easily be used to determine if an engine was certified for the applicable model year.

(D) The label shall be in the English language and use block letters and numerals which shall be of a color that contrasts with the background of the label.

(E) The label shall contain the following information:

1. The label heading shall read:

“Important Engine Information.”

2. Full corporate name and trademark of the manufacturer.

3. “This (specify equipment or engine, as applicable) is certified to operate on (specify operating fuel(s)).”

4. Identification of the Exhaust Emission Control System. Abbreviations may be used and shall conform to the nomenclature and abbreviations found in the Society of Automotive Engineers document J1930 which is incorporated by reference herein [in Section 1977, Title 13, CCR], titled “Diagnostic Acronyms, Terms, and Definitions for Electrical/Electronic Systems.”

5. The specifications and adjustments recommended by the manufacturer, including, if applicable: initial injection timing, and fuel rate (in

mm³/stroke) at advertised horsepower. These specifications shall indicate the proper transmission position, (if applicable), during tune-up and what accessories, if any, should be in operation, and what systems, if any (e.g., vacuum advance, air pump), should be disconnected during the tune-up. If the manufacturer does not recommend adjustment of the foregoing specifications, the manufacturer shall include in lieu of the “specifications” the single statement “No other adjustments needed.” For all engines, the instructions for tune-up adjustments shall be sufficiently clear on the label to preclude the need for a mechanic or equipment owner to refer to another document in order to correctly perform the adjustments.

6. An unconditional statement of compliance with the appropriate model year California regulations; for example, “This engine conforms to 1996 California regulations for heavy-duty off-road diesel cycle engines as applicable.”

7. Total engine displacement (in cubic centimeters, liters, or cubic inches) and engine family identification.

(F)1. The manufacturer of any engine certified with a clean fuel (i.e., low-sulfur diesel fuel) shall at the time of engine manufacture, affix a permanent legible label specifying the appropriate operating fuel(s).

2. The label shall be located immediately adjacent to each fuel tank filler inlet and outside of any filler inlet compartment. It shall be located so that it is readily visible to any person introducing fuel to such filler inlet; Provided, however, that the Executive Officer shall upon application from an engine manufacturer, approve other label locations that achieve the purpose of this paragraph. If the engine is manufactured separately from the equipment, the label shall be affixed to the engine and located so that it is readily visible. Such labels shall be in English and in block letters which shall be of a color that contrasts with their background.

(2) For 2000 and later Tier 1, Tier 2, and Tier 3 off-road compression-ignition engines, the label content and location must comply with the requirements in Section 89.110 of the 2000 and Later Test Procedures.

(3) For 2008 and Later Tier 4 off-road compression-ignition engines, the label content and location must comply with the requirements in Section 1039.135 of the 2008 and Later test Procedures.

(d) The provisions of these specifications shall not prevent a manufacturer from also stating on the label that such engine or equipment conforms to any applicable federal emission standards for new engines, or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the equipment or engine.

(e) As used in these specifications, readily visible to the average person shall mean that the label shall be readable from a distance of eighteen inches (46 centimeters) without any obstructions from equipment or engine parts (including all manufacturer available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the label shall be no smaller than 8 point type size provided that no equipment or engine parts (including all manufacturer available optional equipment), except for flexible parts, obstruct the label.

(f) The labels and any adhesives used shall be designed to withstand, for the engine’s or equipment’s total expected life, typical equipment environmental conditions in the area where the label is attached. Typical equipment environmental conditions shall include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., diesel fuel, motor oil, water, ethylene glycol). The manufacturer shall submit, with its certification application, a statement attesting that its labels comply with these requirements.

(g) The manufacturer shall obtain approval from the Executive Officer for all label formats and locations prior to use. Approval of the specific maintenance settings is not required; however, the format for all such settings and tolerances, if any, is subject to review. If the Executive Officer finds that the information on the label is vague or subject to misinterpretation,

tation, or that the location does not comply with these specifications, he or she may require that the label or its location be modified accordingly.

(h) Samples of all actual production labels used within an engine family shall be submitted to the Executive Officer within thirty days after the start of production.

(i) The Executive Officer may approve alternate label locations or may, upon request, waive or modify the label content requirements provided that the intent of these specifications is met.

(j) The manufacturer of any engine shall furnish to the Executive Officer, at the beginning of the model year, any engine identification number coding system which identifies whether such engine(s) are covered by an Executive Order.

(k) If the Executive Officer finds any engine (or equipment) manufacturer using labels which are different from those approved or which do not substantially comply with the readability or durability requirements set forth in these specifications, the manufacturer shall be subject to being enjoined from any further sales of such products in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to seeking to enjoin a manufacturer, the Executive Officer shall consider any information provided by the manufacturer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code.

HISTORY

1. New section filed 6-9-93; operative 7-9-93 (Register 93, No. 24).
2. Change without regulatory effect amending NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Amendment of section heading and section filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
4. Amendment of subsections (c)(1)(E)4. and (c)(2) and new subsection (c)(3) filed 12-7-2005; operative 1-6-2006 (Register 2005, No. 49).
5. Amendment of subsection (a) filed 10-16-2006; operative 11-15-2006 (Register 2006, No. 42).

§ 2425. Defects Warranty Requirements for 1996 and Later Off-Road Compression-Ignition Engines.

(a) Applicability. This section shall apply to new 1996-1999 model year heavy-duty off-road compression-ignition engines and new 2000 and later model year compression-ignition engines. The warranty period shall begin on the date the engine or equipment is delivered to an ultimate purchaser. The use of alternate fuels shall not void the warranties on any engine certified to use such fuel.

(b) General Emissions Warranty Coverage. The manufacturer of each off-road compression-ignition engine shall warrant to the ultimate purchaser and each subsequent purchaser that the engine is:

(1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in Chapters 1 and 2, Part 5, Division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to the part as described in the engine manufacturer's application for certification for a period of five years or 3,000 hours of operation, whichever occurs first, for all engines rated at 19kW and greater, except as noted below. In the absence of a device to measure hours of use, the engine shall be warranted for a period of five years. For all engines rated less than 19kW, and for constant-speed engines rated under 37kW with rated speeds higher than or equal to 3,000 rpm, the period of two years or 1,500 hours of operation, whichever occurs first, shall apply. In the absence of a device to measure hours of use, the engine shall be warranted for a period of two years.

(c) The warranty on emissions-related parts shall be interpreted as follows:

(1) Any warranted part which is not scheduled for replacement as required maintenance in the written instructions required by Subsection (e) shall be warranted for the warranty period defined in Subsection (b)(2). If any such part fails during the period of warranty coverage, it shall be repaired or replaced by the engine manufacturer according to Subsection

(4) below. Any such part repaired or replaced under the warranty shall be warranted for the remaining warranty period.

(2) Any warranted part which is scheduled only for regular inspection in the written instructions required by Subsection (e) shall be warranted for the warranty period defined in Subsection (b)(2). A statement in such written instructions to the effect of "repair or replace as necessary" shall not reduce the period of warranty coverage. Any such part repaired or replaced under warranty shall be warranted for the remaining warranty period.

(3) Any warranted part which is scheduled for replacement as required maintenance in the written instructions required in Subsection (e) shall be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part shall be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under warranty shall be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article shall be performed at no charge to the owner at a warranty station.

(5) Notwithstanding the provisions of Subsection (4) above, warranty services or repairs shall be provided at all manufacturer distribution centers that are franchised to service the subject engines.

(6) The owner shall not be charged for diagnostic labor that leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) The engine manufacturer shall be liable for damages to other engine components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the engine's warranty period defined in Subsection (b)(2), the engine manufacturer shall maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(9) Any replacement part, as defined in Section 1900(b)(13), Title 13, may be used in the performance of any maintenance or repairs and must be provided without charge to the owner. It is not necessary for replacement parts to be the same brand or by the same manufacturer as the original part sold with the engine. Such use shall not reduce the warranty obligations of the engine manufacturer.

(10) Add-on or modified parts, as defined in Section 1900(b)(1) and (b)(10), Title 13, that are not exempted by the Air Resources Board may not be used. The use of any non-exempted add-on or modified parts shall be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of a non-exempted add-on or modified part.

(11) The Executive Officer may request and, in such case, the engine manufacturer shall provide, any documents which describe that manufacturer's warranty procedures or policies.

(d) Each manufacturer shall include a copy of the following emission warranty parts list with each new engine, using those portions of the list applicable to the engine.

- (1) Fuel Metering System
 - (A) Fuel injection system.
 - (B) Air/fuel ratio feedback and control system.
 - (C) Cold start enrichment system.
- (2) Air Induction System
 - (A) Controlled hot air intake system.
 - (B) Intake manifold.
 - (C) Heat Riser Valve and Assembly.
 - (D) Turbocharger/Supercharger Systems.
 - (E) Charge Air Cooling Systems.
- (3) Exhaust Gas Recirculation (EGR) System
 - (A) EGR valve body, and carburetor spacer if applicable.
 - (B) EGR rate feedback and control system.
- (4) Air Injection System
 - (A) Air pump or pulse valve.
 - (B) Valves affecting distribution of flow.

- (C) Distribution manifold.
- (5) Catalyst or Thermal Reactor System
- (A) Catalytic converter.
- (B) Thermal reactor.
- (C) Exhaust manifold.
- (6) Particulate Controls

(A) Traps, filters, precipitators, and any other device used to capture particulate emissions.

(B) Regenerators, oxidizers, fuel additive devices, and any other device used to regenerate or aid in the regeneration of the particulate control device.

(C) Control Device Enclosures and Manifolding.

(D) Smoke Puff Limiters.

(7) Advanced Oxides of Nitrogen (NO_x) Controls

(A) NO_x Adsorbers

(B) Lean NO_x Catalysts

(C) Selective Catalyst Reduction

(D) Reductant (urea/fuel) containers/dispensing systems

(8) Positive Crankcase Ventilation (PCV) System.

(A) PCV Valve.

(B) Oil Filler Cap.

(9) Miscellaneous items Used in Above Systems

(A) Vacuum, temperature, and time sensitive valves and switches.

(B) Electronic control units, sensors, solenoids, and wiring harnesses.

(C) Hoses, belts, connectors, assemblies, clamps, fittings, tubing, seal gaskets or devices, and mounting hardware.

(D) Pulleys, belts and idlers.

(E) Emission Control Information Labels.

(F) Any other part with the primary purpose of reducing emissions or that can increase emissions during failure without significantly degrading engine performance.

(e) Each manufacturer shall furnish with each new engine written instructions for the maintenance and use of the engine by the owner. The instructions shall be consistent with this article and applicable regulations contained herein. In addition, for engines less than 19 kilowatts, each manufacturer shall furnish with each new engine a written statement as follows: "In order to operate in California, a diesel-fueled engine in an auxiliary power system used to comply with the Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling requirements of the California Code of Regulations, must have one of the following apply: (1) be equipped with a verified Level 3 in-use strategy for particulate matter control, (2) have its exhaust routed directly into the vehicle's exhaust pipe, upstream of the diesel particulate matter after-treatment device, or (3) use an alternate particulate matter control strategy with prior Executive Officer approval. (For more details, please see the California Code of Regulations, title 13, section 2485(c)(3)(A).)"

(f) Each manufacturer shall submit the documents required by Subsections (d) and (e) with the manufacturer's preliminary application for engine certification for approval by the Executive Officer. Approval by the Executive Officer of the documents required by Subsections (d) and (e) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by Subsections (d) and (e) within 90 days of the date such documents are received from the manufacturer. (Title 17, California Code of Regulations (CCR), Section 60030.) Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may file for an adjudicative hearing pursuant to Title 17, California Code of Regulations Division 3, Chapter 1, Subchapter 1.25, Articles 1 and 2, to review the decision of the Executive Officer.

(g) In the application, each manufacturer shall include a statement concerning proper maintenance of the engine to maximize emissions performance. The statement shall include, but not be limited to, information on air filter care and replacement schedule, proper fueling and fuel mixing, engine maintenance, and a maintenance schedule to ensure that the

owner returns to a servicing center to check for deposits, debris build-up, etc.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102 and 43205.5, Health and Safety Code.

HISTORY

1. New article 3 and section filed 6-9-93; operative 7-9-93 (Register 93, No. 24).
2. Change without regulatory effect repealing article heading and amending subsection (e) and NOTE filed 12-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Amendment of subsection (c)(10) filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).
4. Amendment of section heading, section and NOTE filed 12-28-2000; operative 12-28-2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
5. Amendment of subsection (d)(2)(D), new subsections (d)(7)-(d)(7)(D), subsection renumbering, amendment of newly designated subsection (d)(9)(B), new subsections (d)(9)(E)-(F) and amendment of subsection (f) filed 12-7-2005; operative 1-6-2006 (Register 2005, No. 49).
6. Amendment of subsection (e) filed 10-16-2006; operative 11-15-2006 (Register 2006, No. 42).

§ 2425.1. Defect Investigation and Reporting Requirements.

(a) Applicability. This section shall apply to new off-road compression-ignition engines subject to the standards in Section 2423 (b)(1)(B) and the incorporated 2008 and Later Test Procedures, and shall address defects for any of the emission-related components, or systems containing the components listed in Section 2425(d)(1).

(b) General requirements. Engine manufacturers shall investigate their engines that have been introduced into commerce in California for incorrect, improperly installed, or otherwise defective emission-related components or systems, and shall submit a report to the ARB based on federal triggering thresholds documenting these activities, as required, and their findings. If available, California-specific incidence rates shall also be included in this report.

(c) Investigation and reporting procedures. Engine manufacturers shall perform the investigation and reporting procedures specified in Part 1068, Subpart F of the 2008 and Later Test Procedures.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 12-7-2005; operative 1-6-2006 (Register 2005, No. 49).

§ 2426. Emission Control System Warranty Statement.

(a) Each manufacturer shall furnish a copy of the following statement with each new 1996-1999 heavy-duty off-road compression-ignition engines, using those portions of the statement applicable to the engine.

CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT

YOUR WARRANTY RIGHTS AND OBLIGATIONS

The **California Air Resources Board** (and manufacturer's name, optional) is pleased to explain the **emission control system warranty** on your (**year**) engine. In California, new heavy-duty off-road engines must be designed, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your engine for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your engine. Your emission control system may include parts such as the fuel injection system and the air induction system. Also included may be hoses, belts, connectors and other emission-related assemblies.

Where a warrantable condition exists, (manufacturer's name) will repair your heavy-duty off-road engine at no cost to you including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

The (**year**) and later heavy-duty off-road engines are warranted for (**warranty period**). If any emission-related part on your engine is defective, the part will be repaired or replaced by (manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

- As the heavy-duty off-road engine owner, you are responsible for the performance of the **required maintenance listed in your owner's manual**. (Manufacturer's name) recommends that you retain all receipts covering maintenance on your heavy-duty off-road engine, but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.
- As the heavy-duty off-road engine owner, you should however be aware that (manufacturer's name) may deny you warranty coverage if your heavy-duty off-road engine or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.
- Your engine is designed to operate on (fuel) only. Use of any other fuel may result in your engine no longer operating in compliance with California's emissions requirements.
- You are responsible for initiating the warranty process. The ARB suggests that you present your heavy-duty off-road engine to a (manufacturer's name) dealer as soon as a problem exists. The warranty repairs should be completed by the dealer as expeditiously as possible.

[The next page is 298.2(i).]

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXX-XXXX.

(b) For 1996–1999 model year heavy-duty off-road compression-ignition engines, each manufacturer shall furnish with each new engine a warranty statement which generally describes the obligations and rights of the engine manufacturer and owner under this article. Engine manufacturers shall also include in the warranty statement a phone number the customer may use to obtain their nearest franchised service center.

(c) Each manufacturer shall submit the documents required by Subsections (a) and (b) with the manufacturer's preliminary application for new engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of Subsections (a) and (b). Approval by the Executive Officer of the documents required by Subsections (a) and (b) shall be a condition of certification. The Executive Officer shall approve or disapprove the documents required by Subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval shall be accompanied by a statement of the reasons therefore. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 6–9–93; operative 7–9–93 (Register 93, No. 24).
2. Change without regulatory effect amending NOTE filed 12–22–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Amendment filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
4. Amendment of subsection (c) filed 12–7–2005; operative 1–6–2006 (Register 2005, No. 49).

§ 2427. Production Engine Testing, Selection, Evaluation, and Enforcement Action.

(a) Compliance Test Procedures.

(1) These procedures are applicable to, the 1996–1999 model year heavy-duty off-road compression-ignition engine family groups (as defined in Sections 3 and 11 of the 1996–1999 Heavy-Duty Test Procedures) or any subgroups within an engine family group selected for compliance testing pursuant to this section.

(2) The Executive Officer may, with respect to any new engine family group or subgroup being sold, offered for sale, or manufactured for sale in California, order an engine manufacturer to make available for compliance testing and/or inspection a reasonable number of engines, and may direct that the engines be delivered to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any new engine family group or subgroup being sold, offered for sale, or manufactured for sale in California, have a manufacturer compliance test and/or inspect a reasonable number of engines at the manufacturer's facility under the supervision of an ARB Enforcement Officer. Engines shall be representatively selected from sources specified by the Executive Officer according to a method approved by him/her, which insofar as practical shall exclude engines which would result in an unreasonable disruption of the manufacturer's distribution system. To the extent practical, the Executive Officer shall test a representative configuration (as defined in the 1996–1999 Heavy-Duty Test Procedures) from the engine family group in order to minimize manufacturers' expense and inconvenience in testing different engine configurations.

A subgroup of an engine family group may be selected for compliance testing only if the Executive Officer has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family group as a whole.

(3) For all 1996–1999 heavy-duty off-road compression-ignition engines selected for compliance testing, the selection and testing of engines

and the evaluation of data shall be made in accordance with the procedures set forth herein.

(4) For manufacturers that have more than one engine family group, the Air Resources Board or its designated laboratory shall procure and test at the manufacturer's expense no more than one engine family group per year, if compliance testing is required.

Notwithstanding the above, if a manufacturer fails to demonstrate compliance with the emission standards after one engine family group has been tested, the ARB or its designated laboratory may test additional engine family groups at the manufacturer's expense, until compliance is demonstrated on one engine family group or all of a manufacturer's engine family groups have been tested. However, the ARB may conduct engine enforcement testing pursuant to the engine test procedures specified in Section 2423, at its own expense. In such an instance, the Executive Officer shall order testing only in those cases where evidence such as quality audit test data or in-use test data indicate that engines may not be in compliance.

(5) All testing shall be conducted in accordance with the applicable model year certification emission test procedures. Break-in before testing may be performed on test engines to the same extent it is performed on assembly-line quality audit testing engines (See Subsection (b)). No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on engines chosen for compliance testing without the written consent of the Executive Officer. Such consent shall not be unreasonably withheld where such adjustment or alteration is required to render the engine testable and reasonably operative.

(6) If the manufacturer elects to specify a different break-in or adjustments, they will be performed by the manufacturer under the supervision of ARB personnel.

(7) Correction of damage or maladjustment which may reasonably be found to have resulted from shipment of the engine is permitted only after testing the engine, except where 100 percent of the manufacturer's production is given that inspection or maintenance by the manufacturer's own personnel. Exceptions are allowed in the cases where the damage results in the engine being unsafe to operate, inoperable, or unable to complete the emission test. Additionally, an exception is allowed if the damage results in engine performance deficiencies which would be obvious in customer service and which would cause the customer to seek repair of the engine. The manufacturer may request that the engine be repaired from shipping damage, and be retested. If the Executive Officer concurs, the engine may be retested, and the original test results may be replaced by the after-repair test results.

(8) Engines shall be representatively chosen from the selected engine family group or subgroup. Manufacturers shall indicate which sampling plan (as described in paragraphs (9) and (10), below) they prefer to use prior to the start of testing. Once testing has begun, manufacturers may not switch to the other sampling plan; the generated test results will be final. Each chosen engine shall be tested according to the 1996–1999 Heavy-Duty Test Procedures to determine its emissions. Unique specialty hardware and personnel normally necessary to prepare the engine for the performance of the test as set forth in the applicable test procedures shall be supplied by the manufacturer within seven days after request. Failure to supply this unique specialty hardware or personnel may not be used by the manufacturer as a cause for invalidation of the subsequent tests.

(9) Primary Sampling Plan.

(A) Engines shall be tested in groups of five until a "Pass" or "Fail" decision is reached for each pollutant independently for the engine family group or subgroup in accordance with the following table:

<i>Number of Engines Tested</i>	<i>Decide "Fail" If "U" is greater than or equal to</i>	<i>Decide "Pass" If "U" is less than or equal to</i>
5	2.18	–0.13
10	2.11	0.51
15	2.18	0.88
20	2.29	1.16

where:

$$U = \frac{\sum_{i=1}^n (x_i - \mu_0)}{(\sum_{i=1}^n (x_i - \mu_0))^2}^{0.5}$$

x_i = the projected emissions of one pollutant for the i th engine tested.

μ_0 = the applicable model year emission standard for that pollutant.

n = the number of engines tested.

(B) The Executive Officer shall find that a group of engines has failed the compliance testing pursuant to the above table if he or she finds that the average emissions of the engines within the selected engine family group or subgroup exceed the applicable model year new engine emission standard for at least one pollutant.

(C) If no decision can be reached after 20 engines have been tested, the Executive Officer shall not make a "Fail" decision for the selected engine family group or subgroup on the basis of these 20 tests alone. Under these circumstances the Executive Officer shall elect to test 10 additional engines. If the average emissions from the 30 engines tested exceed any one of the exhaust emission standards for which a "Pass" decision has not been previously made, the Executive Officer shall render a "Fail" decision.

(10) Alternate Sampling Plan for Low Volume Engine Family Groups.

Any manufacturer subject to new engine compliance testing on an engine family group with a sales volume of less than 2000 engines per year may use the alternative sampling and testing schedule below.

<i>Number of Engines Tested</i>	<i>Decide "Fail" If number of failed engines is greater than or equal to</i>	<i>Decide "Pass" If number of failed engines is less than or equal to</i>
1	No Failure Decision	No Passing Decision
2	No Failure Decision	0
3	3	0
4	4	1
5	4	1
6	5	2
7	5	2
8	6	3
9	6	4
10	6	5

(11) If the Executive Officer determines, in accordance with the procedures set forth herein, that an engine family group, engine family, or any subgroup within an engine family exceeds the emission standards for one or more pollutants, the manufacturer may be subject to being enjoined from any further sales of such products in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to seeking to enjoin a manufacturer, the Executive Officer shall consider quality audit test results, if any, and any additional test data or any other information provided by the manufacturers.

(12) Engines selected for inspection shall be checked to verify the presence of those emissions-related components specified in the manufacturer's application for certification, and for the accuracy of any adjustments, part numbers and labels specified in that application. If any engine selected for inspection fails to conform to any applicable law in Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, the Executive Officer shall notify the manufacturer and may seek to enjoin the manufacturer from any further sales of such products in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to seeking to enjoin a manufacturer, the Executive Officer shall consider any information provided by the manufacturer.

(b) Quality-Audit Test Procedures.

(1) The 1996-1999 model year heavy-duty off-road compression-ignition engines certified for sale in California shall be subject to the Qu-

ality-Audit requirements specified herein. Each manufacturer shall use the quality-audit test procedures specified herein.

(2) These procedures specify the quality-audit test procedures in conjunction with the 1996-1999 Heavy-Duty Test Procedures. An engine is in compliance with these quality-audit standards and test procedures only when all portions of these quality-audit test procedures are fulfilled.

(3) Air Resources Board (ARB) personnel and mobile laboratories shall have access to engine or equipment assembly plants, distribution facilities, and test facilities for the purpose of engine selection, testing, and observation. Scheduling of access shall be arranged with the designated manufacturer's representative and shall not unreasonably disturb normal operations (See Section 6 of the 1996-1999 Heavy-Duty Test Procedures).

(4) Applicability.

These procedures shall apply to all certified 1996-1999 model year heavy-duty off-road compression-ignition engine family groups.

If a manufacturer cannot provide actual California sales data, it shall provide its total production and an estimate of California sales. The manufacturer shall also provide supporting material for its estimate.

(5) Engine Sample Selection.

For each engine family group with California sales volumes of 150 units or more per year, the manufacturer shall select for quality audit testing a representative sample of three engines or one percent of production, whichever is greater, from the highest sales volume engine family within the entire engine family group. For engine family groups with California sales volumes of less than 150 units per year, no testing shall be required unless requested by the Executive Officer based upon information and belief that such engine family groups are in noncompliance with applicable regulations. Each selected engine for quality-audit testing must pass the inspection test, by being equipped with the appropriate emission control systems certified by the ARB. The procedure for selecting engines must be submitted to the Chief, Mobile Source Division, 9528 Telstar Avenue, El Monte, CA 91731, prior to the start of production for the 1996 model year.

(6) Engine Preparation and Preconditioning.

(A) The engine shall be tested after the manufacturer has determined that the emissions have stabilized. Engine manufacturers shall report the break-in schedule used on each test engine.

The manufacturer shall submit to the Executive Officer the schedule for hours of use accumulation or engine run-in and any changes to the schedule with each quarterly report.

(B) If an engine is shipped to a remote facility for quality-audit testing, and adjustment or repair is necessary because of such shipment, the manufacturer shall perform the necessary adjustments or repairs only after the initial test of the engine. Exceptions are allowed in the cases where the damage results in the engine being unsafe to operate, inoperable, or unable to complete the emission test. Additionally, an exception is allowed if the damage results in engine performance deficiencies which would be obvious in customer service and which would cause the customer to seek repair of the engine.

Manufacturers shall report to the Executive Officer in the quarterly report, all adjustments or repairs performed on engines prior to each test. In the event a retest is performed, an application may be made to the Executive Officer, within ten days of the emission test, for permission to substitute the after-repair test results for the original test results. When requested by the manufacturer, the Executive Officer will either affirm or deny the application within ten working days from receipt of the request.

(C) If a manufacturer determines that the emission test results of an engine are invalid, the engine must be retested. Emission results from all tests shall be reported. The manufacturer shall include a detailed report on the reasons for each invalidated test in the quarterly report.

(7) Quality-Audit Engine Selection Criteria.

(A) Engines shall be representatively selected.

(B) At the end of each calendar quarter, all of the data accumulated during the quarter shall be reported to the Executive Officer. Upon accumulation of sufficient data, the compliance of the engine family group with the emission standards is determined.

(8) Standards and Test Procedures; Evaluation.

The exhaust sampling and analytical procedures shall be those described in the 1996–1999 Heavy-Duty Test Procedures. An engine family group is considered to have failed the quality audit test if the average emissions do not comply with the applicable certification standards. Any corrective action to bring the engines into compliance with the standards must be applied to all engines in the engine family group reasonably expected to be in noncompliance based on the audit data and other relevant information.

(9) Reports.

Each engine manufacturer shall submit a report to the ARB within 45 calendar days of the end of each calendar quarter and of the model year. More frequent reports may be required if the Executive Officer invokes this section at the end of each month. Each engine manufacturer shall review the test results of each engine family group at the end of each month.

The quarterly report shall include the following:

(A) The total production and sample size for each engine family group.

(B) A description of each test engine (i.e., date of test, engine family group, engine size, engine identification number, fuel system, engine code or calibration number, and test location).

(C) The break-in schedule used on each test engine.

(D) The exhaust emission data for HC, CO, NO_x, and PM for each test engine.

The data reported shall be rounded to one significant figure beyond the number of significant figures in the applicable standard as follows for all engines:

HC	CO	NO _x	PM
.XX	.XX	.XX	.XXX

(E) The retest emissions data, as described in paragraph (b)(6)(C) above for any engine failing the initial test, and description of the corrective measures taken, including specific components replaced or adjusted.

(F) A statistical analysis of the quality-audit test results stating:

1. Number of engines tested.

2. Average emissions and standard deviations of the sample for HC, CO, NO_x, and PM.

(G) All aborted test data and reasons for any aborted tests.

(10) When assembly-line engines exceed an emission standard, as set forth herein, or when data submitted by the manufacturer indicates that assembly-line quality-audit testing is being improperly performed, the manufacturer may be subject to being enjoined from any further sales of such products in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to seeking to enjoin a manufacturer, the Executive Officer shall consider any information provided by the manufacturer, including any corrective action to the noncomplying engine family group. Enforcement penalties shall be imposed only for egregious violations (e.g., those situations where emissions from a few engines significantly exceed emission standards, or where the number of engines exceeding the emissions standards are significant).

(c) Selective Enforcement Audit.

(1)(A) The 2000 and later model year Tier 1, Tier 2, and Tier 3 off-road compression-ignition engines certified for sale in California shall be subject to the Selective Enforcement Audit requirements specified in Subpart F of the 2000 Plus Limited Test Procedures.

(B) The 2008 and later model year Tier 4 off-road compression-ignition engines certified for sale in California shall be subject to the Selective Enforcement Audit requirements specified in Subpart E of Part 1068 of the 2008 and Later Test Procedures.

(2) These procedures specify the Selective Enforcement Audit test procedures in conjunction with the 2000 Plus Limited Test Procedures and the 2000 and Later Test Procedures. An engine is in compliance with these Selective Enforcement Audit standards and test procedures only

when all portions of these Selective Enforcement Audit test procedures are fulfilled.

(3) Air Resources Board (ARB) personnel and mobile laboratories shall have access to engine or equipment assembly plants, distribution facilities, and test facilities for the purpose of engine selection, testing, and observation. Scheduling of access shall be arranged with the designated manufacturer's representative and shall not unreasonably disturb normal operations.

(d) Any manufacturer obtaining certification under this part shall supply to the Executive Officer, upon request, a reasonable number of production engines selected by the Executive Officer which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These engines shall be supplied for testing at such time and place and for such reasonable periods as the Executive Officer may require. Heavy-duty engines supplied under this paragraph may be required to be mounted in chassis and appropriately equipped for operation on a chassis dynamometer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104 and 43210–43212, Health and Safety Code.

HISTORY

1. New article 4 and section filed 6–9–93; operative 7–9–93 (Register 93, No. 24).
2. Change without regulatory effect repealing article heading and amending NOTE filed 12–22–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 52).
3. Amendment of section heading, section and NOTE filed 12–28–2000; operative 12–28–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 52).
4. Redesignation and amendment of former subsection (c)(1) as subsection (c)(1)(A), new subsection (c)(1)(B) and amendment of subsection (c)(2) filed 12–7–2005; operative 1–6–2006 (Register 2005, No. 49).

Article 4.5. Off-Road Large Spark-Ignition Engines

§ 2430. Applicability.

(a)(1) This article applies to large off-road spark-ignition engines 25 horsepower and greater produced on or after January 1, 2001 and all equipment and vehicles produced on or after January 1, 2001 that use such engines. Beginning January 1, 2007, this article applies to large off-road spark-ignition engines above 19 kilowatt (kW) and all equipment and vehicles that use such engines.

(2) Every new off-road large spark-ignition (LSI) engine that is manufactured for sale, sold, or offered for sale in California, or that is introduced, delivered or imported into California for introduction into commerce and that is subject to any of the standards prescribed in this article and documents incorporated by reference therein, must be certified for use and sale by the manufacturer through the Air Resources Board and covered by an Executive Order, issued pursuant to Chapter 9, Article 4.5, Section 2433.

(3) This article does not apply to engines in vehicles that are subject to requirements of Title 13, California Code of Regulations, Chapter 9, Article 3, Off-Highway Recreational Vehicles and Engines, including any related provisions and guidelines that are applicable to Off-Highway Recreational Vehicles and Engines.

(b) Each part of this article is severable, and in the event that any part of this chapter or article is held to be invalid, the remainder of the article remains in full force and effect.

(c) This article and documents incorporated by reference herein include provisions for emissions certification, labeling requirements, warranty, in-use compliance testing, and production line testing.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

HISTORY

1. New article 4.5 (sections 2430–2439) and section filed 10–19–99; operative 11–18–99 (Register 99, No. 43).

2. Amendment of subsection (a)(1), new subsection (a)(3) and amendment of NOTE filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2431. Definitions.

DEFINITIONS

(a) The definitions in Section 1900(b), Chapter 1, Title 13 of the California Code of Regulations apply to this Article with the following additions:

(1) "Alternate Fuel" means any fuel that will reduce non-methane hydrocarbons (on a reactivity-adjusted basis), NO_x, CO, and the potential risk associated with toxic air contaminants as compared to gasoline or diesel fuel and would not result in increased deterioration of the engine. Alternate fuels include, but are not limited to, methanol, ethanol, liquefied petroleum gas, compressed natural gas, and electricity.

(2) "ARB Enforcement Officer" means any officer or employee of the Air Resources Board so designated in writing by the Executive Officer or by the Executive Officer's designee.

(3) "Assembly-Line Tests" are those tests or inspections that are performed on or at the end of the assembly-line.

(4) "Basic Engine" means an engine manufacturer's description of their unique combination of engine displacement, number of cylinders, fuel system, emission control system, and other engine and emission control system characteristics as determined or specified by the Executive Officer.

(5) "Calendar Year" is the twelve month period commencing on January 1 through December 31.

(6) "Certification Value" means the product of the measured emissions of the prototype engine at zero hours and the (calculated or assigned) deterioration factor.

(7) "Complete Engine Assembly" or "Engine Configuration" means an assembly of a basic engine and all of the specific applicable components (e.g., air intake, fuel and exhaust systems, etc.) and calibrations (e.g., carburetor jet size, valve timing, electronic software/firmware, etc.) required for the assembly to be installed in new equipment.

(8) "Confirmatory testing" means ARB directed emissions tests and inspections of the test engines and/or test equipment used by the manufacturer to obtain test data for submittal with the certification application. The emissions tests may be conducted at ARB, contracted out facilities or at the manufacturer's facility. The testing will be done at the expense of the manufacturer.

(9) "Crankcase Emissions" means airborne substances emitted into the atmosphere from any portion of the engine crankcase ventilation or lubrication system.

(10) "Deterioration Factor" means the calculated or assigned number that represents the certification engine's emissions change over the durability period. It is multiplied by zero hour (new) engine test results to determine the engine family compliance level. The deterioration factor is determined as per the Test Procedures. See "Emission Durability Period" below.

(11) "Emission Control System" includes any component, group of components, or engine modification that controls or causes the reduction of substances emitted from an engine.

(12) "Emissions Durability Period" is the period over which, for purposes of certification, a manufacturer must demonstrate compliance with the standards set forth in Section 2433(b). The durability periods are also noted in the table in Section 2433(b). The emissions durability period is used to determine an engine family's deterioration factors.

(13) "Emissions Durability Values" means emissions from an engine that has accumulated service equivalent to the engine's emission durability period, or the result of the product of the zero hour (new) engine test results and the appropriate deterioration factor (e.g., the certification values). The Executive Officer must approve the methods of service accumulation before the manufacturer begins service accumulation.

(14) "End of Assembly-Line" is defined as that place where the final inspection test or production line test is performed.

(15) "Engine Family" is a subclass of a basic engine based on similar emission characteristics. The engine family is the grouping of engines that is used for the purposes of certification.

(16) "Engine Manufacturer" means the manufacturer granted certification.

(17) "Equipment Manufacturer" means the manufacturer using the engine provided by the engine manufacturer to power equipment or vehicle.

(18) "Exhaust Emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust port of an engine.

(19) "Family Emission Level or FEL" means an emission level that is declared by the manufacturer to serve for the averaging, banking, and trading program and in lieu of an emission standard for certification. The FEL serves as the engine family's emission standard for emissions compliance efforts. If the manufacturer does not declare an FEL for an engine family, the applicable emissions standard must be treated as that engine family's FEL for the purposes of any provision of this Article. The FEL must be expressed to the same number of decimal places as the applicable emission standard.

(20) "Final Calendar Quarter Production" is defined as the calendar quarter in which the production of an engine family ends.

(21) "First Calendar Quarter Production" is defined as the calendar quarter in which the production of an engine family begins.

(22) "Fuel System" means the combination of any of the following components: fuel tank, fuel pump, fuel lines, carburetor or fuel injection components, or all fuel system vents.

(23) "Gross Engine Malfuction" is defined as one yielding an emission value greater than the sum of the mean plus three (3) times the standard deviation. This definition applies only for determination of control limits.

(24) "Model year" means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.

(25) "New Engine" is defined as an engine's ownership has not been transferred to the ultimate consumer.

(26) "New Engine Compliance testing" means ARB directed emissions tests and inspections of a reasonable number of production engines and/or equipment that are offered for sale, or manufactured for sale, in California in order to verify compliance with the applicable emission standards. The emissions tests must be conducted at a qualified testing facility. The testing facility is chosen by the manufacturer and approved by the Executive Officer. This may include ARB facilities, contracted out facilities, or the manufacturer's facility. The testing will be done at the expense of the manufacturer.

(27) "New Equipment" means an equipment's ownership has not been transferred to the ultimate consumer.

(28) "Off-Road Large Spark-ignition Engines" or "LSI Engines" means any engine that produces a gross horsepower 25 and greater horsepower or is designed (e.g., through fueling, engine calibrations, valve timing, engine speed modifications, etc.) to produce 25 and greater horsepower (greater than 19 kilowatts on or after January 1, 2007). If an engine family has models at or above 25 horsepower and models below 25 horsepower, only the models at or above 25 horsepower (greater than 19 kilowatts on or after January 1, 2007) would be considered LSI engines. The engine's operating characteristics are significantly similar to the theoretical Otto combustion cycle with the engine's primary means of controlling power output being to limit the amount of air that is throttled into the combustion chamber of the engine. LSI engines or alternate fuel powered LSI internal combustion engines are designed for powering, but not limited to powering, forklift trucks, sweepers, generators, and industrial equipment and other miscellaneous applications. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically excluded from this category.

[The next page is 298.3.]

Specifically excluded from this category are: 1) engines operated on or in any device used exclusively upon stationary rails or tracks; 2) engines used to propel marine vessels; 3) internal combustion engines attached to a foundation at a location for at least 12 months; 4) off-road recreational vehicles and snowmobiles; and 5) stationary or transportable gas turbines for power generation.

(29) "Off-Road Vehicle" or "Off-Road Equipment" means any non-stationary device, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power, and used in, but not limited to, any of the following applications: Marine Vessels, Construction/Farm Equipment, Locomotives, Small Off-Road Engines, Off-Road Motorcycles, and Off-Highway Recreational Vehicles.

(30) "Otto Cycle Engine" means a type of engine with operating characteristics significantly similar to the theoretical Otto combustion cycle. The primary means of controlling power output in an Otto cycle engine is by limiting the amount of air and fuel which can enter the combustion chambers of the engine. As an example, gasoline-fueled engines are Otto cycle engines.

(31) "Production Line Test" is defined as the emissions test performed on a sample of production engines produced for sale in California and conducted according to the Test Procedures.

(32) "Representative Engine Sample" means that the sample is typical of the engine family or engine family group as a whole (as defined in the Test Procedures). Except as provided in Section 2437, a representative sample would not include a low volume subgroup of the engine family or engine family group.

(33) "Scheduled Maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of equipment or engine components or systems required by the manufacturer that is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of equipment or engine malfunction or failure for which periodic maintenance is not appropriate.

(34) "Small Volume Manufacturer" means an engine manufacturer that produces a total of less than 2000 large spark-ignition engines annually for sale in the United States.

(35) "Test Procedures" means the procedures specified in both Part I and Part II of the "California Exhaust Emission Standards and Test Procedures for New 2001 and Later Off-Road Large Spark-ignition Engines", and as specified in Section 2433(c).

(36) "Test Sample" means the collection of engines selected from the population of an engine family for emission testing.

(37) "Ultimate Purchaser" means the first person who in good faith purchases a new LSI engine or equipment using such engine for purposes other than resale.

(38) "Unscheduled Maintenance" means any inspection, adjustment, repair, removal, disassembly, cleaning, or replacement of engine, equipment or vehicle components or systems that is performed to correct or diagnose a part failure or equipment or vehicle (if the engine were installed in a vehicle) malfunction that was not anticipated.

(39) "Useful life" means a period of 7 years or 5000 hours of operation, whichever first occurs for engines having engine displacement greater than 1.0-liter, and 2 years or 1,000 hours of operations, whichever occurs first, for engines having engine displacement equal to or less than 1.0-liter. However, in no case may this period be less than the manufacturer's basic mechanical warranty period for the engine family.

(40) "Warrantable Condition" means any condition of an engine that requires the manufacturer to take corrective action pursuant to Section 2435.

(41) "Warranted Part" means any emissions-related part installed on a engine by the equipment or engine manufacturer, or installed in a warranty repair, which is listed on the warranty parts list.

(42) "Warranty Period" means the period of time, either in years or hours of operation, that the engine or part is covered by the warranty provisions.

(43) "Warranty Station" means a service facility authorized by the equipment or engine manufacturer to perform warranty repairs. This includes all manufacturer distribution centers that are franchised to service the subject equipment or engines.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
2. New subsection (a)(19), subsection renumbering, amendment of newly designated subsection (a)(28) and amendment of NOTE filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2432. Test Procedures.

Test procedures referred to in this chapter may be obtained from the State Air Resources Board at 9528 Telstar Avenue, El Monte, California 91731.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).

§ 2433. Emission Standards and Test Procedures — Off-Road Large Spark-Ignition Engines.

(a) This section applies to new off-road large spark-ignition engines produced on or after January 1, 2001. For the purpose of this section, these engines are also referred to as "new off-road LSI engines."

(b) *Standards.*

(1)(A) *Exhaust Emission Standards.* Exhaust emissions from off-road large spark-ignition engines manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce, must not exceed:

Exhaust Emission Standards
(grams per brake horsepower-hour)
[grams per kilowatt-hour]⁽¹⁾

Model Year	Engine Displacement	Durability Period	Hydrocarbon plus Oxides of Nitrogen	Carbon Monoxide
2002 and subsequent	≤ 1.0 liter	1,000 hours or 2 years	9.0 [12.0]	410 [549]
2001-2003 ^{(2),(3)}	> 1.0 liter	N/A	3.0 [4.0]	37.0 [49.6]
2004-2006 ⁽⁴⁾	> 1.0 liter	3500 hours or 5 years	3.0 [4.0]	37.0 [49.6]
2007-2009	> 1.0 liter	5000 hours or 7 years	2.0 [2.7]	3.3 [4.4]
2010 and subsequent ⁽⁵⁾	> 1.0 liter	5000 hours or 7 years	0.6 [0.8]	15.4 [20.6]

Note: ⁽¹⁾ For 2006 and previous model years, standards in grams per kilowatt-hour are given only as a reference. For 2007 and subsequent model years, pollutant emissions reported to ARB by manufacturers must be in grams per kilowatt-hour.

⁽²⁾ Small volume manufacturers are not required to comply with these emission standards.

⁽³⁾ Manufacturers must show that at least 25 percent of its California engine sales comply with the standards in 2001, 50 percent in 2002, and 75 percent in 2003.

⁽⁴⁾ The standards for in-use compliance for engine families certified to the standards in the row noted are 4.0 g/bhp-hr (5.4 g/kW-hr) hydrocarbon plus oxides of nitrogen and 50.0 g/bhp-hr (67.0 g/kW-hr) carbon monoxide, with a useful life of 5000 hours or 7 years. In-use averaging, banking, and trading credits may be generated for engines tested in compliance with these in-use compliance stan-

dards. If the in-use compliance level is above 3.0 but does not exceed 4.0 g/bhp-hr hydrocarbon plus oxides of nitrogen or is above 37.0 but does not exceed 50.0 g/bhp-hr carbon monoxide, and based on a review of information derived from a statistically valid and representative sample of engines, the Executive Officer determines that a substantial percentage of any class or category of such engines exhibits within the warranty periods noted in Section 2435, an identifiable, systematic defect in a component listed in that section, which causes a significant increase in emissions above those exhibited by engines free of such defects and of the same class or category and having the same period of use and hours, then the Executive Officer may invoke the enforcement authority under Section 2439, Title 13, California Code of regulations to require remedial action by the engine manufacturer. Such remedial action is limited to owner notification and repair or replacement of defective components, without regard to the requirements set forth in Section 2439(b)(5) or Section 2439(c)(5)(B)(vi). As used in the section, the term "defect" does not include failures that are the result of abuse, neglect, or improper maintenance.

(5) For severe-duty engines, the HC+NOx standard is 2.7 g/kW-hr and the CO standard is 130.0 g/kW-hr.

(6) Small volume manufacturers are required to comply with these emission standards in 2013.

(B) For the 2007 through 2009 model years, you may alternatively certify your engines according to the following formula instead of the standards in paragraph (b)(1)(A) of this section:

$$(\text{HC}+\text{NOx}) \times \text{CO}^{0.784} \leq 8.57.$$

Where: HC + NOx = hydrocarbon plus oxides of nitrogen family emissions level (FEL) in g/kW-hr

CO = carbon monoxide FEL in g/kW-hr

The HC+NOx and CO emission levels selected to satisfy this formula, rounded to the nearest 0.1 g/kW-hr, become the emission standards that apply for those engines. You may not select an HC+NOx FEL higher than 2.7 g/kW-hr or a CO FEL higher than 20.6 g/kW-hr.

(C) *Field Testing Standards.* The field testing standards for model year 2007 and subsequent off-road large spark-ignition engines are described in subpart F, Title 40 CFR Sections 1048.101(c), as adopted July 13, 2005.

(2)(A) *Optional Exhaust Emission Standards.* Manufacturers may certify off-road large spark-ignition engines manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce to the following optional low emission standards.

Optional Exhaust Emission Standards
(grams per brake horsepower-hour)
[grams per kilowatt-hour]⁽¹⁾

Model Year	Engine Displacement	Durability Period	HC+NOx	Carbon Monoxide
2007-2009	> 1.0 liter	5000 hours or 7 years	1.5 [2.0]	4.8 [6.4]
2007-2009	> 1.0 liter	5000 hours or 7 years	1.0 [1.3]	8.3 [11.1]
2007-2009	> 1.0 liter	5000 hours or 7 years	0.6 [0.8]	15.4 [20.6]
2007-2009	> 1.0 liter	5000 hours or 7 years	0.4 [0.5]	15.4 [20.6]
2007-2009	> 1.0 liter	5000 hours or 7 years	0.2 [0.3]	15.4 [20.6]
2007-2009	> 1.0 liter	5000 hours or 7 years	0.1 [0.1]	15.4 [20.6]
2010 and subsequent	> 1.0 liter	5000 hours or 7 years	0.4 [0.5]	15.4 [20.6]
2010 and subsequent	> 1.0 liter	5000 hours or 7 years	0.2 [0.3]	15.4 [20.6]
2010 and subsequent	> 1.0 liter	5000 hours or 7 years	0.1 [0.1]	15.4 [20.6]

Note: (1) Pollutant emissions reported to ARB by manufacturers must be in grams per kilowatt-hour.

(B) *Field Testing Standards.* The field testing standards for optional emission standard off-road large spark-ignition engines shall be 140 percent of the corresponding OLES HC+NOx standard and 150 percent of the corresponding OLES CO standard, rounded to the nearest tenth of one gram, using the field testing procedures described in subpart F, Title 40 CFR Section 1048.101(c), as adopted July 13, 2005.

(3) *Crankcase Emissions.* No crankcase emissions shall be discharged into the ambient atmosphere from any new 2001 or later model year off-road LSI engines.

(4) *Evaporative Emission Standards.* Starting in the 2007 model year, engines over one liter that run on a volatile liquid fuel (such as gasoline), must meet the following evaporative emissions standards and requirements:

(A) Evaporative hydrocarbon emissions may not exceed 0.2 grams per gallon of fuel tank capacity when measured with the test procedures for evaporative emissions as described in subpart F, Title 40 Code of Federal Regulations (CFR) Sec.1048, as adopted July 13, 2005.

(B) For nonmetallic fuel lines, you must specify and use products that meet the Category 1 specifications in SAE J2260 (issued November 1996).

(C) Liquid fuel in the fuel tank may not reach boiling during continuous engine operation in the final installation at an ambient temperature of 30° C. Note that gasoline with a Reid vapor pressure of 62 kPa (9 psi) begins to boil at about 53° C.

(D) Design-based certification as described in subpart F, Title 40 CFR Sections 1048.105 and 1048.245, as adopted July 13, 2005, may be used instead of generating new emission data.

(e) *Test Procedures.* The test procedures for determining certification and compliance with the standards for exhaust emissions from new model year 2001 through 2006 off-road LSI engines with engine displacement greater than 1.0 liter sold in the state are set forth in "California Exhaust Emission Standards and Test Procedures for New 2001 through 2006 Off-Road Large Spark-ignition Engines, Parts I and II," adopted September 1, 1999, and as last amended March 2, 2007. The test procedures for determining certification and compliance with the standards for exhaust and evaporative emissions from new model year 2007 through 2009 off-road LSI engines with engine displacement greater than 1.0 liter sold in the state are set forth in "California Exhaust and Evaporative Emission Standards and Test Procedures for New 2007 through 2009 Off-Road Large Spark-ignition Engines (2007-2009 Test Procedure 1048)," adopted March 2, 2007. The test procedures for determining certification and compliance with the standards for exhaust and evaporative emissions from new model year 2010 and subsequent off-road LSI engines with engine displacement greater than 1.0 liter sold in the state are set forth in "California Exhaust and Evaporative Emission Standards and Test Procedures for New 2010 and Later Off-Road Large Spark-ignition Engines (2010 and Later Test Procedure 1048)," adopted March 2, 2007. The test procedures for determining compliance with the standards for exhaust and evaporative emissions for new model year 2007 and subsequent off-road LSI engines with engine displacement greater than 1.0 liter sold in the state are set forth in the "California Exhaust and Evaporative Emission Standards and Test Procedures for New 2007 and Later Off-Road Large Spark-Ignition Engines (Test Procedures 1065 and 1068)," adopted March 2, 2007.

(d) The test procedures for determining certification and compliance with the standards for exhaust emissions from new off-road LSI engines with engine displacement equal to or less than 1.0 liter sold in the state are set forth in "California Exhaust Emission Standards and Test Procedures for 1995-2004 Small Off-Road Engines," as last amended July 26, 2004 or "California Exhaust Emission Standards and Test Procedures for 2005 and Later Small Off-Road Engines," adopted July 26, 2004.

(e) *Replacement Engines.*

(1) [Reserved]

(2)(A) Beginning in 2004, a new off-road large spark-ignition engine intended solely to replace an engine in a piece of off-road equipment that was originally produced with an engine manufactured prior to the appli-

cable implementation date as described in paragraph (b), shall not be subject to the emissions requirements of paragraph (b) provided that:

(i) The engine manufacturer has ascertained that no engine produced by itself or the manufacturer of the engine that is being replaced, if different, and certified to the requirements of this article, is available with the appropriate physical or performance characteristics to repower the equipment; and

(ii) Unless an alternative control mechanism is approved in advance by the Executive Officer, the engine manufacturer or its agent takes ownership and possession of the engine being replaced; and

(iii) The replacement engine is clearly labeled with the following language, or similar alternate language approved in advance by the Executive Officer:

THIS ENGINE DOES NOT COMPLY WITH CALIFORNIA OFF-ROAD OR ON-HIGHWAY EMISSION REQUIREMENTS. SALE OR INSTALLATION OF THIS ENGINE FOR ANY PURPOSE OTHER THAN AS A REPLACEMENT ENGINE IN AN OFF-ROAD VEHICLE OR PIECE OF OFF-ROAD EQUIPMENT WHOSE ORIGINAL ENGINE WAS NOT CERTIFIED IS A VIOLATION OF CALIFORNIA LAW SUBJECT TO CIVIL PENALTY.

(B) At the beginning of each model year, the manufacturer of replacement engines must provide, by engine model, an estimate of the number of replacement engines it expects to produce for California for that model year.

(C) At the conclusion of the model year, the manufacturer must provide, by engine model, the actual number of replacement engines produced for California during the model year, and a description of the physical or performance characteristics of those models that indicate that certified replacement engine(s) were not available as per paragraph (A).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
2. Amendment of section heading, section and NOTE filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2434. Emission Control Labels — 2001 and Later Off-Road Large Spark-Ignition Engines.

(a) Purpose.

The Air Resources Board recognizes that certain emissions-critical or emissions-related parts must be properly identified and maintained in order for engines to meet the applicable emission standards. The purpose of these specifications is to require engine manufacturers to affix a label (or labels) on each production engine (or equipment) to provide the engine or equipment owner and service mechanic with information necessary for the proper maintenance of these parts in customer use.

(b) Applicability. This section applies to:

(1) 2001 and later model year off-road LSI engines with engine displacement greater than 1.0 liter, that have been certified to the applicable emission standards pursuant to Section 2433(b).

(2) Engine manufacturers and original equipment manufacturers, as applicable, that have certified such engines.

(3) Original equipment manufacturers, regardless of whether they have certified the engine, if their equipment obscures the emission control labels of such certified engines.

(4) 2002 and later model year off-road LSI engines with engine displacement less than or equal to 1.0 liter must comply with the applicable labeling specifications set forth in the California Code of Regulations, Title 13, Section 2404.

(c) Label Content and Location.

(1) A tune-up label made of a permanent material must be welded, riveted or otherwise permanently attached to the engine block or other major component in such a way that it will be readily visible after installation of the engine in the equipment. If the equipment obscures the label on the

engine, the equipment manufacturer must attach a supplemental label such that it is readily visible.

(2) In selecting an acceptable location, the manufacturer must consider the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). Each label must be affixed in such a manner that it cannot be removed without destroying or defacing the label, and must not be affixed to any part which is likely to be replaced during the equipment's useful life. The label(s) must not be affixed to any component which is easily detached from the engine.

(3) In addition, an engine serial number and date of engine manufacture (month and year) must be stamped on the engine block or stamped on a metal label riveted or permanently attached to the engine block. Engine manufacturers must keep records such that the engine serial number can easily be used to determine if an engine was certified for the applicable model year. Alternative engine serial number identification methods or tracking number may be allowed with prior approval from the Executive Officer.

(4) The label must be in the English language and use block letters and numerals which must be of a color that contrasts with the background of the label.

(5) The label must contain the following information:

(A) The label heading must read:

"Important Engine Information."

(B) Full corporate name and trademark of the manufacturer.

(C) "THIS ENGINE IS CERTIFIED TO OPERATE ON (specify operating fuel(s))."

(D) Identification of the Exhaust Emission Control System. Abbreviations may be used and must conform to the nomenclature and abbreviations found in the Society of Automotive Engineers document J1930 which is incorporated by reference in Section 1977, Title 13, CCR, entitled "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms".

(E) The maintenance specifications and adjustments recommended by the engine manufacturer, including, as applicable: spark plug gap width, valve lash, ignition timing, idle air/fuel mixture setting procedure and value (e.g., idle CO, idle speed drop), and high idle speed. These specifications must indicate the proper transmission position, (if applicable), during tune-up and what accessories, if any, should be in operation, and what systems, if any (e.g., vacuum advance, air pump), should be disconnected during the tune-up. If the manufacturer does not recommend adjustment of the foregoing specifications, the manufacturer must include in lieu of the "specifications" the single statement "No other adjustments needed." For all engines, the instructions for tune-up adjustments must be sufficiently clear on the label to preclude the need for a mechanic or equipment owner to refer to another document in order to correctly perform the adjustments.

(F) Any specific fuel or engine lubricant requirement (e.g., research octane number, engine lubricant type).

(G) An unconditional statement of compliance with the appropriate model year (for 2001-2003) or (2004 and subsequent) California regulations; for example, "This engine conforms to 2002 California regulations for off-road large spark-ignition engines and is certified to 3.0 g/bhp-hr HC+NOx and 37 g/bhp-hr CO." or "This engine conforms to 2007 California regulations for off-road large spark-ignition engines and is certified to 0.8 g/kW-hr [0.6 g/bhp-hr] HC+NOx and 20.6 g/kW-hr [15.4 g/bhp-hr] CO."

(H) Total engine displacement (in cubic inches and/or liters) of the engine upon which the engine label is attached.

(I) The engine family identification (i.e., engine family name and manufacturer's own engine group/code).

(6)(A) The manufacturer of any engine certified with a clean fuel (i.e. natural gas) must at the time of engine manufacture, affix a permanent legible label specifying the appropriate operating fuel(s).

(B) The label must be located immediately adjacent to each fuel tank filler inlet and outside of any filler inlet compartment. It must be located so that it is readily visible to any person introducing fuel to such filler in-

let; provided, however, that the Executive Officer must upon application from an engine manufacturer, approve other label locations that achieve the purpose of this paragraph. If the engine is manufactured separately from the equipment, the label must be affixed to the engine and located so that it is readily visible. Such labels must be in English and in block letters which must be of a color that contrasts with their background.

(d) An engine label may state that the engine or equipment conforms to any applicable federal emission standards for new engines, or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the equipment or engine.

(e) Supplemental Engine Label Content and Location.

(1) When a final equipment assembly that is marketed to any ultimate purchaser is manufactured and the engine label attached by the engine manufacturer is obscured (i.e., not readily visible), the manufacturer of the final equipment assembly (i.e., original equipment manufacturer) must attach a supplemental engine label upon the engine or equipment. The supplemental engine label must be plastic or metal, and must be welded, riveted or otherwise attached permanently to an area of the engine or equipment assembly so as to be readily visible to the average person.

(2) The manufacturer required to attach a supplemental engine label must consider the possibility of accidental damage to the supplemental engine label in the determination of the label location. Such a label must not be attached to any engine or equipment component that is likely to be replaced during the useful life of the engine or equipment (as applicable). Such a label must not be attached to any engine or equipment component that is detached easily from the engine or equipment (as applicable).

(3) The supplemental engine label information must be written in the English language and use block letters and numerals (i.e., sans serif, upper-case characters) that must be of a color that contrasts with the background of the label.

(4) A supplemental engine label must contain the information as specified in Subsection (c)(4), except that the date of engine manufacture specified in (c)(3) may be deleted from the supplemental engine label. When the date of engine manufacture does not appear on the supplemental engine label, the responsible original equipment manufacturer must display (e.g., label, stamp, etc.) the date elsewhere on the engine or equipment so as to be readily visible.

(f) As used in these specifications, readily visible to the average person means that the label must be readable from a distance of eighteen inches (46 centimeters) without any obstructions from equipment or engine parts (including all manufacturer available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the label must be no smaller than 8 point type size (2 millimeter in height) provided that no equipment or engine parts (including all manufacturer available optional equipment), except for flexible parts, obstruct the label.

(g) The labels and any adhesives used must be designed to withstand, for the engine's or equipment's total expected life, typical equipment environmental conditions in the area where the label is attached. Typical equipment environmental conditions must include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, water, ethylene glycol). The manufacturer must submit, with its certification application, a statement attesting that its labels comply with these requirements.

(h) The manufacturer must obtain approval from the Executive6B Officer for all label formats and locations prior to use. Approval of the specific maintenance settings is not required; however, the format for all such settings and tolerances, if any, is subject to review. If the Executive Officer finds that the information on the label is vague or subject to misinterpretation, or that the location does not comply with these specifications, he or she may require that the label or its location be modified accordingly.

(i) Samples of all actual production labels used within an engine family must be submitted to the Executive Officer within thirty days after the start of production. Engine manufacturers must provide samples of their own applicable production labels, and samples of applicable production original equipment manufacturer labels that are accessible to the engine manufacturer due to the direct market arrangement between such manufacturers.

(j) The Executive Officer may approve alternate label locations or may, upon request, waive or modify the label content requirements provided that the intent of these specifications is met.

(k) The manufacturer of any engine must furnish to the Executive Officer, at the beginning of the model year, any engine identification number coding system which identifies whether such engine(s) are covered by an Executive Order.

(l)(1) If the Executive Officer finds any engine manufacturer using labels that are different from those approved or that do not substantially comply with the readability or durability requirements set forth in these specifications, the engine manufacturer will be subject to revocation or suspension of Executive Orders for the applicable engine families, or enjoined from any further sales, or distribution, of such noncompliant engine families, or subgroups within the engine families, in the State of California pursuant to Section 43017 of the Health and Safety Code. Before seeking to enjoin an engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer. In addition, the engine manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(2) If the Executive Officer finds any original equipment manufacturer using labels for which it has responsibility for attaching that are different from those approved or that do not substantially comply with the readability or durability requirements set forth in these specifications, the equipment manufacturer will be subject to being enjoined from any further sales, or distribution, of the applicable equipment product line that uses such noncompliant labels in the State of California pursuant to Section 43017 of the Health and Safety Code. Before seeking to enjoin an equipment manufacturer, the Executive Officer will consider any information provided by the equipment manufacturer. In addition, the equipment manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43017, 43018, 43101, 43102, and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
2. Amendment of subsection (c)(5)(G) and NOTE filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2435. Defects Warranty Requirements for 2001 and Later Off-Road Large Spark-Ignition Engines.

(a) Applicability. This section applies to new 2001 and later model year off-road large spark-ignition engines with engine displacement greater than 1.0 liter that are certified to the applicable emission standards pursuant to Section 2433(b). The warranty period begins on the date the engine or equipment is delivered to an ultimate purchaser. The use of alternative fuels must not void the warranties on any engine certified to use such fuel. 2002 and later model year off-road LSI engines with engine displacement less than or equal to 1.0 liter must comply with the applicable warranty requirements set forth in the California Code of Regulations, Title 13, Section 2405.

(b) General Emissions Warranty Coverage. The manufacturer of each off-road large spark-ignition engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is:

(1) Designed, built, and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in Chapters 1 and 2, Part 5, Division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship which cause the failure of a warranted part to be identical in all material respects to the part as described in the engine manufacturer's application for certification for a period of:

(A) 2 years or 1,500 hours, whichever occurs first, for 2001–2003 model year certified engines having engine displacement greater than 1.0 liter.

(B) 3 years or 2,500 hours, whichever occurs first, for 2004 and later model year engines having engine displacement greater than 1.0 liter.

(3) Free from defects in materials and workmanship which cause the failure of a high-cost warranted part to be identical in all material respects to the part as described in the engine manufacturer's application for certification for 2004 and later model year engines having engine displacements greater than 1.0 liter, for a period of five years or 3,500 hours of operation, whichever occurs first.

(A) Each manufacturer shall identify in its application for certification the "high-priced" warranted parts which (i) are included on the Board's "Emission Warranty Parts List" as last amended February 22, 1985, incorporated herein by reference, and (ii) have an individual replacement cost, at the time of certification, exceeding the cost limit defined in subsection (B). The replacement cost shall include the cost of the part, labor and standard diagnosis. The costs shall be those of the highest-cost metropolitan area of California.

(B) The dollar value of a high cost part shall be based on the following formula:

$$\text{Cost Limit}_n = \$300 * (\text{CPI}_{n-2} / 118.3)$$

where,

Cost Limit_n is the cost limit for the applicable model year of the engine rounded to the nearest ten dollars.

n is the model year of the new engines.

n–2 is the calendar year two years prior to the model year of the new engines.

CPI= is the annual average nationwide urban consumer price index published by the United States Bureau of Labor Statistics.

(C) The cost limit shall be reviewed annually by the Executive Officer. The highest-cost metropolitan area in California shall be identified by the Executive Officer for use in this subsection. If a manufacturer seeks certification of an engine before the applicable annual average CPI is available, the cost limit shall be calculated using the average of the monthly nationwide urban CPI figures for the most recent twelve month period for which figures have been published by the United States Bureau of Labor Statistics.

(D) Each manufacturer shall submit to the Executive Officer the documentation used to identify the "high-priced" warranted parts required in this subsection. The documentation shall include the estimated retail parts costs, labor rates in dollars per hour, and the labor hours necessary to diagnosis and replace the parts.

(4) In the absence of a device to measure hours of use, the engine must be warranted for a period of the years noted above in subsections (2) and (3). If a device to measure hours is used, the engine must be warranted for the number of hours or the number of years noted above in subsections (2) and (3), whichever occurs first.

(c) The warranty on emissions-related parts must be interpreted as follows:

(1) Any warranted part that is not scheduled for replacement as required maintenance in the written instructions required by Subsection (e) must be warranted for the warranty period defined in Subsection (b)(2) and (b)(3). If any such part fails during the period of warranty coverage, it must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under the warranty must be warranted for the remaining warranty period.

(2) Any warranted part that is scheduled only for regular inspection in the written instructions required by Subsection (e) must be warranted for the warranty period defined in Subsection (b)(2) and (b)(3). A statement in such written instructions to the effect of "repair or replace as necessary" must not reduce the period of warranty coverage. Any such part re-

paired or replaced under warranty must be warranted for the remaining warranty period.

(3) Any warranted part that is scheduled for replacement as required maintenance in the written instructions required by Subsection (e) must be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under warranty must be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article must be performed at no charge to the owner at a warranty station.

(5) Notwithstanding the provisions of Subsection (4) above, warranty services or repairs must be provided at all manufacturer distribution centers that are franchised to service the subject engines.

(6) The owner must not be charged for diagnostic labor that leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) The engine manufacturer must be liable for damages to other engine components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the engine's warranty period defined in Subsection (b)(2) and (b)(3), the engine manufacturer must maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(9) Any replacement part, as defined in Section 1900(b)(13), Title 13, may be used in the performance of any maintenance or repairs and must be provided without charge to the owner. It is not necessary for replacement parts to be the same brand or by the same manufacturer as the original part sold with the engine. Such use must not reduce the warranty obligations of the engine manufacturer.

(10) Add-on or modified parts, as defined in Section 1900(b)(1) and (b)(10), Title 13, that are not exempted by the Air Resources Board may not be used. The use of any non-exempted add-on or modified parts will, at the discretion of the engine manufacturer, be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer must not be liable under this article to warrant failures of warranted parts caused by the use of a non-exempted add-on or modified part.

(11) The Executive Officer may request and, in such case, the engine manufacturer must provide, any documents that describe that manufacturer's warranty procedures or policies.

(d) Each manufacturer must include a copy of the following emission warranty parts list with each new engine, using those portions of the list applicable to the engine.

(1) Fuel Metering System

(A) Fuel injection system.

(B) Air/fuel ratio feedback and control system.

(C) Carburetor system (internal parts and/or pressure regulator or fuel mixer or injection system).

(D) Cold start enrichment system.

(2) Air Induction System

(A) Intake manifold or air intake system.

(B) Air mass sensor assembly.

(C) Turbocharger/supercharger systems.

(3) Exhaust Gas Recirculation (EGR) System

(A) EGR valve body, and carburetor spacer if applicable.

(B) EGR rate feedback and control system.

(4) Air injection System

(A) Air pump or pulse valve.

(B) Valves affecting distribution of flow.

(C) Distribution manifold.

(5) Catalyst or Thermal Reactor System

(A) Catalytic converter.

(B) Thermal reactor.

(C) Exhaust manifold.

- (6) Positive Crankcase Ventilation (PCV) System.
 - (A) PCV Valve.
 - (B) Oil Filler Cap.
- (7) Ignition Control System
 - (A) Engine Control Module (ECM).
 - (B) Ignition module(s).
- (8) Miscellaneous items Used in Above Systems
 - (A) Vacuum, temperature, and time sensitive valves and switches.
 - (B) Sensors used for electronic controls.
 - (C) Hoses, belts, connectors, assemblies, clamps, fittings, tubing, seal-gaskets or devices, and mounting hardware.
 - (D) Pulleys, belts and idlers.
- (e) Each manufacturer must furnish with each new engine written instructions for the maintenance and use of the engine by the owner. The instructions must be consistent with this article and applicable regulations contained herein.
- (f) Each manufacturer must submit the documents required by Subsections (d) and (e) with the manufacturer's preliminary application for engine certification for approval by the Executive Officer. Approval by the Executive Officer of the documents required by Subsections (d) and (e) must be a condition of certification. The Executive Officer must approve or disapprove the documents required by Subsections (d) and (e) within 90 days of the date such documents are received from the manufacturer. Any disapproval must be accompanied by a statement of the reasons therefor. In the event of disapproval, the manufacturer may file for an adjudicative hearing under Title 17, California Code of Regulation, Division 3, Chapter 1, Subchapter 1.25 to review the decision of the Executive Officer.
- (g) In the application, each manufacturer must include a statement concerning proper maintenance of the engine to maximize emissions performance. The statement must include, but not be limited to, information on air filter care and replacement schedule, proper fueling and fuel mixing, engine maintenance, and a maintenance schedule to ensure that the owner returns to a servicing center to check for deposits, debris build-up, etc.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
2. Amendment of subsection (c)(10) filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2436. Emission Control System Warranty Statement.

(a) Each manufacturer must furnish a copy of the following statement with each new off-road large spark-ignition engine with engine displacement greater than 1.0 liter, that have been certified to the applicable emission standards pursuant to Section 2433(b), using those portions of the statement applicable to the engine. Each manufacturer must furnish a copy of the warranty statement as set forth in the California Code of Regulations, Title 13, Section 2406(a) with each new off-road large spark-ignition engine with engine displacement less than or equal to 1.0 liter, using those portions of the statement applicable to the engine.

CALIFORNIA EMISSION CONTROL WARRANTY STATEMENT

YOUR WARRANTY RIGHTS AND OBLIGATIONS

The **California Air Resources Board** (and manufacturer's name, optional) is pleased to explain the **emission control system warranty** on your **(model year(s))** (equipment type or off-road large spark-ignition) engine. In California, new off-road large spark-ignition (LSI) engines must be designed, built and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the emission control system on your engine for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your engine. Your emission control system may include parts such as the carburetor, regulator or fuel-injection system, ignition system, engine computer unit

(ECM), catalytic converter and air induction system. Also included may be sensors, hoses, belts, connectors and other emission-related assemblies.

Where a warrantable condition exists, (manufacturer's name) will repair your LSI engine at no cost to you including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

The **(model year(s))** off-road large spark-ignition engines are warranted for **(warranty period)**. If any emission-related part on your engine is defective, the part will be repaired or replaced by (manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

- As the off-road LSI engine owner, you are responsible for the performance of the **required maintenance listed in your owner's manual**. (Manufacturer's name) recommends that you retain all receipts covering maintenance on your off-road engine, but (manufacturer's name) cannot deny warranty solely for the lack of receipts or for your failure to ensure the performance of all scheduled maintenance.
- As the off-road large spark-ignition engine owner, you should however be aware that (manufacturer's name) may deny you warranty coverage if your off-road large spark-ignition engine or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.
- Your engine is designed to operate on **(specific fuel(s))**. Use of any other fuel may result in your engine no longer operating in compliance with California's emissions requirements.
- You are responsible for initiating the warranty process. The ARB suggests that you present your off-road large spark-ignition engine to a (manufacturer's name) dealer as soon as a problem exists. The warranty repairs should be completed by the dealer as expeditiously as possible.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen manufacturer's contact) at **1-XXX-XXX-XXXX**.

(b) Warranty statement furnishing requirements.

(1) Commencing with the 2001 model year for large off-road large spark-ignition engines with engine displacement greater than 1.0 liter, each manufacturer must furnish with each new engine a warranty statement that generally describes the obligations and rights of the engine manufacturer and owner under this article. Engine manufacturers must also include in the warranty statement a phone number the customer may use to obtain their nearest franchised service center.

(2) Commencing with the 2002 model year for large off-road large spark-ignition engines with engine displacement less than or equal to 1.0 liter, each manufacturer must furnish with each new engine a warranty statement as set forth in the California Code of Regulations, Title 13, Section 2406(b).

(c) Each manufacturer must submit the documents required by Subsections (a) and (b) with the manufacturer's preliminary application for new engine certification for approval by the Executive Officer. The Executive Officer may reject or require modification of the documents to the extent the submitted documents do not satisfy the requirements of Subsections (a) and (b). Approval by the Executive Officer of the documents required by Subsections (a) and (b) must be a condition of certification. The Executive Officer must approve or disapprove the documents required by Subsections (a) and (b) within 90 days of the date such documents are received from the manufacturer. Any disapproval must be accompanied by a statement of the reasons therefor. In the event of disapproval, the manufacturer may petition the Board to review the decision of the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).

§ 2437. New Engine Compliance and Production Line Testing — New Off-Road Large Spark-Ignition Engines Selection, Evaluation, and Enforcement Action.

(a) Compliance Test Procedures

(1) These procedures apply, commencing with the 2001 model year, to any large off-road spark-ignition engine family group (as defined in Sections 2 and 11 of the "California Exhaust Emission Standards and Test Procedures for New 2001 and Later Off-Road Large Spark-ignition Engines") or any subgroup within an engine family group selected for compliance testing pursuant to this section, with an engine displacement greater than 1.0 liter, that have been certified to the applicable emission standards pursuant to Section 2433(b). 2002 and later model year large off-road spark-ignition engines with engine displacement less than or equal to 1.0 liter must comply with the new engine compliance test procedures set forth in the California Code of Regulations, Title 13, Section 2407.

(2) The Executive Officer may, with respect to any new engine family group or subgroup being sold, offered for sale, or manufactured for sale in California, order an engine manufacturer to make available for compliance testing and/or inspection a reasonable number of engines, and may direct that the engines be delivered to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any new engine family group or subgroup being sold, offered for sale, or manufactured for sale in California, have a manufacturer compliance test and/or inspect a reasonable number of engines at the manufacturer's facility under the supervision of an ARB Enforcement Officer. Engines must be representatively selected from sources specified by the Executive Officer according to a method approved by him/her, that insofar as practical must exclude engines that would result in an unreasonable disruption of the manufacturer's distribution system. To the extent practical, the Executive Officer must test a representative configuration (as defined in Section 3 of the "California Exhaust Emission Standards and Test Procedures for New 2001 and Later Off-Road Large Spark-ignition Engines") from the engine family group in order to minimize manufacturers' expense and inconvenience in testing different engine configurations.

A subgroup of an engine family group may be selected for compliance testing only if the Executive Officer has reason to believe that the emissions characteristics of that subgroup are substantially in excess of the emissions of the engine family group as a whole.

(3) For all 2001 and subsequent model year off-road large spark-ignition engines selected for compliance testing, the selection and testing of engines and the evaluation of data must be made in accordance with the procedures set forth herein.

(4) For manufacturers that have more than one engine family group, the Air Resources Board or its designated laboratory may procure and test at the manufacturer's expense no more than one engine family group per year, if compliance testing is required.

Notwithstanding the above, if a manufacturer fails to demonstrate compliance with the emission standards after one engine family group has been tested, the ARB or its designated laboratory may test additional engine family groups at the manufacturer's expense, until compliance is demonstrated on one engine family group or all of a manufacturer's engine family groups have been tested. However, the ARB may conduct engine enforcement testing pursuant to the engine test procedures specified in Section 2433, at its own expense. In such an instance, the Executive Officer must order testing only in those cases where evidence such as production line test data or in-use test data indicate that engines may not be in compliance.

(5) All testing must be conducted in accordance with the applicable model year certification emission test procedures. Break-in before test-

ing may be performed on test engines to the same extent it is performed on production-line testing engines (See subsection (b)). No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on engines chosen for compliance testing without the written consent of the Executive Officer. Such consent must not be unreasonably withheld where such adjustment or alteration is required to render the engine testable and reasonably operative.

(6) If the manufacturer elects to specify a different break-in or adjustments, they will be performed by the manufacturer under the supervision of ARB personnel.

(7) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the engine is permitted only after testing the engine, except where 100 percent of the manufacturer's production is given that inspection or maintenance by the manufacturer's own personnel. Exceptions are allowed in the cases where the damage results in the engine being unsafe to operate, inoperable, or unable to complete the emission test. Additionally, an exception is allowed if the damage results in engine performance deficiencies that would be obvious in customer service and that would cause the customer to seek repair of the engine. The manufacturer may request that the engine be repaired from shipping damage, and be retested. If the Executive Officer concurs, the engine may be retested, and the original test results may be replaced by the after-repair test results.

(8) Engines must be randomly chosen from the selected engine family group or subgroup. Prior to the start of testing, manufacturers must indicate that sampling plan (as described in paragraphs (9) and (10), below) they will use. Once testing has begun, manufacturers may not switch to the other sampling plan; the generated test results will be final. Each chosen engine must be tested according to the "California Exhaust Emission Standards and Test Procedures for New 2001 and Later Off-Road Large Spark-ignition Engines" ("Test Procedures") to determine its emissions. Unique specialty hardware and personnel normally necessary to prepare the engine for the performance of the test as set forth in the Test Procedures must be supplied by the manufacturer within seven days after request. Failure to supply this unique specialty hardware or personnel may not be used by the manufacturer as a cause for invalidation of the subsequent tests.

(9) Engines must be tested in groups of five until a "Pass" or "Fail" decision is reached for each pollutant independently for the engine family or subgroup in accordance with the following table:

<i>Number of Engines Tested</i>	<i>Decide "Fail" If "U" is greater than or equal to</i>	<i>Decide "Pass" If "U" is less than or equal to</i>
5	2.18	-0.13
10	2.11	0.51
15	2.18	0.88
20	2.29	1.16

where:

$$U = \frac{\sum_{i=1}^n (x_i - \mu_o)}{\left(\sum_{i=1}^n (x_i - \mu_o)^2 \right)^{0.5}}$$

x_i = the projected emissions of one pollutant for the i th engine tested.
 μ_o = the applicable calendar year emission standard for that pollutant.
 n = the number of engines tested.

(10) The Executive Officer will find that a group of engines has failed the compliance testing pursuant to the above table if the Executive Officer finds that the average emissions of the engines within the selected engine family or subgroup exceed the applicable calendar year new engine emission standard for at least one pollutant.

(11) If no decision for a pollutant or pollutants can be reached after 20 engines have been tested, the Executive Officer will not make a "Fail" decision for the selected engine family or subgroup on the basis of these

20 tests alone. Under these circumstances the Executive Officer will elect to test 10 additional engines. If the average emissions from the 30 engines tested exceed any one of the exhaust emission standards for which a "Pass" decision has not been previously made, the Executive Officer will render a "Fail" decision.

(12) If the Executive Officer determines, in accordance with the procedures set forth in Subsection (a) that an engine family, or any subgroup within an engine family, exceeds the emission standards for one or more pollutants, the Executive Officer will:

(A) Notify the engine manufacturer that the engine manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California, or enjoined from any further sales or distribution, of the noncompliant engines in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an engine manufacturer, the Executive Officer will consider production line test results, if any, and any additional test data or other information provided by the engine manufacturer and other interested parties. In addition, the engine manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(B) Notify the equipment manufacturer that the equipment manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California, or being enjoined from any further sales, or distribution, of the equipment manufacturer's equipment product line(s) that are, or utilize engines that are, noncompliant with the applicable emission regulations pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an equipment manufacturer, the Executive Officer will consider production line test results, if any, and any additional test data or other information provided by the equipment manufacturer and other interested parties. In addition, the equipment manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(13) Engines selected for inspection must be checked to verify the presence of those emissions-related components specified in the engine manufacturer's application for certification, and for the accuracy of any adjustments, part numbers and labels specified in that application. If any engine selected for inspection fails to conform to any applicable law in Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, the Executive Officer will:

(A) Notify the engine manufacturer and may seek to revoke or suspend the Executive Order authorizing sales and distribution or enjoin the engine manufacturer from any further sales, or distribution, of the applicable noncompliant engine families or subgroups within the engine families in the State of California pursuant to Section 43017 of the Health and Safety Code. Before revoking or suspending the Executive Order authorizing sales and distribution of the applicable noncompliant engine families or subgroups within the State of California, or seeking to enjoin an engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer and other interested parties. In addition, the engine manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(B) Notify the equipment manufacturer and may seek to revoke or suspend the Executive Order authorizing sales and distribution or enjoin the equipment manufacturer from any further sales, or distribution, in the State of California of the equipment manufacturer's equipment product line(s) that are, or utilize engines that are, noncompliant with the applicable emission regulations pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order authorizing sales and distribution of the applicable noncompliant equipment, or seeking to enjoin an equipment manufacturer, the Executive Officer

will consider any information provided by the equipment manufacturer and other interested parties. In addition, the equipment manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(b) 2001 and Subsequent Model Cumulative Sum Production Line Test Procedures

(1) The 2001 and subsequent model year off-road large spark-ignition engines with an engine displacement of greater than 1.0 liter, that have been certified to the applicable emission standards pursuant to Section 2433(b), are subject to production line testing performed according to the requirements specified in this section. The 2002 and subsequent model year off-road large spark-ignition engines with an engine displacement of less than or equal to 1.0 liter, that have been certified for sale in California, must comply with production line testing performed according to the requirements set forth in the California Code of Regulations, Title 13, Section 2407.

(A) Standards and Test Procedures. The emission standards, exhaust sampling and analytical procedures are those described in the Test Procedures, and are applicable to engines tested only for exhaust emissions. The production line test procedures are specified in conjunction with the Test Procedures. An engine is in compliance with these production line standards and test procedures only when all portions of these production line test procedures and specified requirements from the Test Procedures are fulfilled, except any adjustable engine parameters may be set to any value or position that is within the range available to the ultimate purchaser.

(B) Air Resources Board (ARB) personnel and mobile laboratories must have access to engine or equipment assembly plants, distribution facilities, and test facilities for the purpose of engine selection, testing, and observation. Scheduling of access must be arranged with the designated engine manufacturer's representative and must not unreasonably disturb normal operations (See Test Procedures).

(2) Engine Sample Selection.

(A) At the start of each quarter for the model year, the engine manufacturer will begin to randomly select engines from each engine family for production line testing, according to the criteria specified herein. The engines must be representative of the engine manufacturer's California sales. Each engine will be selected from the end of the assembly line. All engine models within the engine family must be included in the sample pool. Each selected engine for production line testing must pass the inspection test, by being equipped with the appropriate emission control systems certified by the ARB. The procedure for randomly selecting engines or units of equipment must be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA, 91731, prior to the start of production for the first year of production.

(i) For newly certified engine families: After two engines are tested, the manufacturer will calculate the required sample size for the model year according to the Sample Size Equation in paragraph (4) of this subsection.

(ii) For carry-over engine families: After one engine is tested, the manufacturer will combine the test with the last test result from the previous model year and then calculate the required sample size for the model year according to the Sample Size Equation in paragraph (4) of this subsection.

(iii) Beginning with the 2006 model year, a manufacturer may annually request of the Executive Officer a reduction in production line testing for an engine family. In making such request, the manufacturer must demonstrate that the engine family's production line test data is consistent and in-use compliance data is consistent for the previous year(s) and in compliance with the emission standards in Section 2433. If the Executive Officer determines that a reduction is warranted, the manufacturer may test as few as one production engine during the subject model year.

(B) Engine manufacturers must provide actual California sales, or other information acceptable to the Executive Officer, including, but not

limited to, an estimate based on market analysis and federal production or sales.

(3) Engine Preparation and Preconditioning

(A) No emissions tests may be performed on an engine prior to the first production line test.

(B) The engine or unit of equipment must be tested after the engine manufacturer's recommended break-in period. The engine manufacturer must submit to the Executive Officer the schedule for engine break-in and any changes to the schedule with each quarterly report. This schedule must be adhered to for all production line testing within an engine family and subgroup or engine family and assembly plant as appropriate.

(C) If an engine or unit of equipment is shipped to a remote facility for production line testing, and adjustment or repair is necessary because of such shipment, the engine manufacturer must perform the necessary adjustments or repairs only after the initial test of the engine or equipment. Engine manufacturers must report to the Executive Officer in the quarterly report, all adjustments or repairs performed on engines or equipment prior to each test. In the event a retest is performed, a request may be made to the Executive Officer, within ten days of the production quarter, for permission to substitute the after-repair test results for the original test results. The Executive Officer will either affirm or deny the request by the engine manufacturer within ten working days from receipt of the request.

(D) If an engine manufacturer determines that the emission test results of an engine or unit of equipment are invalid, the engine or equipment must be retested. Emission results from all tests must be reported. The engine manufacturer must include a detailed report on the reasons for each invalidated test in the quarterly report.

(4)(A) Manufacturers will calculate the required sample size for the model year for each engine family using the Sample Size Equation below. N is calculated from each test result. The number N indicates the number of tests required for the model year for an engine family. N , is recalculated after each test. Test results used to calculate the variables in the Sample Size Equation must be final deteriorated test results as specified in (d)(3).

$$N = \left[\frac{(t_{95} \times \sigma)}{(x - STD)} \right]^2 + 1$$

Where:

- N = required sample size for the model year.
 t_{95} = 95% confidence coefficient. It is dependent on the number of tests completed, n , as specified in the table in paragraph (C) of this section. It defines one-tail, 95% confidence intervals.
 σ = test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

Where:

- X_i = emission test result for an individual engine
 x = mean of emission test results of the sample
 STD = emission standard
 n = The number of tests completed in an engine family

(B) Reserved

(C) Number of Tests (n) & 1-tail Confidence Coefficients (t_{95})

n	t_{95}	n	t_{95}	n	t_{95}
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

(D) A manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N , evenly throughout the remainder of the model year.

(E) After each new test, the required sample size, N , is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

(F) A manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (4)(A) through (4)(F) of this section until a decision is made to stop testing as described in paragraph (4)(G) of this section or a noncompliance decision is made pursuant to (c)(6).

(G) If, at any time throughout the model year, the calculated required sample size, N , for an engine family is less than or equal to the sample size, n , and the sample mean, x , for HC + NOx is less than or equal to the emission standard, the manufacturer may stop testing that engine family.

(H) If, at any time throughout the model year, the sample mean, x , for HC + NOx is greater than the emission standard, the manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

(I) The maximum required sample size for an engine family (regardless of the required sample size, N , as calculated in paragraph (4)(A) of this section) is thirty tests per model year.

(J) Manufacturers may elect to test additional randomly chosen engines. All additional randomly chosen engines tested in accordance with the testing procedures specified in Emission Standards and Test Procedures must be included in the Sample Size and Cumulative Sum equation calculations as defined in section (b), respectively.

(K) Small volume manufacturers may limit the number of engines tested to one percent of their California production. Compliance would be determined based on the available test data.

(5) The manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(6) No quality control, testing, or assembly procedures will be used on any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Executive Officer approves the modification in production or assembly procedures.

(c) Calculation of Cumulative Sum (CumSum) Statistic. Each engine manufacturer must review the test results using the following procedure:

(1) Manufacturers must construct the following CumSum equation for each regulated pollutant for each engine family. Test results used to calculate the variables in the CumSum Equation must be final deteriorated test results as defined in (d)(3).

$$C_i = \max[0 \text{ OR } (C_{i-1} + X_i - (STD + F))]$$

Where:

- C_i = The current CumSum statistic
 C_{i-1} = The previous CumSum statistic. Prior to any testing, the CumSum statistic = 0 (i.e. $C_0 = 0$)
 X_i = The current emission test result for an individual engine
 STD = Emission standard
 F = $0.25 \times \sigma$

(2) After each test, C_i is compared to the action limit, H , the quantity which the CumSum statistic must exceed, in two consecutive tests, before the engine family may be determined to be in noncompliance for purposes of paragraph (c).

H = The Action Limit. It is $5.0 \times \sigma$, and is a function of the standard deviation, σ .

σ = is the sample standard deviation and is recalculated after each test.

(3) After each engine is tested, the CumSum statistic shall be promptly updated according to the CumSum Equation in paragraph (1) of this subsection.

(4) If, at any time during the model year, a manufacturer amends the application for certification for an engine family as specified in Sections 17 and 18 of the Test Procedures by performing an engine family modification (i.e. a change such as a running change involving a physical modi-

fication to an engine, a change in specification or setting, the addition of a new configuration, changes in calibration, or the use of a different deterioration factor), all previous sample size and CumSum statistic calculations for the model year will remain unchanged.

(5) A failed engine is one whose final deteriorated test result for a regulated pollutant exceeds the emission standard for that pollutant.

(6) An engine family may be determined to be in noncompliance, if at any time throughout the model year, the CUMSUM statistic, C_i , for a regulated pollutant is greater than the action limit, H , for two consecutive tests.

(7) The engine manufacturer must perform a minimum of two (2) tests per engine family per quarter of production, regardless of whether the conditions of sample size have been met.

(8) All results from the previous quarters of the same model year must be included in the on-going Cumulative Sum analysis, provided that the engine family has not failed (e.g., if three engines of a family were tested in the first quarter, the first test of the second quarter would be considered as the fourth test).

(9) If the Cumulative Sum analysis indicates that an engine family has failed, the engine manufacturer must notify the Chief of the Mobile Source Operations Division in writing and by telephone, within ten (10) working days. Corrective action will be taken as noted in paragraphs (e) and (f) below.

(10) If a manufacturer performs corrective action on a failed engine family and then resumes production, all previous tests will be void, and Cumulative Sum analysis will begin again with the next test.

(11) At the end of the quarter, or when the Cumulative Sum analysis indicates that a decision has been made, the manufacturer must provide all the data accumulated during the quarter.

(d) Calculation and reporting of test results.

(1) Initial test results are calculated following the applicable test procedure. The manufacturer rounds these results, in accordance with ASTM E29–93a, to the number of decimal places contained in the applicable emission standard expressed to one additional significant figure. (ASTM E29–93a has been incorporated by reference.)

(2) Final test results are calculated by summing the initial test results derived in paragraph (a) of this section for each test engine, dividing by the number of tests conducted on the engine, and rounding in accordance with ASTM E29–93a to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(3) The final deteriorated test results for each test engine are calculated by applying the appropriate deterioration factors, derived in the certification process for the engine family, to the final test results, and rounding in accordance with ASTM E29–93a to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(4) If, at any time during the model year, the CumSum statistic exceeds the applicable action limit, H , in two consecutive tests, the engine family may be determined to be in noncompliance and the manufacturer must notify the Chief of Mobile Sources Operations Division and the Manager of the New Vehicle Audit Section, 9528 Telstar Ave., El Monte, CA 91731, within ten (10) working days of such exceedance by the Cum Sum statistic.

(5) Within 30 calendar days of the end of each quarter, each engine manufacturer must submit to the Executive Officer a report which includes the following information:

(A) The location and description of the manufacturer's or other's exhaust emission test facilities which were utilized to conduct testing reported pursuant to this section;

(B) Total production and sample sizes, N and n , for each engine family;

(C) The applicable emissions standards for each engine family.

(D) A description of the process to obtain engines on a random basis;

(E) A description of the test engines. (i.e., date of test, engine family, engine size, engine or equipment identification number, fuel system, dy-

namometer power absorber setting in horsepower, engine code or calibration number, and test location).

(F) The date of the end of the engine manufacturer's model year production for each engine family.

(G) For each test conducted,

(i) A description of the test engine, including:

(a) Configuration and engine family identification,

(b) Year, make, and build date,

(c) Engine identification number, and

(d) Number of hours of service accumulated on engine prior to testing;

(ii) Location where service accumulation was conducted and description of accumulation procedure and schedule;

(iii) Test number, date, test procedure used, initial test results before and after rounding, and final test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

(iv) A complete description of any adjustment, modification, repair, preparation, maintenance, and/or testing which was performed on the test engine, was not reported pursuant to any other part of this article, and will not be performed on all other production engines;

(v) The exhaust emission data for HC+NO_x (or NMHC+NO_x, as applicable) and CO for each test engine or equipment. The data reported must provide two significant figures beyond the number of significant figures in applicable emission standards.

(vi) The retest emission data, as described in paragraph (d) above for any engine or unit of equipment failing the initial test, and description of the corrective actions and measures taken, including specific component replaced or adjusted.

(vii) A CumSum analysis, as required in paragraph (c), of the production line test results for each engine family;

(viii) Any other information the Executive Officer may request relevant to the determination whether the new engines being manufactured by the manufacturer do in fact conform with the regulations with respect to which the Executive Order was issued;

(ix) For each failed engine as defined in paragraph (c), a description of the remedy and test results for all retests.

(x) Every aborted test data and reason for the aborted test.

(xi) The start and stop dates of batch-produced engine family production.

(xii) The required information for all engine families in production during the quarter regardless of sample size; and

(xiii) The following signed statement and endorsement by an authorized representative of the manufacturer:

This report is submitted pursuant to this article. This production line testing program was conducted in complete conformance with all applicable regulations under the Test Procedures. No emission-related changes to production processes or quality control procedures for the engine family tested have been made during this production line testing program that affect engines from the production line. All data and information reported herein is, to the best of (Company Name) knowledge, true and accurate. I am aware of the penalties associated with violations of the California Code of Regulations and the regulations thereunder. (Authorized Company Representative.)

(H) Each manufacturer must submit a copy of the report that has been stored (e.g., computer disc), or may be transmitted, in an electronically digitized manner, and in a format that is specified by the Executive Officer. This electronically based submission is in addition to the written submission of the report.

(e) Manufacturer Notification of Failure.

(1) The Executive Officer will notify the engine manufacturer that the engine manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California, or being enjoined from any further sales, or distribution, of the noncompliant engines in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending, or seeking to enjoin an engine manufacturer, and

other interested parties, including, but not limited to corrective actions applied to the noncompliant engine family. In addition, the engine manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(2) The Executive Officer will notify the equipment manufacturer that the equipment manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant equipment in the State of California, or being enjoined from any further sales, or distribution, of the noncompliant equipment product line(s) that are, or utilize engines that are, noncompliant with the applicable emission regulations in the State of California pursuant to Section 43017 of the Health and Safety Code. Prior to revoking or suspending, or seeking to enjoin an equipment manufacturer, and other interested parties, including, but not limited to corrective actions applied to the noncompliant engine family. In addition, the equipment manufacturer may be subject to, on a per engine basis, any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(f) Suspension and revocation of Executive Order.

(1) The Executive Order is automatically suspended with respect to any engine failing pursuant to paragraph (c)(5) effective from the time that testing of that engine family is completed.

(2) The Executive Officer may suspend the Executive Order for an engine family which is determined to be in noncompliance pursuant to paragraph (c)(6). This suspension will not occur before fifteen days after the engine family is determined to be in noncompliance.

(3) If the results of testing pursuant to these regulations indicate that engines of a particular family produced at one plant of a manufacturer do not conform to the regulations with respect to which the Executive Order was issued, the Executive Officer may suspend the Executive Order with respect to that family for engines manufactured by the manufacturer at this and all other plants.

(4) Notwithstanding the fact that engines described in the application for certification may be covered by an Executive Order, the Executive Officer may suspend such certificate immediately in whole or in part if the Executive Officer finds any one of the following infractions to be substantial:

(A) The manufacturer refuses to comply with any of the requirements of this subpart.

(B) The manufacturer submits false or incomplete information in any report or information provided to the Executive Officer under this subpart.

(C) The manufacturer renders inaccurate any test data submitted under this subpart.

(D) An ARB enforcement officer is denied the opportunity to conduct activities authorized in this subpart and a warrant or court order is presented to the manufacturer or the party in charge of the facility in question.

(5) The Executive Officer may suspend such certificate immediately in whole or in part if the Executive Officer finds that an ARB enforcement officer is unable to conduct activities authorized in this Section and the Test Procedures because a manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities.

(6) The Executive Officer shall notify the manufacturer in writing of any suspension or revocation of an Executive Order in whole or in part. A suspension or revocation is effective upon receipt of the notification or fifteen days from the time an engine family is determined to be in noncompliance pursuant to paragraph (c)(5) or (c)(6), whichever is later, except that the certificate is immediately suspended with respect to any failed engines as provided for in paragraph (a) of this section.

(7) The Executive Officer may revoke an Executive Order for an engine family after the certificate has been suspended pursuant to paragraph (b) or (c) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Executive Officer, is one requiring a design change or changes to the engine or emission control system as described in the application for certification of the affected engine family.

(8) Once an Executive Order has been suspended for a failed engine, as provided for in paragraph (a) of this section, the manufacturer must take the following actions before the certificate is reinstated for that failed engine:

(A) Remedy the nonconformity;

(B) Demonstrate that the engine conforms to the emission standards by retesting the engine in accordance with these regulations; and

(C) Submit a written report to the Executive Officer, after successful completion of testing on the failed engine, which contains a description of the remedy and test results for each engine in addition to other information that may be required by this part.

(9) Once an Executive Order for a failed engine family has been suspended pursuant to paragraph (b), (c) or (d) of this section, the manufacturer must take the following actions before the Executive Officer will consider reinstating the certificate:

(A) Submit a written report to the Executive Officer which identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented.

(B) Demonstrate that the engine family for which the Executive Order has been suspended does in fact comply with the regulations of this part by testing as many engines as needed so that the CumSum statistic falls below the action limit. Such testing must comply with the provisions of this Part. If the manufacturer elects to continue testing individual engines after suspension of a certificate, the certificate is reinstated for any engine actually determined to be in conformance with the emission standards through testing in accordance with the applicable test procedures, provided that the Executive Officer has not revoked the certificate pursuant to paragraph (f) of this section.

(10) Once the Executive Order has been revoked for an engine family, if the manufacturer desires to continue introduction into commerce of a modified version of that family, the following actions must be taken before the Executive Officer may issue a certificate for that modified family:

(A) If the Executive Officer determines that the proposed change(s) in engine design may have an effect on emission performance deterioration, the Executive Officer shall notify the manufacturer, within five working days after receipt of the report in paragraph (9)(A) of this section, whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or changes or whether additional testing will be required; and

(B) After implementing the change or changes intended to remedy the nonconformity, the manufacturer must demonstrate that the modified engine family does in fact conform with the regulations of this part by testing as many engines as needed from the modified engine family so that the CumSum statistic, as calculated per aforementioned method, falls below the action limit. When both of these requirements are met, the Executive Officer shall reissue the certificate or issue a new certificate, as the case may be, to include that family. As long as the CumSum statistic remains above the action limit, the revocation remains in effect.

(11) At any time subsequent to a suspension of an Executive Order for a test engine pursuant to paragraph (a) of this section, but not later than 15 days (or such other period as may be allowed by the Executive Officer) after notification of the Executive Officer's decision to suspend or revoke an Executive Order in whole or in part pursuant to paragraphs (b), (c), or (f) of this section, a manufacturer may request a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(12) Any suspension of an Executive Order under paragraph (f)(4) of this section:

(A) must be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with all applicable requirements and;

(B) need not apply to engines no longer in the possession of the manufacturer.

(13) After the Executive Officer suspends or revokes an Executive Order pursuant to this section and prior to the commencement of a hearing, if the manufacturer demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the Executive Order was based on erroneous information, the Executive Officer shall reinstate the Executive Order.

(14) To permit a manufacturer to avoid storing non-test engines while conducting subsequent testing of the noncomplying family, a manufacturer may request that the Executive Officer conditionally reinstate the Executive Order for that family. The Executive Officer may reinstate the Executive Order subject to the following condition: the manufacturer must commit to recall all engines of that family produced from the time the Executive Order is conditionally reinstated if the CumSum statistic does not fall below the action limit and must commit to remedy any nonconformity at no expense to the owner.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43017, 43018, 43101, 43102, and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).

§ 2438. In-Use Compliance Program.

(a) This section applies to new 2004 and later model year off-road large spark-ignition engines with engine displacement greater than 1.0 liter.

(b) Manufacturer In-Use Testing Program.

Standards and Test Procedures. The emission standards, exhaust sampling and analytical procedures are those described in the Test Procedures, and are applicable to engines tested only for exhaust emissions. An engine is in compliance with these standards and test procedures only when all portions of these in-use test procedures and specified requirements from the Test Procedures are fulfilled, except that any adjustable engine parameters must be set to the nominal value or position as indicated on the engine label.

(1) Within a manufacturer's model-year engine production period, the ARB will identify those engine families, and the specific configurations within an engine family, that the manufacturer must subject to in-use testing as described below. For each model year, ARB may identify a number of engine families that is no greater than 25 percent of the number of engine families to which this article is applicable. For those manufacturers producing three or less engine families in a model year, ARB may designate a maximum of one engine family per model year for in-use testing.

(2) For each engine family identified by ARB, engine manufacturers must perform emission testing of an appropriate sample of in-use engines from each engine family. Manufacturers must submit data from this in-use testing to ARB.

(3) An engine manufacturer must test in-use engines from each engine family identified by ARB. All engines selected by the manufacturer for testing must be identified by the manufacturer, and a list of the selected engines must be submitted to the Executive Officer, prior to the onset of testing. Engines to be tested must have accumulated a minimum of 0.50 (50 percent) of the family's certified useful life period. The number of engines to be tested by a manufacturer will be determined by the following method:

(A) a minimum of four engines per family, provided that no engine fails any emission standard. For each exceedance, two additional engines must be tested until the total number of engines equals ten.

(B) For engine families of less than 500 engines (national production) for the identified model year or for engine manufacturers who make less than or equal to 2,000 engines nationally for that model year, a minimum of two (2) engines per family provided that no engine fails any emission standard. For each failing engine, two more engines shall be tested until the total number of engines equals ten (10).

(C) If an engine family was certified using carryover emission data and has been previously tested under paragraphs (b)(3)(A) or (b)(3)(B) of this section (and a recall for that family has not occurred), then only one engine for that family must be tested. If that one engine fails any emission standard, testing must be conducted as outlined in subsections (b)(3)(A) or (b)(3)(B), whichever is appropriate.

(4) The Executive Officer may approve an alternative to manufacturer in-use testing, where:

(A) Engine family production is less than or equal to 200 per year, nationally;

(B) Engines cannot be obtained for testing because they are used substantially in vehicles or equipment that are not conducive to engine removal such as large vehicles or equipment from which the engine cannot be removed without dismantling either the engine, vehicle, or equipment; or

(C) Other compelling circumstances associated with the structure of the industry and uniqueness of engine applications. Such alternatives shall be designed to determine whether the engine family is in compliance.

(5) The engine manufacturer shall procure in-use engines which have been operated between 0.50 and 1.0 times the certified engine's useful life period. The engine manufacturer may test engines from more than one model year in a given year. The manufacturer shall submit a plan for testing within twelve calendar months after receiving notice that ARB has identified a particular engine family for testing and shall complete testing of such engine family within 24 calendar months from the date of approval of the plan by ARB. Test engines may be procured from sources associated with the engine manufacturer (i.e., manufacturer-established fleet engines, etc.) or from sources not associated with the manufacturer (i.e., consumer-owned engines, independently owned fleet engines, etc.).

(c) Maintenance, procurement and testing of in-use engines.

(1) A test engine must have a maintenance and use history representative of in-use conditions.

(A) To comply with this requirement a manufacturer must obtain information from the end users regarding the accumulated usage, maintenance, repairs, operating conditions, and storage of the test engines.

(B) Documents used in the procurement process must be maintained as required.

(2) The manufacturer may perform minimal restorative maintenance on components of a test engine that are not subject to parameter adjustment. Maintenance may include only that which is listed in the owner's instructions for engines with the amount of service and age of the acquired test engine. Repairs may be performed on a test engine with prior Executive Officer approval. Documentation of all maintenance, repairs, defects, and adjustments shall be maintained and retained as required.

(3) At least one valid emission test, according to the Test Procedure, is required for each in-use engine.

(4) The Executive Officer may waive portions or requirements of the test procedure, if any, that are not necessary to determine in-use compliance.

(5) If a selected in-use engine fails to comply with any applicable emission standards, the manufacturer shall determine the reason for noncompliance. The manufacturer must report within 72 hours after the completion of the test specifying the emission results and identifying the pollutant which failed to comply with the emission standard. The manufacturer must report all such reasons of noncompliance within fifteen business days of completion of testing. Additional time beyond the initial fifteen days may be granted providing that the manufacturer receives prior approval from the Executive Officer. The reports may be filed electronically or mailed to the following address: Chief of Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731.

(6) At the discretion of the Executive Officer, an engine manufacturer may test more engines than the minima described in paragraph (b)(3) of this section or may concede failure before testing a total of ten engines.

Upon conceding failure the manufacturer shall proceed with a voluntary recall program as specified in Section 2439.

(7) The Executive Officer will consider failure rates, average emission levels and the existence of any defects, among other factors, in determining whether to pursue remedial action under this subpart. The Executive Officer may order a recall pursuant to Section 2439 before testing reaches the tenth engine whenever the Executive Officer has determined, based on production-line test results or in-use test results, enforcement testing results, or any other information, that a substantial number of a class or category of equipment or engines produced by that manufacturer, although properly maintained and used, contain a failure in an emission-related component which, if uncorrected, may result in the equipments' or engines' failure to meet applicable standards over their useful lives; or whenever a class or category of equipment or engines within their useful lives, on average, do not conform to the emission standards prescribed pursuant to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, as applicable to the model year of such equipment or engines.

(8) Prior to an ARB-ordered recall, the manufacturer may perform a voluntary emissions recall pursuant to Article 4.5, Section 2439(b). Such manufacturer is subject to the reporting requirements in subsection (d) below.

(9) Once ARB determines that a substantial number of engines fail to conform with the requirements, the manufacturer will not have the option of a voluntary emissions recall.

(d) In-use test program reporting requirements.

(1) The manufacturer shall electronically submit to the Executive Officer within three months of completion of testing all emission testing results generated from the in-use testing program. The following information must be reported for each test engine:

- (A) engine family,
- (B) model,
- (C) engine serial number or alternate identification, as applicable,
- (D) date of manufacture,
- (E) estimated hours of use,
- (F) date and time of each test attempt,
- (G) results (if any) of each test attempt,
- (H) results of all emission testing,
- (I) summary of all maintenance, repairs, and adjustments performed,
- (J) summary (if any) of all ARB pre-approved modifications and repairs,
- (K) determinations of noncompliance or compliance.

(2) The manufacturer must electronically submit the results of its in-use testing with a pre-approved information heading. The Executive Officer may exempt manufacturers from this requirement upon written request with supporting justification.

(3) All testing reports and requests for approvals made under this subpart shall be sent to the Executive Officer.

(4) The Executive Officer may require modifications to a manufacturer's in-use testing programs.

(e) In-use emissions credit, averaging, banking, and trading program.

(1) General applicability

(A) The in-use credit program for eligible engines is described in this subsection. Participation in this program is voluntary.

(B) An engine family is eligible to participate in the in-use credit program if it is subject to regulation under Section 2433 of this part with certain exceptions specified in paragraph (C).

(C) Engines may not participate in the in-use averaging, banking, and trading program if they are delivered to a "point of first retail sale" outside of California.

(D) Reserved.

(E) An engine family with a compliance level, as determined by in-use testing below, the applicable emission standards to which the engine

family is certified may generate emission credits for averaging, banking, or trading in the in-use credit program.

(F) Positive credits generated in a given model year may be used in that model year or in any subsequent model year.

(G) A manufacturer of an engine family with a compliance level exceeding the applicable emission standards to which the engine family is certified, may, prior to the date of the report use previously banked credits, purchase credits from another manufacturer, or perform additional testing to address the associated credit deficit (negative credits or a need for credits).

(H) Reserved.

(I) A manufacturer must notify the Executive Officer of plans to test additional engine families beyond the maximum 25% required for the in-use testing program. Such notice must be submitted to the Executive Officer 30 days prior to initiation of testing. If the additional testing discovers an engine family to be in noncompliance with the applicable emission standards, the testing must be treated as if it were a failure of the normal in-use testing requirement of an engine family.

(J) Manufacturers must demonstrate a zero or positive credit balance under the in-use credit program for a particular model year within 90 days of the end of the in-use testing of that model year's engine families.

(2) Engines subject to the 2004 and later model-year emission standards are eligible to participate in the in-use credit program.

(3) The definitions below shall apply to this subsection:

(A) Averaging means the exchange of in-use emission credits among LSI engine families within a given manufacturer's product line.

(B) Banked credits refer to positive emission credits based on applicable actual production or sales volume as contained in the end of model year in-use testing reports submitted to Executive Officer of the ARB. Some or all of these banked credits may be revoked if the Executive Officer's review of the end of model year in-use testing reports or any subsequent audit action(s) uncovers problems or errors.

(C) Banking means the retention of in-use emission credits by the manufacturer generating the emission credits for use in future model year averaging or trading as permitted by these regulations.

(D) Carry-over engine family means an engine family which undergoes certification using carryover test data from previous model years.

(E) Compliance level for an engine family is determined by averaging the in-use test results from each engine.

(F) In-use credits represent the amount of emission reduction or exceedance, for each regulated pollutant, by an engine family below or above, respectively, the applicable emission standards. Emission reductions below the emission standard are considered "positive credits," while emission exceedances above the emission standard are considered "negative or required credits."

(G) Trading means the exchange of in-use emission credits between manufacturers or brokers.

(4) Averaging.

(A) A manufacturer may use averaging across engine families to demonstrate a zero or positive credit balance for a model year. Positive credits to be used in averaging may be obtained from credits generated by another engine family of the same model year, credits banked in previous model years, or credits obtained through trading.

(B) Credits used to demonstrate a zero or positive credit balance must be used at a rate of 1.1 to 1.

(5) Banking.

(A) A manufacturer of an engine family with an in-use compliance level below the applicable emission standards for a given model year may bank positive in-use credits for that model year for in-use averaging and trading.

(B) A manufacturer may consider credits banked 30 days after the submission of the report. During the 30 day period ARB will work with the manufacturer to correct any error in calculating banked credits, if necessary.

(6) Trading.

(A) An engine manufacturer may exchange positive in-use emission credits with other LSI engine manufacturers through trading.

(B) In-use credits for trading can be obtained from credits banked for model years prior to the model year of the engine family requiring in-use credits.

(C) Traded in-use credits can be used for averaging, banking, or further trading transactions.

(D) Unless otherwise approved by the Executive Officer, a manufacturer that generates positive in-use credits must wait 30 days after it has both completed in-use testing for the model year for which the credits were generated and submitted the report before it may transfer credits to another manufacturer or broker.

(E) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases involving fraud. Engine families participating in a negative trade may be subject to recall under section 2439 of this article.

(7) Credit Calculation.

(A) For each participating engine family, emission credits (positive or negative) are to be calculated according to the following equation and rounded, in accordance with ASTM E29-93a, to the nearest gram. ASTM E29-93a has been incorporated by reference. Consistent units are to be used throughout the equation. The following equation is used to determine the credit status for an engine family whether generating positive or negative in-use emission credits:

$$\text{Credits (grams)} = \text{SALES} \times (\text{STD} - \text{CL}) \times \text{POWER} \times \text{AF} \times \text{LF} \times \text{UL}$$

Where:

- SALES = the number of eligible sales tracked to the point of first retail sale in the U.S. for the given engine family during the model year.
- STD = the emission standard or family emission level in g/bhp-hr or g/kW-hr, as appropriate and as noted in California Code of Regulations, Title 13, Section 2433.
- CL = compliance level of the in-use testing in g/bhp-hr or g/kW-hr, as appropriate as approved by ARB.
- UL = useful life in hours (5000 hours for engines with displacement greater than 1.0 liter).
- Power = the average power of an engine family in bhp or kW (sales weighted). The power of each configuration is the rated output in horsepower as determined by SAE J1349 (June 1995) or J1995 (June 1995), as applicable. These procedures have been incorporated by reference.
- LF = Load factor; Fraction of rated engine power utilized in-use (0.32 for engines with displacement greater than 1.0 liter).
- AF = adjustment factor for the number of tests conducted, as determined from the following table, except that when a manufacturer concedes failure before completion of testing, the adjustment factor shall be 1.0:

Number of Engines Tested	Adjustment Factor
2*, 4	0.5
6	0.75
8	0.9
10	1.0

*Small volume manufacturer

(B) Any credits used for either averaging, banking, or trading shall be assessed a one-time discount of 10 percent.

(8) Maintenance of records.

(A) Any manufacturer that is participating in the in-use credit program set forth in this subsection shall establish, maintain, and retain the records with respect to its participation in the in-use credit program.

(B) The Executive Officer may void an Executive Order for an engine family for which the manufacturer fails to retain the records required under this section or to provide such information to the Executive Officer or designee upon request.

(9) Reporting requirements.

(A) Any manufacturer who participates in the in-use credit program is required to submit an end of the model year in-use testing report either within 90 days of the end of the model year in-use testing of a given model year's engine families, or at the same time as the final certification averaging, banking, and trading report, whichever is later. The end of the

model year in-use testing report must contain the required information and show the calculated credits from all the in-use testing conducted by the manufacturer for a given model year.

(B) Reports shall be submitted to the Chief of the Mobile Source Operations Division.

(C) A manufacturer that fails to submit a timely report as required will be considered to not have participated in the in-use credit program.

(D) If the Executive Officer or the manufacturer determines that a reporting error occurred on an end of model year report previously submitted to ARB under this subsection, or an engine family in-use testing report submitted to ARB, the manufacturer's credits and credit calculations will be recalculated. Erroneous positive credits will be void. Erroneous negative credits may be adjusted by the Executive Officer. An update of previously submitted "point of first retail sale" information is not considered an error and no increase in the number of credits will be allowed unless an error occurred in the calculation of credits due to an error in the "point of first retail sale" information from the time of the original end of model year report.

(10) Notice of Opportunity for Hearing.

Any voiding of an engine family's Executive Order will occur only after the manufacturer concerned has been offered an opportunity for a hearing. The Executive Officer must approve or disapprove the documents required by this Section within 90 days of the date such documents are received from the manufacturer. Any disapproval must be accompanied by a statement of the reasons therefor. In the event of disapproval, the manufacturer may file for an adjudicative hearing under Title 17, California Code of Regulation, Division 3, Chapter 1, Subchapter 1.25 to review the decision of the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150, 43151, 43152, 43153, 43154, 43205.5, 43210, 43210.5, 43211 and 43212, Health and Safety Code.

HISTORY

1. New section filed 10-19-99; operative 11-18-99 (Register 99, No. 43).
2. Amendment of subsection (e)(7) and NOTE filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2439. Procedures for In-Use Engine Recalls for Large Off-Road Spark-Ignition Engines with an Engine Displacement Greater Than 1.0 Liter.

(a) The recall procedures in this section apply as set forth in Title 13, California Code of Regulations, Sections 2433 and 2438.

(b) Voluntary Emissions Recall

(1) When any manufacturer initiates a voluntary emission recall, the manufacturer shall notify the Executive Officer of the recall at least 30 days before owner notification is to begin. The manufacturer shall also submit to the Executive Officer a voluntary recall plan for approval, as prescribed in the following:

(A)(i) a description of each class or category of engines to recall, including the number of engines to be recalled, the engine family or a subgroup thereof, the model year, and such other information as may be required to identify the engines:

(ii) a description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the engines affected by the nonconformity;

(iii) a description of the method by which the manufacturer will notify engine owners including copies of any letters of notification to be sent to engine owners;

(iv) a description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the recall plan, and a description of the proof to be required of an engine owner to demonstrate compliance with any such conditions;

(v) a description of the procedure to be followed by engine owners to obtain correction of the nonconformity. This shall include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the nonconformity, and the designation of facilities at which the nonconformity can be remedied;

(vi) a description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the nonconformity;

(vii) a description of the system by which the manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan; or

(B)(i) a description of each class or category of engines subject to recall, including the number of engines subject to being recalled, the engine family or a sub-group thereof, the model year, and such other information as may be required to identify the engines;

(ii) a description of the method by which the manufacturer will use the in-use emissions credit, averaging, banking, and trading program, as described in Section 2438(e), to remedy the nonconformity.

(2) Voluntary Recall Progress Report. A manufacturer who initiates a voluntary emission recall campaign pursuant to paragraph (b)(1)(A) of this section must submit at least one report on the progress of the recall campaign. This report shall be submitted to the Executive Officer by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated, and include the following information:

(A) Engine family involved and recall campaign number as designated by the manufacturer.

(B) Date owner notification was begun, and date completed.

(C) Number of equipment or engines involved in the recall campaign.

(D) Number of equipment or engines known or estimated to be affected by the nonconformity.

(E) Number of equipment or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.

(F) Number of inspected equipment or engines.

(G) Number of equipment or engines receiving repair under the recall plan.

(H) Number of equipment or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).

(I) Number of equipment or engines determined to be ineligible for recall action due to removed or altered components.

(J) A listing of the identification numbers of equipment or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer.

(K) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(L) All communications transmitted to equipment or engine owners which relate to the nonconformity and which have not previously been submitted.

(3) The information gathered by the manufacturer to compile the reports must be retained for not less than seven years from the date of the manufacture of the engines and must be made available to the Executive Officer or designee of the Executive Officer upon request.

(4) A voluntary recall plan shall be deemed approved unless disapproved by the Executive Officer within 20 business days after receipt of the recall plan.

(5) Under a voluntary recall program, initiated and conducted by a manufacturer or its agent or representative as a result of in-use enforcement testing or other evidence of noncompliance provided or required by the Board to remedy any nonconformity, the capture rate shall be at a minimum 55 percent of the equipment or engine within the subject engine family or a sub-group thereof. The manufacturer shall comply with the capture rate by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated. If the manufacturer cannot correct the percentage of equipment specified in the plan by the applicable deadlines, the manufacturer must use good faith efforts through other measures, subject to approval by the Executive Officer, to bring the engine family into com-

pliance with the standards. If the Executive Officer does not approve the manufacturer's efforts, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired equipment within 45 days from the last report filed pursuant to paragraph (b)(2), above. The Executive Officer shall approve such measures provided that:

(A) The emission reductions from the recalled and repaired equipment or engines and the mitigation measures are equivalent to achieving the capture rate; and

(B) The emission reductions from the mitigation measures are real and verifiable; and

(C) The mitigation measures are implemented in a timely manner.

(c) Initiation and Notification of Ordered Emission-Related Recalls.

(1) A manufacturer shall be notified whenever the Executive Officer has determined, based on production-line test results or in-use test results, enforcement testing results, or any other information, that a substantial number of a class or category of equipment or engines produced by that manufacturer, although properly maintained and used, contain a failure in an emission-related component which, if uncorrected, may result in the equipments' or engines' failure to meet applicable standards over their useful lives; or whenever a class or category of equipment or engines within their useful lives, on average, do not conform to the emission standards prescribed pursuant to Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, or any regulation adopted by the state board pursuant thereto, other than an emissions standard applied to new engines to determine "certification" as specified in Chapter 9, as applicable to the model year of such equipment or engines.

(2) It shall be presumed for purposes of this section that an emission-related failure will result in the exceedance of emission standards unless the manufacturer presents evidence in accordance with the procedures set forth in subsections (A), (B), and (C) which demonstrates to the satisfaction of the Executive Officer that the failure will not result in exceedance of emission standards within the useful life of the equipment or engine.

(A) In order to overcome the presumption of noncompliance set forth in paragraph (c)(2) above, the average emissions of the equipment and engines with the failed emission-related component must comply with applicable emission standards. A manufacturer may demonstrate compliance with the emission standards by following the procedures set forth in either paragraphs (c)(2)(B) or (c)(2)(C) of this section.

(B) A manufacturer may test properly maintained in-use equipment with the failed emission-related component pursuant to the applicable certification emission tests specified in Section 2433, Title 13 of the California Code of Regulations. The emissions shall be projected to the end of the equipment's or engine's useful life using in-use deterioration factors. The in-use deterioration factors shall be chosen by the manufacturer from among the following:

(i) "Assigned" in-use deterioration factors provided by the ARB on a manufacturer's conditions; request and based on ARB in-use testing; or,

(ii) deterioration factors generated during certification, provided adjustments are made to account for equipment aging, customer hour usage-accumulation practices, type of failed component, component failure mode, effect of the failure on other emission-control components, commercial fuel and lubricant quality, and any other factor which may affect the equipment's or engine's operating or,

(iii) subject to approval by the Executive Officer, a manufacturer-generated deterioration factor. Such deterioration factor must be based on in-use data generated from certification emission tests performed on properly maintained and used equipment in accordance with the procedures set forth in Section 2433 of Title 13 of the California Code of Regulations, and the equipment from which it was derived must be representative of the in-use fleet with regard to emissions performance and equipped with similar emission control technology as equipment with the failed component.

(C) In lieu of the equipment or engine emission testing described in subsection (B) above and subject to approval by the Executive Officer, a manufacturer may perform an engineering analysis, laboratory testing

or bench testing, when appropriate, to demonstrate the effect of the failure.

(3) The notification shall include a description of each class or category of equipment or engines encompassed by the determination of nonconformity, shall set forth the factual basis for the determination and shall designate a date at least 45 business days from the date of receipt of such notification by which the manufacturer shall submit a plan to remedy the nonconformity.

(4) Availability of Public Hearing.

(A) The manufacturer may request a public hearing pursuant to the procedures set forth in Subchapter 1.25, Division 3, Chapter 1, Title 17, California Code of Regulations to contest the finding of nonconformity and the necessity for or the scope of any ordered corrective action.

(B) If a manufacturer requests a public hearing pursuant to subsection (A) above, and if the Executive Officer's determination of nonconformity is confirmed at the hearing, the manufacturer shall submit the recall

[The next page is 298.15.]

plan required by Section 2439 within 30 days after receipt of the Board's decision.

(5) Ordered Recall Plan.

(A) Unless a public hearing is requested by the manufacturer, a recall plan shall be submitted to the Chief, Mobile Source Operations Division, 9528 Telstar Avenue, El Monte, CA 91731, within the time limit specified in the notification. The Executive Officer may grant the manufacturer an extension upon good cause shown.

(B) The recall plan shall contain the following:

(i) A description of each class or category of equipment or engine to be recalled, including the engine family or sub-group thereof, the model-year, the make, the model, and such other information as may be required to identify the equipment or engines to be recalled.

(ii) A description of the nonconformity and the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to bring the equipment or engines into conformity including a brief summary of the data and technical studies which support the manufacturer's decision regarding the specific corrections to be made.

(iii) A description of the method by which the manufacturer will determine the names and addresses of equipment or engine owners and the method by which they will be notified.

(iv) A description of the procedure to be followed by equipment or engine owners to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor required to correct the nonconformity, and the designation of facilities at which the nonconformity can be remedied. The repair shall be completed within a reasonable time designated by the Executive Officer from the date the owner delivers the equipment or engine for repair. This requirement becomes applicable on the date designated by the manufacturer as the date on or after which the owner can have the nonconformity remedied.

(v) If some or all of the nonconforming equipment or engines are to be remedied by persons other than dealers or authorized warranty agents of the manufacturer, a description of such class of persons and a statement indicating that the participating members of the class will be properly equipped to perform such remedial action.

(vi) The capture rate required for each class or category of equipment or engine to be recalled. Under recalls based on exceedance of emission standards, the capture rate shall be at a minimum 80 percent of the equipment or engine within the subject engine family.

(vii) The plan may specify the maximum incentives (such as a free tune-up or specified quantity of free fuel), if any, the manufacturer will offer to induce equipment or engine owners to present their equipment for repair, as evidence that the manufacturer has made a good faith effort to repair the percentage of equipment or engines specified in the plan. The plan shall include a schedule for implementing actions to be taken including identified increments of progress towards implementation and deadlines for completing each such increment.

(viii) A copy of the letter of notification to be sent to equipment or engine owners.

(ix) A description of the system by which the manufacturer will assure that an adequate supply of parts will be available to perform the repair under the recall plan including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to owner demand.

(x) A copy of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan.

(xi) A description of the impact of the proposed changes on fuel economy, operation, performance and safety of each class or category of equipment or engines to be recalled and a brief summary of the data, technical studies, or engineering evaluations which support these descriptions.

(xii) A description of the impact of the proposed changes on the average emissions of the equipment or engines to be recalled based on non-compliance described in subsection (c)(1), above. The description shall contain the following:

(1.) Average noncompliance emission levels.

(2.) Average emission reduction or increase per pollutant resulting from the recall repair. These averages shall be verified by the manufacturer by applying the proposed recall repairs to two or more in-use equipment or engines representing the average noncompliance emission levels. Only those equipment or engines with baseline emission levels within 25 percent of the average emission levels of noncomplying pollutant(s) established under the in-use enforcement test program may be used by manufacturers to verify proposed recall repairs. The Executive Officer may allow the use of equipment or engines exceeding these upper averaging noncompliance limits if none which meet the limits can be reasonably procured.

(3.) An estimate of the average emission level per pollutant for a class or category of equipment or engines after repair as corrected by the required capture rate. The estimated average emission level shall comply with the applicable emission standards. If the average emissions levels achieved by applying the average emission reduction per equipment or engine after repair and the estimated capture rate, do not achieve compliance with the emissions standards, a manufacturer shall propose other measures to achieve average emissions compliance.

(xiii) Any other information, reports, or data which the Executive Officer may reasonably determine to be necessary to evaluate the recall plan.

(6) Approval and Implementation of Recall Plan.

(A) If the Executive Officer finds that the recall plan is designed effectively to correct the nonconformity and complies with the provisions of this Section, he or she will so notify the manufacturer in writing. Upon receipt of the approval notice from the Executive Officer, the manufacturer shall commence implementation of the approved plan. Notification of equipment or engine owners and the implementation of recall repairs shall commence within 45 days of the receipt of notice unless the manufacturer can show good cause for the Executive Officer to extend the deadline.

(B) If the Executive Officer does not approve the recall plan or the mitigation measures provided in this Section as submitted, the Executive Officer shall order modification of the plan or mitigation measures with such changes and additions as he or she determines to be necessary. The Executive Officer shall notify the manufacturer in writing of the disapproval and the reasons for the disapproval.

(C) The manufacturer may contest the Executive Officer's disapproval by requesting a public hearing pursuant to the procedures set forth in Subchapter 1.25, Division 3, Chapter 1, Title 17, California Code of Regulations. As a result of the hearing, the Board may affirm, overturn or modify the Executive Officer's action. In its decision, affirming or modifying, the Board shall specify the date by which the manufacturer shall commence notifying equipment or engine owners and implementing the required recall repairs.

(D) If no public hearing is requested in accordance with (C) above, the manufacturer shall incorporate the changes and additions required by the Executive Officer and shall commence notifying equipment or engine owners and implementing the required recall repairs within 60 days of the manufacturer's receipt of the Executive Officer's disapproval.

(7) Notification of Owners.

(A) Notification to equipment or engine owners shall be made by first class mail or by such other means as approved by the Executive Officer provided, that for good cause, the Executive Officer may require the use of certified mail to ensure an effective notification.

(B) The manufacturer shall use all reasonable means necessary to locate equipment or engine owners provided, that for good cause, the Executive Officer may require the manufacturer to use motor equipment registration lists, as applicable, available from State or commercial sources to obtain the names and addresses of equipment or engine owners to ensure effective notification.

(C) The Executive Officer may require subsequent notification by the manufacturer to equipment or engine owners by first class mail or other reasonable means provided, that for good cause, the Executive Officer may require the use of certified mail to ensure effective notification.

(D) The notification of equipment or engine owners shall contain the following:

(i) The statement: "The California Air Resources Board has determined that your (equipment or engine) (is or may be) releasing air pollutants which exceed (California or California and Federal) standards. These standards were established to protect your health and welfare from the dangers of air pollution."

(ii) A statement that the nonconformity of any such equipment or engines will be remedied at the expense of the manufacturer.

(iii) A statement that eligibility may not be denied solely on the basis that the equipment or engine owner used parts not manufactured by the original equipment manufacturer, or had repairs performed by outlets other than the equipment or engine manufacturer's franchised dealers.

(iv) A clear description of the components which will be affected by the recall action and a general statement of the measures to be taken to correct the nonconformity.

(v) [Reserved]

(vi) A description of the adverse effects, if any, that an uncorrected nonconformity would have on the performance, fuel economy, or driveability of the equipment or engine or to the function of other engine components.

(vii) A description of the procedure which the equipment or engine owner should follow to obtain correction of the nonconformity including the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to correct the nonconformity, and a designation of the facilities located in California at which the nonconformity can be remedied.

(viii) After the effective date of the recall enforcement program referred to above, a statement that a certificate showing that the equipment has been repaired under the recall program shall be issued by the service facilities and that such a certificate may be required as a condition of equipment registration or operation, as applicable.

(ix) A card to be used by a equipment or engine owner in the event the equipment or engine to be recalled has been sold. Such card should be addressed to the manufacturer, have postage paid, and shall provide a space in which the owner may indicate the name and address of the person to whom the equipment or engine was sold.

(x) The statement: "In order to ensure your full protection under the emission warranty made applicable to your (equipment or engine) by State or Federal law, and your right to participate in future recalls, it is recommended that you have your (equipment or engine) serviced as soon as possible. Failure to do so could be determined to be a lack of proper maintenance of your (equipment or engine)".

(xi) A telephone number provided by the manufacturer, which may be used to report difficulty in obtaining recall repairs.

(xii) The manufacturer shall not condition eligibility for repair on the proper maintenance or use of the equipment except for strong or compelling reasons and with approval of the Executive Officer; however, the manufacturer shall not be obligated to repair a component which has been removed or altered so that the recall action cannot be performed without additional cost.

(xiii) No notice sent pursuant to Section (D), nor any other communication sent to equipment or engine owners or dealers shall contain any statement, express or implied, that the nonconformity does not exist or will not degrade air quality.

(xiv) The manufacturer shall be informed of any other requirements pertaining to the notification under this section which the Executive Officer has determined are reasonable and necessary to ensure the effectiveness of the recall campaign.

(8) Repair Label.

(A) The manufacturer shall require those who perform the repair under the recall plan to affix a label to each equipment or engine repaired or, when required, inspected under the recall plan.

(B) The label shall be placed in a location as approved by the Executive Officer and shall be fabricated of a material suitable for such location and which is not readily removable.

(C) The label shall contain the recall campaign number and a code designating the facility at which the repair, inspection for repair, was performed.

(9) Proof of Correction Certificate. The manufacturer shall require those who perform the recall repair to provide the owner of each equipment or engine repaired with a certificate, through a protocol and in a format prescribed by the Executive Officer, which indicates that the non-complying equipment or engine has been corrected under the recall program. This requirement shall become effective and applicable upon the effective date of the recall enforcement program referred to in this section, above.

(10) Capture Rates and Alternative Measures.

The manufacturer shall comply with the capture rate specified in the recall plan as determined pursuant to this Section, above, by the end of the fifth quarter, as defined in Section 2112(j), Chapter 2, Title 13 of the California Code of Regulations, following the quarter in which the notification of equipment or engine owners was initiated. If, after good faith efforts, the manufacturer cannot correct the percentage of equipment specified in the plan by the applicable deadlines and cannot take other measures to bring the engine family into compliance with the standards, the manufacturer shall propose mitigation measures to offset the emissions of the unrepaired equipment within 45 days from the last report filed pursuant to Section 2439(c)(13), below. The Executive Officer shall approve such measures provided that:

(A) The emission reductions from the recalled and repaired equipment or engines and the mitigation measures are equivalent to achieving the capture rate; and

(B) The emission reductions from the mitigation measures are real and verifiable; and

(C) The mitigation measures are implemented in a timely manner.

(11) Preliminary Tests. The Executive Officer may require the manufacturer to conduct tests on components and equipment or engines incorporating a proposed correction, repair, or modification reasonably designed and necessary to demonstrate the effectiveness of the correction, repair, or modification.

(12) Communication with Repair Personnel. The manufacturer shall provide to the Executive Officer a copy of all communications which relate to the recall plan directed to dealers and other persons who are to perform the repair. Such copies shall be mailed to the Executive Officer contemporaneously with their transmission to dealers and other persons who are to perform the repair under the recall plan.

(13) Recordkeeping and Reporting Requirements.

(A) The manufacturer shall maintain sufficient records to enable the Executive Officer to conduct an analysis of the adequacy of the recall campaign. For each class or category of equipment or engine, the records shall include, but need not be limited to, the following:

(i) Engine family involved and recall campaign number as designated by the manufacturer.

(ii) Date owner notification was begun, and date completed.

(iii) Number of equipment or engines involved in the recall campaign.

(iv) Number of equipment or engines known or estimated to be affected by the nonconformity.

(v) Number of equipment or engines inspected pursuant to the recall plan and found to be affected by the nonconformity.

(vi) Number of inspected equipment or engines.

(vii) Number of equipment or engines receiving repair under the recall plan.

(viii) Number of equipment or engines determined to be unavailable for inspection or repair under the recall plan due to exportation, theft, scrapping, or for other reasons (specify).

(ix) Number of equipment or engines determined to be ineligible for recall action due to removed or altered components.

(x) A listing of the identification numbers of equipment or engines subject to recall but for whose repair the manufacturer has not been invoiced. This listing shall be supplied in a standardized computer data storage device to be specified by the Executive Officer. The frequency of this

submission, as specified in subsection (C) below, may be changed by the Executive Officer depending on the needs of recall enforcement.

(xi) Any service bulletins transmitted to dealers which relate to the nonconformity and which have not previously been submitted.

(xii) All communications transmitted to equipment or engine owners which relate to the nonconformity and which have not previously been submitted.

(B) If the manufacturer determines that the original responses to subsections (A)(iii) and (iv) of these procedures are incorrect, revised figures and an explanatory note shall be submitted. Responses to subsections (A)(v), (vi), (vii), (viii), and (ix) shall be cumulative totals.

(C) Unless otherwise directed by the Executive Officer, the information specified in subsection (A) of these procedures shall be included in six quarterly reports or two annual reports, beginning with the quarter in which the notification of owners was initiated, or until all nonconforming equipment or engines involved in the campaign have been remedied, whichever occurs sooner. Such reports shall be submitted no later than 25 days after the close of each calendar quarter.

(D) The manufacturer shall maintain in a form suitable for inspection, such as computer information storage devices or card files, and shall make available to the Executive Officer or his or her authorized representative upon request, lists of the names and addresses of equipment or engine owners:

- (i) To whom notification was given;
- (ii) Who received remedial repair or inspection under the recall plan; and
- (iii) Who were denied eligibility for repair due to removed or altered components.

(E) The records and reports required by these procedures shall be retained for not less than one year beyond the useful life of the equipment or engines involved, or one year beyond the reporting time frame specified in subsection (C) above, whichever is later.

(14) Penalties.

Failure by a manufacturer to carry out all recall actions ordered by the Executive Officer pursuant to Sections 2439(c) of these procedures is a violation of Health and Safety Code Section 43013 and 43105 and shall subject the manufacturer, on a per engine basis, to any and all remedies available under Part 5, Division 26 of the Health and Safety Code, sections 43000 et seq.

(d) Extension of Time. The Executive Officer may extend any deadline in the plan if he or she finds in writing that a manufacturer has shown good cause for such extension.

(e) The Executive Officer may waive any or all of the requirements of these procedures if he or she determines that the requirement constitutes an unwarranted burden on the manufacturer without a corresponding emission reduction.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, 43104 and 43105, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43106, 43107, 43150–43154, 43205–43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 10–19–99; operative 11–18–99 (Register 99, No. 43).

Article 4.7. Spark-Ignition Marine Engines

§ 2440. Applicability.

(a)(1) This article applies to model year 2001 and later spark-ignition marine engines, unless otherwise indicated.

(2) Every new spark-ignition marine engine that is manufactured for sale, sold, or offered for sale in California, or that is introduced, delivered or imported into California for introduction into commerce, and which is subject to any of the standards prescribed in this article must be covered by an Executive Order, issued pursuant to this article.

(3) Spark-ignition inboard and sterndrive marine engines produced by the engine manufacturer to be used solely for competition are exempt from the requirements of this article, except section 2443.1, provided that

the marine watercraft in which the engine is installed is designed, built, and used solely for competition. Marine watercraft not registered with a nationally-recognized organization that sanctions professional competitive events or used for amateur or occasional competition do not meet the competition exemption criteria.

(b) Each part of this article is severable, and in the event that any part of this chapter is held to be invalid, the remainder of this article remains in full force and effect.

(c)(1) For purposes of this article, military tactical vehicles or equipment means vehicles or equipment owned by the U.S. Department of Defense and/or the U.S. military services and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(2) This article shall not apply to engines used in off-road military tactical vehicles or equipment which have been exempted from regulations under the federal national security exemption, 40 CFR, subpart J, section 90.908, which is incorporated by reference herein. It shall also not apply to those vehicles and equipment covered by the definition of military tactical vehicle that are commercially available and for which a federal certificate of conformity has been issued under 40 CFR Part 91, subpart B, which is incorporated by reference herein.

(3) The U.S. Department of Defense shall submit to the ARB a list of all vehicles and equipment that are exempted under the above provisions and which are located in the State of California. If any additional vehicle and equipment types are added to the list during any calendar year, the U.S. Department of Defense shall update the list and submit it to the ARB by January 1 of the following year.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New article 4.7 (sections 2440–2448) and section filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).
2. Amendment of subsection (a)(1), repealer of subsection (a)(2), subsection renumbering, new subsection (a)(3) and amendment of subsection (c)(2) filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).

§ 2441. Definitions.

(a) Definitions in section 1900(b), Division 3, Chapter 9, Title 13 of the California Code of Regulations, apply with the following additions:

(1) “Abuse” means incorrect or improper operation of an engine or equipment unit that results in the failure of an emission-related part.

(2) “Acceptable quality level” (AQL) means the maximum percentage of failing engines that can be considered a satisfactory process average for sampling inspections.

(3) “ARB Enforcement Officer” means any officer or employee of the Air Resources Board so designated in writing by the Executive Officer or by the Executive Officer’s designee.

(4) “Base Fuel Schedule” refers to the fuel calibration schedule programmed into the Engine Control Module or PROM when manufactured or when updated by some off-board source, prior to any learned on-board correction.

(5) “Boat manufacturer,” as it applies in Section 2442(b), means any person or business entity engaged in the manufacturing, assembling, or importing of new vessels equipped with inboard or sterndrive engines for sale in California, or engaged in the sale, offer for sale, introduction, delivery or importation of such vessels into California for introduction into commerce. Included are those who act for and are under the control of any such person or business entity in connection with the distribution of such vessels. The term boat manufacturer does not include any person or business entity whose sole activities are the direct sale of said vessels to ultimate purchasers or the servicing of said vessels.

(6) “Capture rate” means the percentage of in-use engines subject to recall which must be corrected to bring the class of engines into compliance. The number of engines subject to recall shall be based on the actual number of engines in use as verified by engine registration records

compiled and prepared by industry, or a comparable source as determined by the Executive Officer at the time a recall is initiated.

(7) "Carryover engine family" means an engine family that undergoes certification using carryover test data from previous model years.

(8) "CE10 fuel" is a blend of 45% toluene, 45% iso-octane, and 10% ethanol that has been standardized in the American Society of Testing and Materials publication D471-98 (ASTM D471-98) as a reference fuel for evaluating the evaporative permeability of fuel-containing materials.

(9) "Certification" means, with respect to new spark-ignition marine engines, obtaining an Executive Order for an engine family complying with the spark-ignition marine engine exhaust emission standards and requirements specified in Title 13, California Code of Regulations, sections 2442 and 2447.

(10) "Complete engine assembly" or "complete engine configuration" means an assembly of a basic engine and all of the specific applicable components (e.g., air inlet, fuel and exhaust systems, etc.) and calibrations (e.g., carburetor jet size, valve timing, etc.) required for the assembly to be installed in a new unit of equipment.

(11) "Continuous monitoring" means sampling at a rate no less than two samples per second. If for engine control purposes, a computer input component is sampled less frequently, the value of the component may instead be evaluated each time sampling occurs.

(12) "Direct Emissions Device" means any powertrain component or system that has been designed specifically to control emissions performance, or that is an essential element of engine fueling and/or combustion that can affect emissions performance by design or through calibration (e.g., fuel metering, fuel delivery, etc.).

(13) "ECM hour-meter" means a device that is integrated into the engine control module (ECM) and that is capable of storing and incrementing time intervals based on the clock rate of the ECM.

(14) "Emission control system" means any device, system, or element of design that controls or reduces the emission of substances from an engine.

(15) "Enforcement test results" means data or information gathered through enforcement programs conducted by the Air Resources Board. These programs include, but are not limited to, field inspections, in-use compliance testing, assembly-line testing.

(16) "Engine family" means a subclass of a basic engine based on similar emission characteristics. The engine family is the grouping of engines that is used for the purposes of certification.

(17) "Engine identification number" means a unique specification (for example, model number/serial number combination) that allows each spark-ignition marine engine to be distinguished from other similar engines.

(18) "Engine manufacturer" means the manufacturer granted certification.

(19) "Engine misfire" means lack of combustion in the cylinder due to absence of spark, poor fuel metering, poor compression, or any other cause.

(20) "Engine start" is defined as the point at which normal, synchronized spark and fuel control is obtained or when the engine reaches a speed 150 revolutions per minute (rpm) below the normal, warmed-up idle speed.

(21) "Exhaust emissions" means matter emitted into the environment from any opening downstream from the exhaust port of a spark-ignition marine engine.

(22) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(23) "Executive Order" means an order issued by the Executive Officer certifying engines for sale in California.

(24) "Family Emission Limit" means an emission value assigned by a marine engine manufacturer to an engine family for the purpose of complying with a corporate average exhaust emission standard. The Family Emission Limit (FEL) must not exceed the limit specified in this Article.

(25) "Fuel system" means all components involved in the transport, metering, and mixture of the fuel from the fuel tank to the combustion chamber(s) including, but not limited to the following: fuel tank, fuel tank cap, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, and all fuel system vents.

(26) "Fuel trim" refers to feedback adjustments to the base fuel schedule. Short-term fuel trim refers to dynamic or instantaneous adjustments. Long-term fuel trim refers to much more gradual adjustments to the fuel calibration schedule than short-term trim adjustments. These long-term adjustments compensate for engine differences and gradual changes that occur over time.

(27) "Functional check" for an output component means verification of proper response to a computer command. For an input component, functional check means verification of the input signal being in the range of normal operation, including evaluation of the signal's rationality in comparison to all available information.

(28) "Inboard Engine" means a four-stroke spark-ignition marine engine not used in a personal watercraft that is designed such that the propeller shaft penetrates the hull of the marine watercraft while the engine and the remainder of the drive unit is internal to the hull of the marine watercraft.

(29) "Inspection criteria" means the pass and fail numbers associated with a particular sampling plan.

(30) "Low-permeation fuel line (or supply) hose" means a fuel hose that does not exceed a 15.0 grams per square meter per day permeation rate on CE10 fuel at 23° Celsius, as tested per SAE J1527.

(31) "Malfunction" means the inability of an emission-related component or system to remain within design specifications. Further, malfunction refers to the deterioration of any of the above components or systems to a degree that would likely cause the emissions of an aged engine with the deteriorated components or systems present at the beginning of the applicable certification emission test to exceed the HC+NOx emission standard by more than 50 percent, unless otherwise specified, as applicable pursuant to Chapter 1 (commencing with Section 1900), Division 3, title 13, of the California Code of Regulations.

(32) "Marine engine manufacturer" means any person engaged in the manufacturing or assembling of new spark-ignition marine engines or the importing of such engines for resale, or who acts for and is under the control of any such person in connection with the distribution of such engines. A spark-ignition marine engine manufacturer does not include any dealer with respect to new spark-ignition marine engines received by such person in commerce.

(33) "Marine warm-up cycle" means sufficient engine operation such that the coolant temperature has risen by at least 40 degrees Fahrenheit from engine starting and reaches a minimum temperature of at least 140 degrees Fahrenheit.

(34) "Marine watercraft" means every description of boat, ship or other artificial contrivance used, or capable of being operated on water.

(35) "Maximum Rated Power" means the maximum brake kilowatt output of an engine at rated speed, as stated in the manufacturer's application for certification.

(36) "Model year" means the engine manufacturer's annual new model production period which includes January 1 of the calendar year for which the model year is named, ends no later than December 31 of the calendar year, and does not begin earlier than January 2 of the previous calendar year. Where an engine manufacturer has no annual new model production period, model year means the calendar year.

(37) "New", for purposes of this Article, means a spark-ignition marine engine or watercraft the equitable or legal title to which has never been transferred to an ultimate purchaser. Where the equitable or legal title to the engine or watercraft is not transferred to an ultimate purchaser until after the engine or watercraft is placed into service, then the engine or watercraft will no longer be new after it is placed into service. A spark-ignition marine engine or watercraft is placed into service when it is used for its functional purposes. With respect to imported spark-ignition ma-

rine engines or watercraft, the term “new” means an engine or watercraft that is not covered by an Executive Order issued under this Article at the time of importation, and that is manufactured after the effective date of a section in this Article which is applicable to such engine or watercraft, or which would be applicable to such engine or watercraft had it been manufactured for importation into the United States.

(38) “Nonconformity” or “Noncompliance”, for the purposes of Title 13, California Code of Regulations, section 2444.1, means that:

(A) a significant number, determined by the Executive Officer, of a class of engines, although properly maintained and used, experience a failure of the same emission-related component(s) within their useful lives which, if uncorrected, results in the engines’ failure to comply with the emission standards prescribed under section 2442 which are applicable to the model year of such engines; or

(B) a class of engines that at any time within their useful lives, although properly maintained and used, on average does not comply with the emission standards prescribed under section 2442 which are applicable to the model year of such engines.

(39) “Operating cycle” consists of engine startup, engine run, and engine shutoff.

(40) “Original equipment manufacturer” means a manufacturer who purchases engines for installation in its equipment for sale to ultimate purchasers.

(41) “Outboard engine” means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

(42) “Personal watercraft engine” means a spark-ignition marine engine that does not meet the definition of outboard engine, inboard engine or sterndrive engine, except that the Executive Officer may, in his or her discretion, classify a personal watercraft engine as an inboard or sterndrive engine if it is comparable in technology and emissions to an inboard or sterndrive engine.

(43) “Production-line tests” are emission tests performed on a sample of production engines produced for sale in California and conducted in accordance with Title 13, California Code of Regulations, section 2446(a).

(44) “Redline engine speed” means the engine manufacturer recommended maximum engine speed as normally displayed on instrument panel tachometers, or the engine speed at which fuel shutoff occurs.

(45) “Response rate,” with regards to oxygen sensors, refers to the delay (measured in milliseconds) between a switch of the sensor from lean to rich or vice versa in response to a change in fuel/air ratio above and below stoichiometric.

(46) “Sales” or “Eligible sales” means the actual or calculated sales of an engine family in California for the purposes of corporate averaging and production-line testing. Upon Executive Officer approval, an engine manufacturer may calculate its eligible sales through market analysis of actual federal production or sales volumes.

(47) “Scheduled maintenance” means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the engine manufacturer to be performed on a periodic basis to prevent part failure or marine watercraft or engine malfunction, or those actions anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(48) “Spark-ignition marine engine” means any engine used to propel a marine watercraft, and which utilizes the spark-ignition combustion cycle; including, but not limited to personal watercraft, outboard, inboard and sterndrive engines.

(49) “Sterndrive engine” means a four-stroke spark-ignition marine engine not used in a personal watercraft that is designed such that the drive unit is external to the hull of the marine watercraft, while the engine is internal to the hull of the marine watercraft.

(50) “Test engine” means the engine or group of engines that an engine manufacturer uses during certification, production line and in-use testing to determine compliance with emission standards.

(51) “Test Procedures” means the document entitled “California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines,” which includes the standards and test procedures applicable to 2001 and later spark-ignition personal watercraft, outboard, inboard and sterndrive marine engines, as adopted October 21, 1999 and as last amended September 22, 2006. This document is incorporated by reference herein.

(52) “Ultimate purchaser” means, with respect to any new spark-ignition marine engine, the first person who in good faith purchases such new spark-ignition marine engine for purposes other than resale.

(53) “U.S.C.” means United States Code.

(54) “Used solely for competition” means exhibiting features that are not easily removed and that would render its use other than in competition unsafe, impractical, or highly unlikely.

(55) “Useful life” for spark-ignition marine engines means nine years for personal watercraft engines and sixteen years for outboard, inboard and sterndrive engines.

(56) “Warranty period” means the period of time the engine or part is covered by the warranty provisions.

(57) “Warranty station” means any dealer, service center or other agent that is authorized by the engine manufacturer to perform diagnostic labor, repairs or replacements of warranted engine components.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).
2. New subsections (a)(4), (9), (14)–(16), (22)–(23), (26), (28), (33), (38)–(39), (45) and (48), subsection renumbering and amendment of newly designated subsections (a)(31)–(32), (36), (42), (46) and (49) filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).
3. New subsections (a)(5), (a)(8), (a)(12)–(13), (a)(30) and (a)(35), subsection renumbering and amendment of newly designated subsection (a)(51) filed 11–13–2006; operative 12–13–2006 (Register 2006, No. 46).

§ 2442. Emission Standards.

(a) Model year 2001 and later model year spark-ignition personal watercraft and outboard marine engines:

(1) Exhaust emissions from new spark-ignition marine engines manufactured for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce must not exceed the hydrocarbon plus oxides of nitrogen (HC+NOx) exhaust emission standards listed in Table 1 during its designated useful life:

Table 1.
Corporate Average Emission Standards by Implementation Date
HC+NOx (g/kW-hr)

Model Year	Max. Family Emission Limit (FEL)	$P_{tx} < 4.3 \text{ kW}$	$P_{tx} \geq 4.3 \text{ kW}$
2001–2003	Not Applicable	81.00	$(0.25 \times (151+557/P_{tx}^{0.9})) + 6.0$
2004–2007	80	64.80	$(0.20 \times (151+557/P_{tx}^{0.9})) + 4.8$
2008 and Later	44	30.00	$(0.09 \times (151+557/P_{tx}^{0.9})) + 2.1$

where:

P_{tx} is the average power in kilowatts (kW) (sales-weighted) of the total number of spark-ignition marine engines produced for sale in

California in model year x. Engine power must be calculated using the Society of Automotive Engineers (SAE) standard J1228, November

1991, incorporated herein by reference. Engine manufacturers must not determine P_{tx} by combining the power outputs of outboard engines with the power outputs of personal watercraft engines.

(2) An engine manufacturer may comply with the standards directly on an individual engine family basis. Consequently in Table 1, FELs are not applicable for any model year and P_{tx} means the average power in kW (sales-weighted) of the subject engine family produced for sale in California in model year x.

Compliance with the standards on a corporate average basis is determined as follows:

$$\frac{\sum_{j=1}^n (PROD_{jx})(FEL_{jx})(P_{jx})}{\sum_{j=1}^n (PROD_{jx})(P_{jx})} = STD_{ca}$$

where:

- n = Total number of engine families (by category)
- $PROD_{jx}$ = Number of units of each engine family j produced for sale in California in model year x.
- FEL_{jx} = The Family Emission Limit (FEL) for engine family j in model year x, which must be determined by the engine manufacturer subject to the following conditions: (1) no individual engine family FEL shall exceed the maximum allowed value as specified in Table 1; (2) no engine family designation or FEL shall be amended in a model year unless the engine family is recertified; and (3) prior to sale or offering for sale in California, each engine family must be certified in accordance with the test procedures referenced in section 2447 and must meet the engine manufacturer's FEL as a condition of the Executive Order. Before certification, the engine manufacturer must also submit estimated production volumes for each engine family to be offered for sale in California.
- P_{jx} = The average power in kW (sales-weighted) of engine family j produced for sale in California in model year x. Engine power must be calculated using SAE standard J1228, November 1991, incorporated herein by reference.
- STD_{ca} = An engine manufacturer's calculated corporate average HC+NOx exhaust emissions from those California spark-ignition marine engines subject to the California

corporate average HC+NOx exhaust emission standard determined from Table 1, as established by an Executive Order certifying the California production for the model year. This Executive Order must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year.

(A) For purposes of compliance under this paragraph, engine manufacturers must not corporate average outboard engine families in combination with personal watercraft engine families.

(B) During the engine manufacturer's production year, for each engine family, the engine manufacturer shall provide the Executive Officer within 45 days after the last day in each calendar quarter the total number of spark-ignition marine engines produced for sale in California and their applicable FEL(s).

(C) The Executive Order certifying the California production for a model year must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year.

(D) The engine manufacturer's average HC+NOx exhaust emissions must meet the corporate average standard at the end of the engine manufacturer's production for the model year. At the end of the model year, the manufacturer must calculate a corrected corporate average using sales or eligible sales rather than projected sales.

(E) Production and sale of spark-ignition marine engines that result in noncompliance with the California standard for the model year shall cause an engine manufacturer to be subject to: revocation or suspension of Executive Orders for the applicable engine families; enjoinder from any further sales, or distribution, of such noncompliant engine families, in the State of California pursuant to section 43017 of the Health and Safety Code; and all other remedies available under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the engine manufacturer, the Executive Officer will consider any information provided by the equipment manufacturer.

(F) For each model, the engine manufacturer shall submit California sales data ninety (90) days after the end of the model year.

(b) Model year 2003 and later model year spark-ignition inboard and sterndrive marine engines:

(1) Exhaust emissions from new model year 2003 and later spark-ignition inboard and sterndrive marine engines must not exceed the exhaust emission standards listed in Table 2 for the designated emission durability test period. Prior to Model Year 2007 certification, each engine manufacturer must select either Option 1 (OPT 1) or Option 2 (OPT 2) for its entire production for the 2007 and 2008 model years.

Table 2.
Inboard/Sterndrive Marine Engine Standards

MODEL YEAR	RATED POWER [kilowatts]	COMPLIANCE OPTION ¹	DURABILITY [hours / years]	EXHAUST STANDARD NMHC ² +NOx [grams per kilowatt-hour]	TYPE ³	SUPPLEMENTAL MEASURE ⁴
2003–2006	kW ≤ 373	N/A	N/A	16.0	AVE	None
2007	kW ≤ 373	OPT 1	N/A 480 / 10	16.0 (55%) 5.0 (45%)	AVE FIXED	None
		OPT 2	N/A	14.0	FIXED	Low-Permeation Fuel Line Hoses
2008	kW ≤ 373	OPT 1	N/A 480 / 10	16.0 (25%) 5.0 (75%)	AVE FIXED	None
		OPT 2	480 / 10	5.0	FIXED	Low-Permeation Fuel Line Hoses
2009 and later	kW ≤ 373	N/A	480 / 10	5.0 ⁶	FIXED	Carryover ⁷
	373 < kW ≤ 485		150 ⁵ / 3	5.0 ⁶	AVE	
	kW > 485		50 ⁵ / 1	5.0 ⁶	AVE	

Notes:

- Once a manufacturer has chosen an option, that option must continue to be used exclusively across product lines
- The non-methane component of hydrocarbon
- Corporate averaging (AVE) may be used to demonstrate compliance with the exhaust emission standard, except where a FIXED standard is required
- Supplemental measures may be different than shown, but must provide equal and verifiable emission reductions to those indicated

5. For the purpose of durability testing, engine components that have been approved with an hourly warranty period shorter than the full hourly durability period per § 2445.1 (c)(3)(C)4. may be replaced at the specified warranty interval
6. All engines ≤ 373 kW must meet a 5.0 g/kW-hr NMHC+NO_x capping standard. For engines > 373 kW, the standard may be met by sales-averaging with engines equal to or less than 373 kW
7. The same or better supplemental emission control hardware used to meet the standard in 2007 must be used every model year thereafter

(A) No crankcase emissions shall be discharged into the ambient atmosphere from 2003 and later spark-ignition inboard and sterndrive marine engines.

(B) Production and sale of spark-ignition marine engines that result in noncompliance with the California standard for the model year shall cause an engine manufacturer to be subject to: revocation or suspension of Executive Orders for the applicable engine families; enjoinderment from any further sales, or distribution, of such noncompliant engine families, in the State of California pursuant to section 43017 of the Health and Safety Code; and all other remedies available under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the engine manufacturer, the Executive Officer will consider any information provided by the equipment manufacturer.

(C) For each engine family, the engine manufacturer shall submit the total number of engines produced for sale in California, or the total number of engines produced for sale nationally, ninety (90) days after the end of the model year.

(2) Compliance with the standards on a corporate averaging basis is calculated as follows:

$$\frac{\sum(\text{PROD}_{jx})(\text{EL}_{jx})}{\sum(\text{PROD}_{jx})} = \text{Corporate Average}$$

where:

- n = Total number of engine families available for averaging
- PROD_{jx} = Number of engines in engine family j produced for sale in California in model year x.
- EL_{jx} = The measured NMHC+NO_x emission levels for engine family j in model year x; or for engines > 485 kW, the manufacturer may choose to use 30 g/kW-hr as per paragraph (F) below.

(A) During the engine manufacturer's production year, for each engine family, the engine manufacturer shall provide the Executive Officer within 45 days after the last day in each calendar quarter the total number of spark-ignition marine engines produced for sale in California and their applicable EL(s).

(B) The Executive Order certifying the California production for a model year must be obtained prior to the issuance of certification Executive Orders for individual engine families for the model year.

(C) The engine manufacturer's average NMHC+NO_x exhaust emissions must meet the corporate average standard at the end of the engine manufacturer's production for the model year. At the end of the model year, the manufacturer must calculate a corrected corporate average using sales or eligible sales rather than projected sales.

(D) Production and sale of spark-ignition marine engines that result in noncompliance with the California standard for the model year shall cause an engine manufacturer to be subject to: revocation or suspension of Executive Orders for the applicable engine families; enjoinderment from any further sales, or distribution, of such noncompliant engine families, in the State of California pursuant to section 43017 of the Health and Safety Code; and all other remedies available under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer.

(E) For each engine family, the engine manufacturer shall submit California sales data within one hundred eighty (180) days after the end of the model year.

(F) Engines exceeding 485 kilowatts maximum rated power: In lieu of exhaust emission testing, manufacturers may certify using a default exhaust emissions level of 30.0 grams per kilowatt-hour of NMHC+NO_x

in their corporate averaging calculation.

(3) Requirements of engine manufacturers and boat manufacturers under Option 2 and using Low Permeation Fuel Line Hose:

(A) Each engine manufacturer that chooses Option 2 must provide written instructions, as part of the installation materials provided to purchasers of the engine, to use Low Permeation Fuel Line Hose for the primary fuel line connecting the fuel tank to the engine of any boat that is manufactured for sale, sold, or offered for sale in California, or that is introduced, delivered or imported into California for introduction into commerce.

(B) Each boat manufacturer must install Low Permeation Fuel Line Hose for the primary fuel line connecting the fuel tank to the engine of any boat that is manufactured for sale, sold, or offered for sale in California that uses an engine from a manufacturer that chooses Option 2.

(4) Supplemental Measures. Prior to Model Year 2007 certification, manufacturers choosing Option 2 may request Executive Officer approval of a supplemental measure as an alternative to meeting the requirements of paragraph (b)(3). In determining whether to approve a request, the Executive Officer will consider the following:

(A) Whether the proposed supplemental measure would achieve reductions in NMHC+NO_x equivalent to using Low-Permeation Fuel Line Hoses,

(B) The engine manufacturer's measures to ensure successful implementation of the proposed supplemental measure,

(C) The durability of the proposed supplemental measure, and

(D) Any additional information the Executive Officer deems relevant.

(c) The test equipment and test procedures for determining compliance with these standards are set forth in Parts III and IV, respectively, of the "Test Procedures."

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).
3. Amendment filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).

§ 2443.1. Emission Control Labels — Model Year 2001 and Later Spark-Ignition Marine Engines.

(a) Purpose. The Air Resources Board recognizes that certain emissions-critical or emissions-related parts must be properly identified and maintained to ensure that engines meet the applicable emission standards. The purpose of this section is to require engine manufacturers to affix a label (or labels) on each production engine (or watercraft, as applicable) to provide the engine owner and service mechanic with information necessary for the proper maintenance of these parts in customer use. These specifications also require the engine manufacturer to permanently identify the engine with a unique identification number that will be used for enforcement purposes, including in-use testing.

(b) Applicability. This section applies to:

(1) Model year 2001 and later spark-ignition personal watercraft and outboard marine engines and model year 2003 and later spark-ignition inboard and sterndrive marine engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code section 43013;

(2) Engine manufacturers and original equipment manufacturers, as applicable, that have certified such engines; and

(3) Original equipment manufacturers, regardless of whether they have certified the engine, if their equipment obscures the emission control labels of such certified engines.

(c) Engine Label and Location.

(1) A legible label must be welded, riveted or otherwise permanently attached by the engine manufacturer to an area of the engine (e.g., block

or crankcase) in such a way that it will be readily visible to the average person after installation of the engine in the watercraft. If such an attachment is not feasible, the Executive Officer may allow the label to be at-

[The next page is 298.21.]

tached on components of the engine or watercraft assembly (as applicable) that satisfy the requirements of Subsection (c)(2)(A) or (c)(2)(B) below, as applicable. Such labels must be attached on all complete engine assemblies that are produced by an engine manufacturer.

(2) (A) Personal Watercraft and Outboard Engines. In selecting an acceptable location, the engine manufacturer must consider the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). Each engine label must be affixed in such a manner that it cannot be removed without destroying or defacing the label, and must not be affixed to any engine (or watercraft, as applicable) part that is likely to be replaced during the engine's (or watercraft's, as applicable) useful life or that is not integral to the engine's operation. The engine label must not be affixed to any engine (or watercraft, as applicable) component that is easily detached from the engine. If the engine manufacturer claims there is inadequate space to attach the label, the Executive Officer will determine a suitable location.

(B) Inboard and Sterndrive Engines. In selecting an acceptable location, the engine manufacturer must consider visibility and the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). The engine label must be affixed in such a manner that it cannot be removed without destroying or defacing the label. The engine label must contain the unique identification number that has been assigned to the engine, pursuant to subsection (a) of this section. If the engine manufacturer claims there is inadequate space to attach the label, the Executive Officer will determine a suitable location.

(3) The engine label information must be written in the English language and use block letters (i.e., sans serif, uppercase characters) except for units of measurement, which may be sans serif, lower-case characters. The characters must be of a color that contrasts with the background of the label.

(4) The engine label must contain the following information:

(A) The heading "EMISSION CONTROL INFORMATION."

(B) The full corporate name or trademark of the engine manufacturer.

(i) An engine manufacturer may request the Executive Officer's approval to delete its name and trademark, and substitute the name and trademark of another engine manufacturer, original equipment manufacturer or third-party distributor.

(ii) Approval under paragraph (4)(B)(i) above does not relieve the engine manufacturer granted an engine family Executive Order of any requirements imposed by these provisions on the applicable engines.

(C) The statement, "THIS (WATERCRAFT'S ENGINE or ENGINE, as applicable) IS CERTIFIED TO OPERATE ON (specify operating fuel(s))."

(D) Identification of the Exhaust Emission Control System (Abbreviations may be used and must conform to the nomenclature and abbreviations provided in the latest revision of the Society of Automotive Engineer's (SAE) procedure J1930, "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations and Acronyms", and as specified in section 1977, Title 13, California Code of Regulations.

(E) Any specific fuel or engine lubricant requirements (e.g., fuel-oil ratio(s), lead content, research octane number, engine lubricant type).

(F) Date of manufacture (day (optional), month and year).

(G) An unconditional statement of compliance with the appropriate model year California regulations. For example, "THIS ENGINE CONFORMS TO (model year) CALIFORNIA EMISSION REGULATIONS FOR SPARK-IGNITION MARINE ENGINES." For an engine family certified in California with an FEL different from the FEL assigned federally for the engine family, the following statement shall be appended to the unconditional statement of compliance: AND IS CERTIFIED TO (specify FEL) g/kW-hr HC+NO_x ENGINE FAMILY EXHAUST EMISSION STANDARD IN CALIFORNIA."

(H) The engine family identification (i.e., engine family name). The engine family identification shall be in accordance with the current format used by the United States Environmental Protection Agency.

(I) Engine displacement (in cubic centimeters, cubic inches, or liters) of the individual engine upon which the engine label is affixed.

(J) The maintenance specifications and adjustments recommended by the engine manufacturer, including, as applicable: valve lash, ignition timing, idle air/fuel setting procedure and value (e.g., idle speed drop), high idle speed and spark plug gap. These specifications must indicate the proper transmission position, if applicable, during tune-up and what accessories, if any, should be in operation, and what systems, if any (e.g., vacuum advance, battery, air pump), should be disconnected during the tune-up. If the engine manufacturer does not recommend adjustment of the foregoing specifications, the engine manufacturer may substitute in lieu of the specifications, the single statement, "NO OTHER ADJUSTMENTS NEEDED." For all engines, the instructions for tune-up adjustments must be sufficiently clear on the engine label to preclude the need for a mechanic or equipment owner to refer to another document in order to correctly perform the adjustments.

(5) If there is insufficient space on the engine to accommodate an engine label that contains all of the information required in Subsection (4) above, the Executive Officer may allow the engine manufacturer to modify the engine label in one or more of the following ways:

(A) Exclude the information required in Subsections (4)(C), (D) and (E) from the engine label. This information must be specified elsewhere on the engine, or in the owner's manual.

(B) Substitute the information required in Subsection (4)(J) with the statement, "REFER TO THE OWNER'S MANUAL FOR MAINTENANCE SPECIFICATIONS AND ADJUSTMENTS." When such a statement is used, the information required by Subsection (4)(J) must be specified in the owner's manual.

(C) Exclude the information required by Subsection (4)(F) on the engine label if the date the engine was manufactured is stamped or labeled permanently on the engine (e.g., within the serial number), and this date is readily visible.

(d) For Inboard and Sterndrive Engines used solely for Competition.

Engines manufactured solely for use in sanctioned competition are not required to comply with the emission standards and other requirements. Manufacturers may incorporate the engine label to identify the engines as produced for competition according to the provisions in this subsection.

(1) A legible label must be welded, riveted or otherwise permanently attached by the engine manufacturer to an area of the engine in such a way that it will be readily visible to the average person after installation of the engine in the watercraft. If such an attachment is not feasible, the Executive Officer may allow the label to be attached on components of the engine that satisfy the requirements of Subsection (d)(2). Such labels must be attached on all complete engine assemblies that are produced by an engine manufacturer.

(2) In selecting an acceptable location, the engine manufacturer must consider visibility and the possibility of accidental damage (e.g., possibility of tools or sharp instruments coming in contact with the label). The engine label must be affixed in such a manner that it cannot be removed without destroying or defacing the label. The engine label must contain the unique identification number that has been assigned to the engine, pursuant to subsection (a) of this section. If the engine manufacturer claims there is inadequate space to attach the label, the Executive Officer will determine a suitable location.

(3) The engine label information must be written in the English language and use block letters (i.e., sans serif, uppercase characters) except for units of measurement, which may be sans serif, lower-case characters. The characters must be of a color that contrasts with the background of the label.

(4) The engine label must contain the following information:

(A) The heading "EMISSION CONTROL INFORMATION."

(B) The full corporate name or trademark of the engine manufacturer.

(i) An engine manufacturer may request the Executive Officer's approval to delete its name and trademark, and substitute the name and trademark of another engine manufacturer, original equipment manufacturer or third-party distributor.

(ii) Approval under paragraph (4)(B)(i) above does not relieve the engine manufacturer granted an engine family Executive Order of any requirements imposed by these provisions on the applicable engines.

(C) Date of manufacture (day (optional), month and year).

(D) An unconditional statement of noncompliance with the appropriate model year California regulations. For example, "THIS ENGINE DOES NOT CONFORM TO (model year) CALIFORNIA EMISSION REGULATIONS FOR SPARK-IGNITION MARINE ENGINES AND MAY NOT BE INSTALLED ON A BOAT FOR ANY PURPOSE OTHER THAN COMPETITION."

(E) Engine displacement (in cubic centimeters, cubic inches, or liters) of the individual engine upon which the engine label is affixed.

(e) An engine label may state that such engine conforms to any other applicable state or federal emission standards for new spark-ignition marine engines, or any other information that the engine manufacturer deems necessary for, or useful to, the proper operation and satisfactory performance of the engine.

(f) Engine identification number. Each engine must have a legible, unique engine identification number permanently affixed to or engraved on the engine.

(g) Supplemental Engine Label Content and Location for Personal Watercraft and Outboard Engines only.

(1) When a final engine, equipment, or watercraft assembly that is marketed to any ultimate purchaser is manufactured and the engine label affixed by the engine manufacturer is not readily visible, the manufacturer of the final engine, equipment or watercraft assembly (i.e., original equipment manufacturer) must affix a supplemental engine label upon the engine, equipment or watercraft. The supplemental label must be made of plastic or metal, and must be welded, riveted or otherwise affixed permanently to an area of the engine, equipment or watercraft so as to be readily visible.

(2) The original equipment manufacturer required to affix a supplemental label must consider the possibility of accidental damage to the supplemental engine label in the determination of the label location. Such a label must not be attached to any engine, equipment or watercraft component that is likely to be replaced during the useful life of the engine, equipment or watercraft (as applicable), and/or is not integral to the engine's operation. Such a label must not be attached to any engine or equipment component that is easily detached from the engine, equipment or watercraft (as applicable).

(3) The supplemental engine label must conform to the engine label requirements in Subsections (c)(3) and (4), except that the date of manufacture specified in Subsection (c)(4)(F) may be deleted from the supplemental engine label. When the date of engine manufacture does not appear on the supplemental engine label, the responsible original equipment manufacturer must display (e.g., label, stamp, etc.) the date elsewhere on the engine, equipment or watercraft so as to be readily visible. The original equipment manufacturer must also display the engine identification number elsewhere on the engine that is readily visible if the original number is obscured by the equipment manufacturer's equipment.

(h) As used in this section, readily visible means that a label is readable by an average person from a distance of 46 centimeters (18 inches) without any obstructions from equipment, watercraft or engine parts (including all engine manufacturer or original equipment manufacturer (as applicable) available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, the label and engine identification information required by these specifications must be no smaller than two (2) millimeters in height (with the exception of units of measurement) provided that no equipment or engine parts (including all engine manufacturer available optional equipment), except for flexible parts, obstruct the label(s).

(i) The label(s), engine identification number(s) and any adhesives used must be designed to withstand, for the engine's or watercraft's use-

ful life, typical environmental conditions in the area where the label(s) required by this section are affixed. Typical equipment environmental conditions include, but are not limited to, exposure to extreme heat or cold, engine fuels, lubricants and coolants (e.g., gasoline, motor oil, salt-water, ethylene glycol). The engine manufacturer must submit, with its certification application, a statement attesting that its labels and engine identification numbers comply with these requirements.

(j) The engine manufacturer must obtain approval from the Executive Officer for all label and engine identification number formats and locations in conjunction with the engine family certification. Approval of specific maintenance settings on labels is not required; however, the format for all such setting and tolerances, if any, is subject to review. If the Executive Officer finds that the information on the label or engine identification number is vague or subject to misinterpretation, or that the location does not comply with these specifications, the Executive Officer may require that the label(s), engine identification number(s) or location(s) be modified accordingly.

(k) Samples of all actual production labels used within an engine family must be submitted to the Executive Officer within thirty days after the start of production. Engine manufacturers must provide samples of their own applicable production labels, and samples of applicable production original equipment manufacturer labels that are accessible to the engine manufacturers due to the direct market arrangement between such manufacturers.

(l) The Executive Officer may approve alternate label and engine identification number locations. The Executive Officer may also, upon request, waive or modify the label content requirements provided that the intent of this section is met.

(m)(1) If the Executive Officer finds any engine manufacturer using labels and engine identification numbers that are different from those approved or do not substantially comply with the readability or durability requirements set forth in these specifications, the engine manufacturer will be subject to revocation or suspension of Executive Orders for the applicable engine families and subject to being enjoined from any further sales or distribution of such noncompliant engine families in the State of California pursuant to section 43017 of the Health and Safety Code. Additional penalties may be assessed to the extent permissible under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the engine manufacturer, the Executive Officer will consider any information provided by the engine manufacturer.

(2) If the Executive Officer finds any original equipment manufacturer using labels for which it has responsibility for attaching that are different from those approved or that do not substantially comply with the readability or durability requirements set forth in these specifications, the equipment manufacturer will be subject to being enjoined from any further sales or distribution, of applicable equipment product line that uses noncompliant labels in the State of California pursuant to section 43017 of the Health and Safety Code. Additional penalties may be assessed to the extent permissible under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the equipment manufacturer, the Executive Officer will consider any information provided by the equipment manufacturer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

§ 2443.2. Consumer/Environmental Label Requirements.

(a) Purpose. The purpose of this section is to require engine manufacturers to affix a single label on each production spark-ignition marine engine (or watercraft, as applicable) that provides potential engine owners, engine owners, and enforcement personnel with information on the relative cleanliness of the engine under the Air Resources Board's standards.

(b) Applicability. This section applies to:

(1) Model year 2001 and later spark-ignition personal watercraft and outboard marine engines and model year 2003 and later spark-ignition inboard and sterndrive marine engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code section 43013;

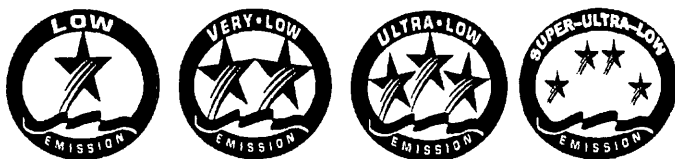
(2) Federally certified spark-ignition marine engines produced prior to model year 2001 that comply with the emission standards pursuant to section 2442; and

(3) Spark-ignition personal watercraft and outboard marine engines produced prior to model year 2001 and shown by the manufacturer to comply with the emission standards pursuant to section 2442.

(c) If an engine manufacturer has certified a spark-ignition marine engine family to an FEL at or below the exhaust emission standard designated in section 2442(a), Table 1, the engine manufacturer (or equipment/watercraft manufacturer who uses such engines) must label each new engine within the engine family as a compliant engine pursuant to this section. If the engine family fails in-use compliance and/or production line testing and corrective action is not taken within thirty (30) days, the engine manufacturer must cease representation of any engines within the family as compliant engines. In this case, corrective action refers only to physical changes made to bring the engine into compliance with its original FEL. Spark-ignition marine engines as described in paragraph (b)(2) may be labeled pursuant to the provisions of this section before the 2001 model year if such engines comply with Title 40, Code of Federal Regulations, Part 91 [October 4, 1996], which is incorporated herein by reference. Spark-ignition marine engines as described in paragraph (b)(3) may be labeled pursuant to the provisions of this section before the 2001 model year if such engines are tested using certification test procedures plus a thirty (30) percent deterioration factor, as applicable. Alternative demonstrations of emissions performance may be used for engines described in paragraphs (b)(2) and (b)(3) if the engine manufacturer demonstrates to the Executive Officer's satisfaction that the emissions performance is representative of actual emissions for the engine family. Any use of the label described below counter to the requirements set forth herein violates this section and may subject the engine manufacturer to penalties as permitted by Part 5, Division 26 of the Health and Safety Code.

(1) Facsimiles of the label format are shown in Figure 1.

Figure 1



(NOTE: Labels are not to scale.)

(A) The engine manufacturer must ensure that the label has the following characteristics:

(i) Oval shape;

(ii) Dimensions of no less than three inches wide by two and a half inches high, except that it may be no less than two inches by one and two thirds inches high for engines that have power outputs of 11.2 kW (15 hp) or less;

(iii) A watermark as shown in Figure 2 that is a clear laminate. The watermark must cover the entire label and be screened at no less than fifteen percent; and

(iv) All written information required by paragraph (c)(4)(B) must be in the English language and the font must be sans serif. The characters must be a minimum of two (2) millimeters in height except as specified in paragraph (b)(1)(B)(i)(d), and of a color that contrasts with the background on which it is displayed.

Figure 2



(B) Multiple levels of cleanliness. Progressively clean engines shall carry the following notations (as applicable):

(i) An engine that has an FEL or that has been certified at or below the hydrocarbon plus oxides of nitrogen standard listed in Table 1 of this section for Tier 1 must include the phrase "LOW EMISSION" and a single star symbol as shown in Figure 1.

(ii) An engine that has an FEL or that has been certified at or below the hydrocarbon plus oxides of nitrogen standard listed in Table 1 of this section for Tier 2 must include the phrase "VERY LOW EMISSION" and two star symbols as shown in Figure 1.

(iii) An engine that has an FEL or that has been certified at or below the hydrocarbon plus oxides of nitrogen standard listed in Table 1 of this section for Tier 3 must include the phrase "ULTRA LOW EMISSION" and three star symbols as shown in Figure 1.

(iv) An engine that has an FEL or that has been certified at or below the hydrocarbon plus oxides of nitrogen standard listed in Table 1 of this section for Tier 4 must include the phrase "SUPER ULTRA LOW EMISSION" and four star symbols as shown in Figure 1.

Table 1.

Hydrocarbon plus Oxides of Nitrogen Standards (in g/kW-hr)

Tier	$P < 4.3$	$P \geq 4.3$
1	81.00	$(0.25 \times (151+557/P^{0.9}))+6.0$
2	64.80	$(0.20 \times (151+557/P^{0.9}))+4.8$
3	30.00	$(0.09 \times (151+557/P^{0.9}))+2.1$
4	5.0	5.0

Where P means the average power in kW (sales-weighted) of the subject engine family.

(iv) All phrases encircling the top portion must have block characters that are a minimum of five (5) millimeters in height except that the characters may be three (3) millimeters for labels sized as allowed pursuant to paragraph (c)(1)(A)(i) for engines that have power outputs of 11.2 kW (15 hp) or less.

(C) Language other than that specified in paragraph (b)(1)(B) must not be used unless permitted by the Executive Officer.

(D) The color of the outer oval and stars on the labels must contrast with the engine cover or watercraft hull. The color of the interior oval (i.e., background for the stars) must contrast with the color of the outer oval and stars.

(2) Label Location. For outboard engines, a single label must be permanently affixed to the back of the engine cover or cowl. For personal watercraft, a single label must be affixed two to three inches to the right of the required location of the California Assigned Vessel Number displayed on the port side of the hull. For inboard and sterndrive engines, labels must be affixed to the engine and to the port side of the hull, either to the right or left and in close proximity to the required location of the California Assigned Vessel Number. Each label must be manufactured and permanently affixed so that it cannot be removed without destroying or defacing the label, must be readily visible and must not be affixed to any location that is likely to be replaced during the engine's useful life. For the purposes of this paragraph, readily visible means that the label's shape and number of stars are discernible from a distance of 100 feet.

(3) The labels and any adhesives used must be designed to withstand, for the engine's or watercraft's useful life, typical environmental conditions in the area where the labels required by this section are affixed. Typical equipment environmental conditions include, but are not limited to, exposure to extreme heat or cold, moisture, engine fuels, lubricants and coolants (e.g., gasoline, motor oil, saltwater, ethylene glycol). The engine manufacturer must submit, with its certification application, a statement attesting that its labels and engine identification numbers comply with these requirements.

(4) For Personal Watercraft and Outboard Marine Engines:

(A) Labels must be affixed to new watercraft or engines by the engine manufacturer or the original equipment manufacturer. If affixed by the original equipment manufacturer, the engine manufacturer remains the ultimate party responsible for ensuring that the labels are correctly administered. Improper labeling or distribution of labels will subject the engine manufacturer to penalties as described in paragraph (h).

(B) Labels on engines or watercraft described in paragraphs (b)(2) and (b)(3) may be applied by either the engine manufacturer, the original equipment manufacturer, distributors or dealers. However, the engine manufacturer remains the ultimate party responsible for ensuring that the labels are correctly administered. Improper labeling or distribution of labels will subject the engine manufacturer to penalties as described in paragraph (h). If the labels are applied by the distributor or dealer, the engine manufacturer must include its name and a serial number on the lower portion of the label as shown in Figure 1. The format of the serial number will be two alpha characters followed by five numeric characters (e.g., AA12345). The serial numbers must be recorded by the distributor or dealer and reported to the manufacturer of the engine when installed on a pre-2001 model year watercraft or engine. These numbers must be made available to the Executive Officer upon request.

(5) For Inboard and Sterndrive Marine Engines:

(A) Labels on Engines. Labels must be affixed to new engines by the engine manufacturer. The engine manufacturer is responsible for ensuring that appropriate environmental labels are properly applied to its engines. Improper labeling or distributing of labels will subject the engine manufacturer to penalties as described in paragraph (h) of this section.

(B) Labels on Watercraft. Labels must be affixed to the port side of watercraft by the watercraft/original equipment manufacturer. The watercraft/original equipment manufacturer is responsible for ensuring that appropriate labels are properly applied to its watercraft. Improper labeling or distributing of hull environmental labels will subject the watercraft/original equipment manufacturer to penalties as described in paragraph (h).

Engine manufacturers are responsible for providing labels that correspond with the engine for all engines supplied to watercraft/original equipment manufacturers. Engine manufacturers also are responsible for providing to the watercraft/original equipment manufacturers instructions regarding label selection and placement. Failure to provide appropriate labels and instructions to the watercraft/original equipment manufacturer will subject the engine manufacturer to penalties as described in paragraph (h) of this section.

(d) If the engine or watercraft cannot be adequately labeled under the

requirements of paragraph (c), the engine manufacturer may request modification of these requirements from the Executive Officer.

(e) Replacement engines installed in hulls, cowlings or watercraft that had been previously labeled in accordance with these specifications must have identical or improved emissions to that of the original certified engine.

(f) Samples of all labels produced pursuant to this section must be submitted to the Executive Officer with the applicable certification application.

(g) Engines that are labeled in accordance with this section and subsequently modified with add-on or modified parts that are not exempted by the Executive Officer are subject to label removal by an ARB Enforcement Officer or other authorized party.

(h) If the Executive Officer finds any engine manufacturer using labels for which it has responsibility for attaching that are different from those approved or that do not substantially comply with the discernibility or durability requirements set forth in these specifications, the engine manufacturer will be subject to being enjoined from any further sales or distribution of applicable equipment product line that uses noncompliant labels in the State of California pursuant to section 43017 of the Health and Safety Code. If the Executive Officer finds any engines or watercraft with labels that are not affixed in accordance with paragraph (c)(1)(B), the engine manufacturer or watercraft/original equipment manufacturer that was responsible for label placement must remove the labels from all affected watercraft and engines and will be subject to being enjoined from any further sales or distribution, of applicable equipment product line that uses noncompliant labels in the State of California pursuant to section 43017 of the Health and Safety Code. Additional penalties may be assessed to the extent permissible under Part 5, Division 26 of the Health and Safety Code. Before seeking remedial action against the engine or equipment manufacturer, the Executive Officer will consider any information provided by the engine or equipment manufacturer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).

2. Amendment filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).

§ 2443.3. Environmental Label/Consumer Notification Requirements.

(a) Applicability. This section applies to model year 2001 and later spark-ignition personal watercraft and outboard marine engines and model year 2003 and later spark-ignition inboard and sterndrive marine engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code section 43013.

(b) A nonpermanent label (i.e., hang tag) must be attached to each personal watercraft or outboard engine, as applicable, at time of sale. A nonpermanent label (i.e., hang tag) produced and supplied by the engine manufacturer must be attached, by the seller, to each inboard and sterndrive engine or watercraft, as applicable, when introduced for sale to ultimate purchasers. Environmental labels pursuant to this section shall include a copy of the following:

Front of Hang Tag:

The Star Label means Cleaner Marine Engines

This engine has been certified as a:



(<Check appropriate box.>)

The Symbol for Cleaner Marine Engines:**Cleaner Air and Water** – for a healthier lifestyle and environment.**Better Fuel Economy** – burns up to 30-40 percent less gas and oil than conventional carbureted two-stroke engines, saving money and resources.**Longer Emissions Warranty** – protects consumer for worry free operation.

Back of Hang Tag:

<facsimile of the one-star label>

One Star – Low-Emission

The one-star label identifies engines that meet the Air Resources Board's Personal Watercraft and Outboard marine engine 2001 exhaust emission standards. Engines meeting these standards have 75% lower emissions than conventional carbureted two-stroke engines. These engines are equivalent to the U.S. EPA's 2006 standards for marine engines.

<facsimile of the two-star label>

Two Stars – Very Low Emission

The two-star label identifies engines that meet the Air Resources Board's Personal Watercraft and Outboard marine engine 2004 exhaust emission standards. Engines meeting these standards have 20% lower emissions than One Star – Low-Emission engines.

<facsimile of the three-star label>

Three Stars – Ultra Low Emission

The three-star label identifies engines that meet the Air Resources Board's Personal Watercraft and Outboard marine engine 2008 exhaust emission standards or the Sterndrive and Inboard marine engine 2003–2008 exhaust emission standards. Engines meeting these standards have 65% lower emissions than One Star – Low Emission engines.

<facsimile of the four-star label>

Four Stars – Super Ultra Low Emission

The four-star label identifies engines that meet the Air Resources Board's Sterndrive and Inboard marine engine 2009 exhaust emission standards. Personal Watercraft and Outboard marine engines may also comply with these standards. Engines meeting these standards have 90% lower emissions than One Star – Low Emission engines.

<White Space for dealer or manufacturer identification or additional information>

Cleaner Watercraft – Get the Facts
1-800-END-SMOG
www.arb.ca.gov

(1) Facsimiles of the four environmental labels, as described in section 2443.2(c)(1), with the appropriate label circled or otherwise identified as being applicable to the spark-ignition marine engine, must be displayed on the nonpermanent label. Each facsimile must have dimensions no less than one inch by four-fifths inch.

(2) For outboard engines greater than 130 horsepower, facsimiles of only the "Low Emission Engine" and "Very Low Emission Engine" labels described in sections 2443.2(c)(1)(B)(i) and (ii) need to be displayed on the nonpermanent label until the earlier of:

(A) the 2004 model year; or

(B) the first model year after the date the ARB certifies the first outboard engine family greater than 130 horsepower to the 2008 model year standards.

(3) For personal watercraft, facsimiles of only the "Low Emission Engine" and "Very Low Emission Engine" labels described in sections 2443.2(c)(1)(B)(i) and (ii) need to be displayed on the nonpermanent label until the earlier of:

(A) the 2004 model year; or

(B) the first model year after the date the ARB certifies the first personal watercraft engine family to the 2008 model year standards.

(4) All textual information (i.e., characters and/or lettering) required by this section must be no smaller than two (2) millimeters in height.

(c) The information required by paragraph (b) must also be provided in the owner's manual and in the engine manufacturer's application for certification.

(d) Samples of all labels produced pursuant to this section must be submitted to the Executive Officer with the applicable certification application.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 7-10-2000; operative 8-9-2000 (Register 2000, No. 28).
2. Amendment filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

§ 2444. In-Use Compliance Testing and Recall Regulations — Model Year 2001 and Later Spark-Ignition Marine Engines.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150–43154, 43205.5 and 43210–43212, Health and Safety Code.

HISTORY

1. New section filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).
2. Renumbering of former section 2444 to new section 2444.1 filed 7–22–2002; operative 8–21–2002 (Register 2002, No. 30).

§ 2444.1. In-Use Compliance Testing and Recall Regulations — Model Year 2001 and Later Spark-Ignition Marine Engines.

(a) Applicability. This section applies to model year 2001 and later spark-ignition personal watercraft and outboard marine engines, which have been certified to the applicable emission standards pursuant to Health and Safety Code section 43013. Spark-ignition inboard and stern-drive marine engines shall comply with the in-use compliance testing and recall requirements found in Title 13, California Code of Regulations, Sections 2111 through 2140 and 2147.

(b) Manufacturer In-Use Compliance Test Procedures.

(1) For the purposes of this section, the Air Resources Board will accept emission data collected from the in-use testing program implemented by the United States Environmental Protection Agency as specified in Title 40, Code of Federal Regulations, section 91.803 [October 4, 1996], which is incorporated herein by reference.

(2) The Executive Officer, may, upon notice to the engine manufacturer and after review of the engine families identified by the United States Environmental Protection Agency for federal in-use testing, prescribe that a California-specific in-use testing program be conducted pursuant to paragraph (b)(3) at the engine manufacturer's expense if:

(A) The results obtained from the federal in-use test program pursuant to paragraphs (b)(1) of this section are determined not to be representative of engines sold and operated in California; or,

(B) The necessity is supported by other data or information (e.g., California-only engine families).

(3) California In-Use Testing Program.

(A) The Executive Officer shall identify engine families and those configurations within families offered for sale in California that the engine manufacturer must then subject to in-use testing for the specified model year. The number of engine families identified shall not exceed 25 percent of the engine manufacturer's families offered for sale in California. The Executive Officer may allow for reduced testing upon the engine manufacturer's demonstration of consistent compliance with the applicable emission standards.

(B) Number of Engines to be Tested. The number of engines to be tested by an engine manufacturer must be determined by the following method:

(i) A minimum of two (2) engines per family provided that no engine fails any standard. For each failing engine, two (2) more engines must be tested until the total number equals ten.

(ii) For engine families of less than 50 engines (California sales) for the identified model year or for engine manufacturers who make less than or equal to 200 engines (California sales) for that model year, a minimum of one engine per family provided that this engine does not fail any standard. If this engine fails, two (2) more engines shall be tested. For each additional engine failure, the engine manufacturer must continue testing two (2) additional engines until the total number equals eleven.

(iii) If an engine family was certified using carryover emission data and has been previously tested under paragraph (b)(3)(B) without an ordered recall, then only one engine for that family must be tested. If this engine fails any standard, testing must be conducted as outlined in paragraphs (b)(3)(B), as applicable.

(C) At the discretion of the Executive Officer, an engine manufacturer may test more engines than the minimums described in paragraph (b)(3)(B) or may concede failure before testing a total of ten engines.

(D) The Executive Officer will consider failure rates, average emission levels and the existence of any defects among other factors in determining whether to pursue remedial action under this subsection. The Executive Officer may request an ordered recall pursuant to paragraph (e)(2)

(E) The Executive Officer may approve an alternative to engine manufacturer in-use testing where:

(i) engine family production in California is less than or equal to 20 per year; or

(ii) engines cannot be obtained for testing because they are used substantially in watercraft that are not conducive to engine removal such as large watercraft where the engine cannot be removed without dismantling either the engine or the watercraft; or

(iii) other compelling circumstances associated with the structure of the industry and uniqueness of spark-ignition marine engine applications. Such alternatives shall be designed to determine whether the engine family is in compliance in-use.

(F) Collection of In-Use Engines. The engine manufacturer shall procure in-use engines that have been operated between half and three-quarters of the engine's useful life. For purposes of paragraph (b) only, "useful life" means ten (10) years or 350 hours of operation for outboard engines and five (5) years or 350 hours of operation for personal watercraft engines. The engine manufacturer may test engines from more than one model year in a given year. The engine manufacturer shall begin testing within twelve (12) months after receiving notice that the Executive Officer has identified a particular engine family for testing and shall complete testing within twelve months from the start of such testing. Test engines may be procured from sources associated with the engine manufacturer (i.e., manufacturer-established fleet engines, etc.) or from sources not associated with the engine manufacturer (i.e., consumer-owned engines, independently-owned fleet engines, etc.).

(G) Maintenance, Procurement and Testing of In-Use Engines.

(i) A test engine must have a maintenance and use history representative of actual in-use conditions.

a. The engine manufacturer must obtain information from the end users regarding the accumulated usage, maintenance, operating conditions and storage of the test engines.

b. Documents used in the procurement process must be maintained as required by section 30 of the Test Procedures.

(ii) The engine manufacturer may perform minimal "set-to-specification" maintenance on components of a test engine that are not subject to parameter adjustment. Maintenance may include only that which is listed in the owner's manual for engines with the amount of service and age of the acquired test engine. Documentation shall be maintained and retained as required by section 30 of the Test Procedures.

(iii) At least one valid emission test, performed according to the test procedures outlined in Part IV of the Test Procedures is required for each in-use engine.

(iv) The Executive Officer may waive portions or requirements of the test procedures, if any, that are not necessary to determine in-use compliance.

(v) If a selected in-use engine fails to comply with any applicable emission standard, the engine manufacturer must determine the reason for noncompliance. The engine manufacturer must report all such reasons of noncompliance within fifteen days of completion of testing.

(c) Reports and Evaluation

(1) The engine manufacturer must maintain and submit sufficient records to the Executive Officer within three months of completing testing from the in-use program. These records must include, but need not be limited to, the following for each test engine:

(A) Engine family.

(B) Engine model.

- (C) Engine identification (or serial) number.
- (D) Date of manufacture.
- (E) Estimated hours of use.
- (F) Date and time of each test attempt.
- (G) Results (if any) of each test attempt.
- (H) Results of all emission testing.
- (I) Summary of all maintenance and/or adjustments performed.
- (J) Summary of all modifications and/or repairs.
- (K) Determinations of noncompliance and probable causes of failure.
- (L) Description of operating and storage conditions.

(2) If the results of the in-use emission tests indicate that the average emissions of the test engines for any regulated pollutant exceed the applicable emission standards specified in Title 13, California Code of Regulations, section 2442, the entire engine population so represented shall be deemed to exceed the standards. The Executive Officer shall notify the engine manufacturer of the test results and upon receipt of the notification, the engine manufacturer has 45 days to submit a plan to make up all excess emissions resulting from in-use testing non-compliance in accordance with paragraph (c)(3). If excess emissions cannot be made up in accordance with paragraph (c)(3), the engine manufacturer must implement a voluntary recall plan in accordance with the applicable portions of paragraphs (d) and (e). If no excess emissions cannot be made up in accordance with paragraph (c)(3) and the engine manufacturer does not implement a voluntary recall plan, the Executive Officer may prescribe the implementation of an ordered recall pursuant to the applicable portions of paragraph (e)(2).

(3) All excess emissions resulting from in-use noncompliance with the California standard must be made up in the model year following the model year in which the notification of noncompliance is received. In-use noncompliance may not be remedied through implementation of the federal in-use credit program described in Title 40, Code of Federal Regulations, Part 91, Subpart N [October 4, 1996]. As an alternative to recall and with prior approval from the Executive Officer, the engine manufacturer may make up the excess emissions by any one or combination of the following options:

(A) Recertification of the noncompliant engine family to a lower emission level (or higher FEL) that makes up for the noncompliance, while maintaining compliance on a corporate average basis;

(B) Implementation of a running change and/or field fix on the non-compliant engine family;

(C) Implementation of market-based incentives, to be approved by the Executive Officer, to make up the noncompliance; or

(D) Payment of a noncompliance penalty to be determined by the Executive Officer on a per engine basis as provided by Part 5, Division 26 of the Health and Safety Code.

(d) Voluntary Emission Recalls.

(1) When an engine manufacturer initiates a voluntary emission recall campaign, the Executive Officer shall be notified of the recall at least thirty (30) days before owner notification is to begin. The engine manufacturer shall also submit a voluntary recall plan for approval, as described in paragraph (e) below. A voluntary recall plan shall be deemed approved by the Executive Officer within thirty (30) days after receipt of the recall plan unless objected to in the interim.

(2)(A) When any engine manufacturer, based on enforcement test results or any other information provided to or required by the ARB, proposes to initiate a voluntary emission recall program, the engine manufacturer shall submit for approval by the Executive Officer an emission recall plan as described in paragraph (e) below. The plan shall be submitted within 45 days following the receipt of a notification from the ARB that enforcement test results or other information demonstrate an engine noncompliance.

(B) The Executive Officer shall approve the recall plan in writing if it contains the information specified in paragraph (e) where specified and is designed to notify the engine/watercraft owner and correct the non-compliance in an expeditious manner. Notification of engine/watercraft owners and the implementation of recall repairs shall commence no later

than the schedule specified under paragraph (e)(1)(C) and (e)(1)(D), respectively, unless the engine manufacturer can show good cause for the Executive Officer to extend the deadline. If the plan does not contain the provisions of paragraph (e), the Executive Officer shall disapprove the plan in writing and require revisions where deemed necessary. The engine manufacturer may contest such a disapproval by requesting a hearing pursuant to Subchapter 1.25, Title 17, California Code of Regulations. If no request for a hearing is made or the hearing upholds the disapproval, the engine manufacturer shall incorporate all requested revisions to the plan and begin implementation of the recall plan within sixty (60) days of receipt of the disapproval.

(C) The engine manufacturer may also request a public hearing pursuant to the procedures set forth in Subchapter 1.25, Title 17, California Code of Regulations to contest the finding of nonconformity and the need for an ordered recall. If such a hearing occurs and the nonconformity is confirmed therefrom, the engine manufacturer shall submit the recall plan required by paragraph (e)(2) within thirty (30) days after receipt of the Board's decision unless an extension is granted by the Executive Officer.

(e) Voluntary and Ordered Recall Plans.

(1) The recall plan for voluntary and ordered recalls must be submitted to the Executive Officer for review and must contain the following information unless otherwise specified:

(A) A description of each class or category of engines recalled, including the number of engines to be recalled, the model year, and such other information as may be required to identify the engines recalled;

(B) A description of the specific modifications, alterations, repairs, corrections, adjustments or other changes to be made to correct the engines affected by the emission-related defect;

(C) A description of the method by which the engine manufacturer will notify engine/watercraft owners;

(D) A description of the procedure to be followed by engine/watercraft owners to obtain correction of the nonconformity. This may include the date on or after which the engine/watercraft owner can have the nonconformity corrected, the time reasonably necessary to perform the labor to correct the nonconformity and the designation of facilities at which the nonconformity can be remedied;

(E) A description of the class of persons other than dealers and authorized warranty agents of the engine manufacturer who will remedy the defect;

(F) A description of the system by which the engine manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan, including the date by which an adequate supply of parts will be available to initiate the repair campaign, and the method to be used to assure the supply remains both adequate and responsive to engine/watercraft owner demand;

(G) A copy of the letter of notification to be sent to engine/watercraft owners; and

(H) A copy of all necessary instructions to be sent to those persons who are to perform the repair.

(2) For an ordered recall, the recall plan shall include the information required for voluntary recall plans as specified in paragraphs (e)(1). Additionally, it shall include the following:

(A) A plan describing how the maximum feasible capture rate will be achieved for recalls based on either the exceedance of emission standard or on the failure of an emission-related component.

(B) The plan shall also include a schedule for implementing actions to be taken including identified increments of progress towards implementation and deadlines for completion of each increment. If, after good faith efforts, the engine manufacturer cannot reach the maximum feasible capture rate by the applicable deadline, the engine manufacturer must propose mitigation efforts to be approved by the Executive Officer that will offset the emissions of the unrepaired engines.

(3) The engine manufacturer must not condition repair of the noncomplying engine/watercraft on the proper maintenance or use of the engine except for compelling reasons approved by the Executive Officer. The

engine manufacturer, however, is not obligated to repair a component which has been removed or modified.

(4) Record keeping and Reporting Requirements.

(A) The engine manufacturer shall report on the progress of the voluntary or ordered recall program by submitting a report one year from the date owner notification begins and a final report an additional year later. Such reports shall be submitted to the Chief, Mobile Source Operations Division, P.O. Box 8001, 9528 Telstar Avenue, El Monte, CA 91734-8001. For each class of engine subject to the recall program, the yearly report shall contain:

(i) Engine family and emission recall campaign number designated by the engine manufacturer.

(ii) Date engine/watercraft owner notification was begun, and date completed.

(iii) Number of engines involved in the voluntary or ordered recall campaign.

(iv) Number of engines known or estimated to be affected by the nonconformity and an explanation of how this number was determined.

(v) Number of engines inspected pursuant to the voluntary or ordered recall plan.

(vi) Number of inspected engines found to be affected by the nonconformity.

(vii) Number of engines receiving repair under the recall plan and a listing of these engines' engine identification numbers.

(viii) Number of engines determined to be ineligible for recall action due to removed or modified parts.

(ix) A copy of any service bulletins transmitted to dealers or other authorized repair facilities which pertain to the nonconformity to be corrected and that have not previously been reported.

(x) A copy of all communications transmitted to engine/watercraft owners that relate to the nonconformity and that have not previously been submitted.

(B) If the engine manufacturer determines that any of the information submitted pursuant to paragraph (4)(A) above has changed or was incorrect, revised information and an explanation must be submitted. Responses to subsections (4)(A)(v),(vi),(vii),(viii) and (ix) above shall be cumulative totals.

(C) The engine manufacturer shall maintain the names and addresses of engine/watercraft owners:

(i) To whom notification was given;

(ii) Whose engines were repaired or inspected under the recall plan; and

(iii) Whose engines were determined not to qualify for repair due to removed or modified components.

(D) All reports shall be maintained for not less than one year beyond the useful life of the engines and shall be made available to authorized personnel of the ARB upon request.

(f) Penalties. Under an ordered recall, failure of the engine manufacturer to notify the engine/watercraft owners and repair the engines in the manner specified in the recall plan constitutes a violation of Health and Safety Code section 43105 and subjects the engine manufacturer to penalties pursuant to Part 5, Division 26 of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. Renumbering and amendment of former section 2444 to new section 2444.1 filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

§ 2444.2. On-Board Engine Malfunction Detection System Requirements – Model Year 2007 and Later Spark-Ignition Inboard and Sterndrive Marine Engines.

(a)(1) Engines certified under Option 1 of Section 2442(b)(1):

All 2007 and 2008 model year spark-ignition inboard and sterndrive marine engines certified to the 5.0 grams per kilowatt-hour HC+NO_x

standard shall comply with the requirements for subsections (b) through (i) below, except as noted. For all 2009 model year and later spark-ignition inboard and sterndrive marine engines, the requirements in *italics* shall also apply.

(2) Engines certified under Option 2 of Section 2442(b)(1):

All 2008-2009 model year spark-ignition inboard and sterndrive marine engines shall comply with the requirements for subsections (b) through (i) below, except as noted. For all 2010 model year and later spark-ignition inboard and sterndrive marine engines, the requirements in *italics* shall also apply.

This section shall be implemented according to the provisions of the following subsections or by means determined by the Executive Officer to be equivalent in meeting the requirements of this section.

This section shall be implemented according to the provisions of the following subsections or by means determined by the Executive Officer to be equivalent in meeting the requirements of this section.

(b) General requirements.

(1) Spark-ignition sterndrive and inboard marine engines sold as new shall be equipped with an integrated malfunction detection and notification system, hereinafter known as On-board Diagnostics-Marine (OBD-M) system, to identify emission-related malfunctions of the catalyst, fuel system, primary oxygen sensors used for feedback fuel control, secondary oxygen sensors (if equipped) used for catalyst monitoring, computer-sensed comprehensive components, and the on-board computer itself, by means of diagnostic trouble codes stored in non-volatile computer memory. For this section, a computer-sensed comprehensive component is any electronic device that:

(A) provides information to the on-board computer and significantly impacts emissions when malfunctioning; or

(B) is used to enable or disable any other OBD-M monitoring strategy.

(2) The OBD-M system shall not be required to identify engine misfire unless such monitoring is determined necessary by the Executive Officer to preserve or protect the catalyst system. The Executive Officer shall (as part of the in-water testing and development program to be conducted in conjunction with U.S. EPA, the U.S. Coast Guard, the marine industry, and catalyst manufacturers) identify whether, and to what extent, misfire in spark-ignition inboard and sterndrive marine engines may affect catalyst durability and performance. If the Executive Officer determines that engine misfire is a significant factor in reducing the durability and/or performance of marine catalysts, engine manufacturers shall be required to incorporate appropriate misfire detection diagnostics into the OBD-M system. In that case, the provisions in subsection (c)(5) shall be considered sufficient for satisfying the obligation to monitor misfire. Alternate misfire monitoring strategies shall be considered by the Executive Officer and may be implemented in lieu of subsection (c)(5) if demonstrated by the engine manufacturer to provide an equivalent degree of catalyst protection. Otherwise the provisions of that subsection shall be voluntary. In making a determination, the Executive Officer shall consider the cost effectiveness of requiring additional monitoring to address the concerns identified by the test program in addition to the leadtime necessary to modify existing hardware and software, to add misfire detection hardware (e.g., sensors) if necessary, and to develop engine-specific calibrations to accommodate misfire monitoring. Notwithstanding, misfire monitoring shall not be required prior to the 2009 model year, and may be delayed beyond that date pending Executive Officer discretion.

(3) The OBD-M system shall not be required to detect any emissions-related malfunction that prevents the engine from starting. The OBD-M system shall not be required to monitor any emissions-related component or system if the only reliable way to accomplish such monitoring would either significantly impair engine/vessel operability or decrease the safety involved with operating the engine/vessel.

(4) OBD-M systems shall have the capability to activate an audio or visual alert device located on the marine vessel to inform vessel occupants in the event of a malfunction, and to transmit diagnostic information locally via a standardized data link connector.

(5) Spark-ignition sterndrive and inboard marine vessels shall be equipped with an audio alert device and/or visual alert device that is compatible with the activation function of the OBD-M system on the installed engine.

(A) If equipped, the audio alert device shall provide sufficient volume and intensity to be readily perceptible to vessel occupants during normal modes of vessel operation and occupant activity, but shall not exceed applicable maximum noise levels as set by authorized federal or State agencies. Further, the audio alert device shall in no way impede the function of required sound-signaling devices, or other safety-related devices, already present on the vessel. The audio alert device shall sound briefly in the engine-run key position before engine cranking to indicate that the audio alert device is functional.

(B) If equipped, the visual alert device shall provide sufficient activation and be located such that it is readily visible under normal lighting conditions, but shall in no way impede the function of any visual distress-signaling device, fog signal, or navigational light. The visual alert device shall activate in the engine-run key position before engine cranking to indicate that the visual alert device is functional and shall, when activated, display the phrase "Service Required" or an equivalent standardized phrase or symbol to be determined as specified in Subsection (h).

(6) Malfunction thresholds for catalyst, fuel system, oxygen sensor, and computer-sensed comprehensive component diagnostics shall be determined by the engine manufacturer. However, the engine manufacturer must demonstrate that the determination of these thresholds is sufficient for detecting emission-related malfunctions in a timely and meaningful manner subject to Executive Officer approval (see Subsection (f)(2)).

(7) Regarding diagnostic system monitoring and audio/visual alert device activation requirements, engine manufacturers are required to define monitoring conditions that are representative of typical in-use operation, and which will result in the routine execution and completion of all OBD-M diagnostics in-use.

(8) For model years 2007–2008 on engines complying with paragraph (a)(1) of this section, and for model years 2008–2009 on engines complying with paragraph (a)(2) of this section, activation of the audio/visual alert device upon detection of a catalyst, fuel system, or oxygen sensor malfunction shall be optional. However, there are no exemptions from storing diagnostic trouble codes in non-volatile computer memory during these model years for any malfunction. The OBD-M must be capable of fully communicating stored information to a generic scan tool via the standardized data link connector.

(9) Engine manufacturers may employ alternate statistical audio/visual alert device activation and diagnostic trouble code storage protocols to those specified in these requirements, subject to Executive Officer approval, based on comparable timeliness in detecting a malfunction and evaluating system performance.

(10) Should emission control devices/strategies be introduced on the engine in addition to those identified herein as requiring monitoring (e.g., exhaust gas recirculation), the engine manufacturers shall notify the Executive Officer and submit a plan for monitoring the new device/strategy prior to its incorporation into the OBD-M system. This would not apply to low-permeation hoses should they be used to comply with the supplemental emission reduction requirements of Option 2 in Section 2442(b)(1).

(11) Engine manufacturers may request Executive Officer approval to disable any diagnostic strategy at ambient engine starting temperatures below forty (40) degrees Fahrenheit (low ambient temperature conditions may be determined based on intake air or engine coolant temperature at engine starting), and at elevations above six thousand five hundred (6,500) feet above sea level provided the engine manufacturer submits data and/or an engineering evaluation which adequately demonstrate that monitoring would be unreliable when such conditions exist. Notwithstanding, diagnostic system disablement may be requested at other ambient engine starting temperatures if the engine manufacturer adequately

demonstrates with data and/or an engineering evaluation that misdiagnosis would occur due to the impact of such ambient temperatures on the performance of the component itself.

(12) Engine manufacturers may disable individual monitors that can be affected by running out of fuel, provided disablement will not occur when the fuel level is above fifteen percent of the nominal capacity of the fuel tank.

(13) The Executive Officer may grant an extension for compliance with the requirements of this section, with respect to an engine model or engine family, if the engine manufacturer demonstrates that a present electronic control system cannot be modified in time for the 2007 or 2008 model year, as applicable per subsection (a) of this section, because major design changes, not consistent with the engine manufacturer's projected changeover schedule, would be needed to comply with the provisions of the regulation. The period of extension shall not exceed that period of time necessary to enable modification of the electronic control system in accordance with the engine manufacturer's projected changeover schedule, or a period of two years, whichever first occurs. Engine manufacturers requesting an extension shall, no later than six months prior to the applicable model year, submit to the Executive Officer a written request for exemption, setting forth the required demonstration and specifying the period for which the extension is requested.

(14) All engines certified to the 5.0 gram per kilowatt-hour NMHC+NO_x standard, including those engines certified using the corporate averaging provisions in 2442(b), must be equipped with OBD-M for the engine's emission-related components.

(c) Monitoring requirements.

(1) Catalyst monitoring.

(A) Purpose and scope:

(i) The diagnostic system shall monitor the catalyst system on spark-ignited marine engines to ensure that the performance of the catalyst has not been compromised due to engine misfire or other factors that can decrease catalyst durability.

(ii) Manufacturers of spark-ignited lean-burn marine engines may request that the Executive Officer exempt such applications from these catalyst monitoring requirements if it can be demonstrated that a reliable monitoring technology is not available. The Executive Officer shall approve such a request upon determining that all reasonable monitoring technologies have been considered to the extent possible.

(B) Malfunctioning criteria:

(i) The catalyst system shall be considered malfunctioning when the temperature of the measured catalyst(s) exceeds a threshold value, as determined by the engine manufacturer, indicating abnormally high operating temperature; or when the catalyst temperature fails to reach a minimum value, as determined by the engine manufacturer, indicating "light-off" of the catalyst after a manufacturer-specified time interval has elapsed.

(ii) Subject to executive officer approval, alternate malfunction criteria (e.g., correlating oxygen sensor frequencies to catalyst conversion efficiency) may be employed by the engine manufacturer if the alternate criteria are appropriate and would provide for enhanced monitoring capability.

(C) Monitoring conditions:

(i) The engine manufacturer shall define conditions for monitoring the catalyst with the constraints that the check shall:

- a. be conducted at the earliest acceptable opportunity encountered after the beginning of each operating cycle; and
- b. the monitoring system shall operate at least once per in-use operating cycle during which the engine manufacturer-defined monitoring conditions are met.

(D) Malfunctioning notification and diagnostic trouble code storage:

(i) Upon detection of a catalyst malfunction, the audio/visual alert device shall be activated and a diagnostic trouble code stored no later than the end of the next operating cycle during which monitoring occurs provided the malfunction is again present.

(ii) The diagnostic system shall temporarily disable catalyst monitoring when a malfunction exists that could affect the proper evaluation of catalyst efficiency.

(iii) The monitoring method for the catalyst(s) shall be capable of detecting when a catalyst trouble code has been cleared (except diagnostic system self-clearing), but the catalyst has not been replaced (e.g., catalyst overtemperature approaches may not be acceptable).

(2) Fuel system monitoring.

(A) Purpose and scope: The diagnostic system shall monitor the fuel delivery system for its ability to dynamically adjust fuel delivery.

(B) Malfunction criteria: The engine manufacturer shall establish malfunction criteria to monitor the fuel delivery system. If the engine is equipped with fuel trim circuitry, the engine manufacturer shall include as one of the malfunction criteria the condition where the trim circuitry has used up all of the trim adjustment allowed within the engine manufacturer's selected limit(s). Engine manufacturers may compensate the criteria limit(s) appropriately for changes in altitude or for other similar identifiable operating conditions when they occur.

(C) Monitoring conditions: The fuel system shall be monitored continuously for the presence of a malfunction.

(D) Malfunction notification and diagnostic trouble code storage:

(i) For fuel systems with short-term trim only capability, the diagnostic system shall store a diagnostic trouble code after the fuel system has attained the criteria limit for an engine manufacturer-defined time interval sufficient to determine a malfunction. If the malfunction criteria limit and time interval are exceeded, the audio/visual alert device shall be activated and a diagnostic trouble code stored no later than the end of the next operating cycle in which the criteria and interval are again exceeded; unless operating conditions similar to those under which the problem was originally detected (manufacturer-defined conditions) have been encountered without such an exceedance, in which case the initial temporary code and stored conditions may be erased. Furthermore, if similar operating conditions are not encountered during forty (40) operating cycles subsequent to the initial detection of a malfunction, the initial temporary code and stored conditions may be erased.

(ii) For fuel systems with long-term fuel trim capability, upon attaining a long-term based malfunction criteria limit independent of, or in combination with, the short-term trim system status, the audio/visual alert device shall be activated and a diagnostic trouble code stored no later than the end of the next operating cycle if the malfunction is again detected. If the malfunction is not detected during the second operating cycle, the audio/visual alert device shall be activated and a diagnostic trouble code stored no later than the next operating cycle in which the malfunction is again detected; unless operating conditions similar to those under which the problem was originally detected (manufacturer-defined conditions) have been encountered without an indication of a malfunction, in which case the initial temporary code and stored conditions may be erased. Furthermore, if similar operating conditions are not encountered during forty (40) operating cycles subsequent to the initial detection of a malfunction, the initial temporary code and stored conditions may be erased.

(3) Oxygen sensor monitoring.

(A) Purpose and scope:

(i) The diagnostic system shall monitor the output voltage and response rate of all primary (fuel control) oxygen (lambda) sensors for malfunction. It shall also monitor secondary oxygen sensors when used as a monitoring device for proper output voltage and/or response rate. Response rate is the time required for the oxygen sensor to switch from lean-to-rich once it is exposed to a richer than stoichiometric exhaust gas mixture or from rich-to-lean when exposed to a leaner than stoichiometric exhaust gas mixture. As a precaution, measuring oxygen sensor switching frequency may not be an adequate indicator of oxygen sensor response rate, particularly at low speeds.

(ii) Either the lean-to-rich or both the lean-to-rich and rich-to-lean response rates shall be checked. Response rate checks shall evaluate the

portions of the sensor's dynamic signal that are most affected by sensor malfunctions such as aging or poisoning.

Engine manufacturers may observe the voltage envelope of the sensor when cycled at a frequency of 1.5 Hertz or greater, as determined by the engine manufacturer, to evaluate a slow response rate sensor (i.e., a slow sensor cannot achieve maximum and/or minimum voltage as will a good sensor, given a properly chosen switching frequency and fuel step change for the check). With Executive Officer approval, engine manufacturers may use alternative parameters to comply with this requirement such as voltage ranges and fuel-air switching frequencies based on a determination that the modifications will result in an accurate and timely evaluation of the sensor.

(iii) For sensors with different characteristics, the engine manufacturer shall submit data and an engineering evaluation to the Executive Officer for approval based on showing equivalent evaluation of the sensor.

(B) Malfunction criteria:

An oxygen sensor shall be considered malfunctioning when the voltage, response rate, or other criteria, as determined by the engine manufacturer, are exceeded, or when sensor output characteristics are no longer sufficient (e.g., lack of sensor switching) for use as a diagnostic system monitoring device (e.g., for catalyst efficiency monitoring).

(C) Monitoring conditions:

(i) The engine manufacturer shall define conditions for monitoring the oxygen sensor(s) with the constraints that the check shall:

- a. be conducted at the earliest acceptable opportunity encountered after the beginning of each operating cycle; and
- b. operate at least once per in-use operating cycle during which the engine manufacturer-defined monitoring conditions are met.

(ii) For primary oxygen sensors(s) used for fuel control, the response rate and output voltage shall be monitored for malfunction after the engine has commenced closed-loop operation. If the oxygen sensor(s) is used as part of the monitoring strategy for the catalyst, the oxygen sensor(s) diagnostics should be scheduled to execute before the catalyst diagnostics begin.

(D) Malfunction notification and diagnostic trouble code storage: Upon detection of any oxygen sensor malfunction, the diagnostic system shall store a diagnostic trouble code and the audio/visual alert device shall activate no later than the end of the next operating cycle during which monitoring occurs provided the malfunction is again present.

(4) Computer-sensed comprehensive component monitoring.

(A) Purpose and scope: The diagnostic system shall monitor for malfunction any computer-sensed electronic engine components not otherwise described in this subsection that provide input to (directly or indirectly) the on-board computer, and that: 1) can affect emissions during any reasonable in-use operating condition, or 2) are used as part of the diagnostic strategy for any other monitored system or component.

(i) The monitoring system shall have the capability of detecting, *at a minimum, lack of circuit continuity and out of range values to ensure proper operation of the input device. The determination of out of range values shall include logic evaluation of available information to determine if a component is operating within its normal range (e.g., a low throttle position sensor voltage would not be reasonable at a high engine speed with a high mass airflow sensor reading). To the extent feasible, said logic evaluation shall be "two-sided" (i.e., verify a sensor output is not inappropriately high or low).*

(ii) Computer-sensed comprehensive components may include, but are not limited to, the engine speed sensor, crank angle sensor, knock sensor, throttle position sensor, coolant temperature sensor, cam position sensor, and other electronic components such as sensors and fuel injectors.

(iii) *The coolant temperature sensor shall be monitored for achieving a stabilized minimum temperature level that is needed to achieve closed-loop operation within an engine manufacturer-specified time interval after starting the engine. The time interval shall be a function of starting engine coolant temperature and/or a function of intake air temperature.*

Engine manufacturers may suspend or delay the diagnostic if the engine is subjected to conditions which could lead to false diagnosis (e.g., engine operation at idle for more than 50 to 75 percent of the warm-up time).

(B) Malfunction criteria:

Computer-sensed comprehensive components shall be considered malfunctioning when, *at a minimum*, lack of circuit continuity or engine manufacturer-specified out-of-range values occur.

(C) Monitoring conditions:

Computer-sensed components shall be monitored continuously for proper range of values and circuit continuity. *For rationality monitoring (where applicable), engine manufacturers shall define appropriate operating conditions that are representative of typical in-use operation and will result in the routine execution and completion of all diagnostics in-use. Rationality monitoring shall occur at least once per operating cycle during which the engine manufacturer-defined monitoring conditions are met.*

(D) Malfunction notification and diagnostic trouble code storage:

Upon detecting a malfunction, the diagnostic system shall store a diagnostic trouble code and activate the audio/visual alert device no later than the end of the next operating cycle during which monitoring occurs provided the malfunction is again detected.

(5) Misfire monitoring.

The provisions in this subsection shall be considered voluntary unless otherwise determined by the Executive Officer according to subsection (b)(2) above.

(A) Purpose and scope: The diagnostic system shall identify the occurrence of engine misfire that can result in damage to the catalyst system. Identification of the misfiring cylinder is not required, however all patterns of misfire must be identified regardless of whether it occurs in a single or multiple number of cylinders.

(B) Malfunctioning criteria: The diagnostic system shall identify a malfunction when the total number of misfires evaluated in 200 crankshaft-revolution increments for each engine speed and load condition exceeds a percentage (determined by the engine manufacturer to cause damage to the catalyst system) of the total number of firing events in each increment. These threshold percentages shall be provided in the certification documentation. Subject to Executive Officer approval, an interval longer than 200 crankshaft-revolutions may be used. The engine manufacturer shall submit in the certification documentation catalyst temperature data versus percent misfire over the full range of engine speed and load conditions. Alternatively, catalyst temperature data may be submitted for every 500 rpm increment along the Propeller Law curve beginning at engine idle and continuing throughout the "Not to Exceed Zone" for marine propulsion engines with Fixed- and Variable-pitch propellers, as defined in 40 CFR, section 94.106, (July 1, 2001), which is incorporated by reference herein. The data shall be obtained from a representative cross section (from small to large displacements) of an engine manufacturer's production. Up to three such engine evaluations shall be documented per engine manufacturer, though an engine manufacturer may submit more data, if desired. An engineering evaluation shall be provided for establishing malfunction criteria for the remainder of engine families in the engine manufacturer's product line. The Executive Officer shall waive the evaluation requirement each year if, in the judgment of the Executive Officer, technological changes do not affect the previously determined malfunction criteria.

(C) Monitoring conditions:

(i) Monitoring for misfire shall be continuous from engine starting under all steady-state positive torque engine speeds and load conditions.

(ii) As an exception to monitoring misfire during all positive torque operating conditions, engine manufacturers may disable misfire monitoring in the engine operating region bound by the positive torque line (i.e., engine load with the transmission in neutral), and the two following engine operating points:

a. an engine speed of 3,000 rpm with the engine load at the positive torque line; and

b. the redline engine speed (defined in section 2441) with the engine's manifold vacuum at four inches of mercury lower than that at the positive torque line.

Misfire detection systems unable to detect all misfire patterns under all required conditions shall be evaluated for compliance by the Executive Officer based on, but not limited to, the following factors:

- c. the magnitude of the region(s) in which misfire detection is limited,
- d. the degree to which misfire detection is limited in the region(s) (i.e., the probability of detection of misfire events),
- e. the frequency with which said region(s) are expected to be encountered in-use,
- f. the type of misfire patterns for which misfire detection is troublesome, and
- g. demonstration that the monitoring technology employed is not inherently incapable of detecting misfire under required conditions (i.e., compliance can be achieved on other engines).

The evaluation shall be based on the following misfire patterns:

- h. equally spaced misfire occurring on randomly selected cylinders,
- i. single cylinder continuous misfire; and
- j. paired cylinder (cylinders firing at the same crank angle) continuous misfire.

Further, with Executive Officer approval, the engine manufacturer may disable misfire monitoring or employ higher malfunction criteria when misfire cannot be distinguished from other effects (e.g., turbulence causing the propeller to alternately emerge from then re-submerge into the water.) when using the best reasonably available monitoring technology. The engine manufacturer shall present data and/or an engineering evaluation to the Executive Officer to justify the proposed action. Executive Officer approval shall be based on the extent to which monitoring is expected to be disabled in relation to the capabilities of the best available monitoring technologies as applied to other engines. However, any such disablement occurring within the first 5 seconds after engine starting shall not require Executive Officer approval. Additionally, for engines with greater than eight cylinders, the Executive Officer shall waive the requirements of this section provided the engine manufacturer submits data and/or an engineering evaluation which adequately demonstrates that misfire detection throughout the required operating region cannot be achieved when employing proven monitoring technology (i.e., a technology that provides for compliance with these requirements on other engines) and provided misfire is detected to the fullest extent permitted by the technology.

(D) Malfunction notification and diagnostic trouble code storage:

(i) Upon detection of the level of misfire specified in subsection (b)(5)(B) above, the following criteria shall apply for audio/visual alert device activation and diagnostic trouble code storage:

a. A temporary diagnostic trouble code shall be stored no later than after the third exceedance of the specified misfire level when operating in the region bound by modes 2 through 5 of the spark-ignition marine engine test cycle and no later than after the first exceedance of the specified misfire level when operating at any other engine speed and load condition during a single operating cycle. If the level of misfire is exceeded again (a single exceedance) during the following operating cycle, or the next operating cycle in which similar conditions are encountered (manufacturer defined conditions), the audio/visual alert device shall activate, a diagnostic trouble code shall be stored, and the audio/visual alert device shall remain continuously activated, even if the misfire ceases. The initial temporary code and stored conditions may be erased if misfire is not detected during the following operating cycle and similar conditions have been encountered without an exceedance of the specified misfire level. The code and conditions may also be erased if similar operating conditions are not encountered during forty operating cycles subsequent to the initial detection of a malfunction.

b. Notwithstanding, in engines that provide fuel shutoff and default fuel control to prevent over fueling during misfire conditions, the audio/visual alert device need not activate provided that the fuel shutoff and default control shall be activated as soon as misfire is detected. Fuel shutoff

and default fuel control may be deactivated only to permit fueling outside of the misfire range.

(d) Additional audio/visual alert device activation and diagnostic trouble code storage protocol.

(1) Audio/visual alert device activation: For all emission-related components/systems, upon final determination of a malfunction, the OBD-M system shall activate an audio or visual alert device.

(A) If so equipped, visual alert devices shall remain activated continuously whenever a malfunction has been identified by the OBD-M system, and may be deactivated only according to the provisions in paragraph (2) below, or with a scan tool after appropriate repairs have been effected.

(B) If so equipped, audio alert devices may remain activated continuously when a malfunction has been identified by the OBD-M system; however, the Executive Officer shall consider alternative strategies in which the audio alert is activated on a discontinuous, but repetitive, basis. To be acceptable, discontinuous audio alert strategies must convey a sense of urgency to vessel operators regarding the presence of OBD-M malfunctions.

Upon fulfillment of the standardization processes referred to in subsection (g) below, a protocol for audio alert device activation shall be specified authorizing only discontinuous activation. A standardized notification format is necessary to facilitate consumer association of the audio alert pattern with the identification of an OBD-M malfunction independent of manufacturer or platform. OBD-M system designers are encouraged to cooperate fully with each other and the ARB early on in this endeavor to minimize the redesigning of OBD-M audio alert activation algorithms once a standardized protocol has been finalized.

(C) The diagnostic system shall store a diagnostic trouble code whenever the audio/visual alert device is activated. The diagnostic system shall activate the audio/visual alert device and shall store a diagnostic trouble code whenever the engine enters a default or "limp home" mode of operation. The diagnostic system shall activate the audio/visual alert device and shall store a diagnostic trouble code whenever the engine control system fails to enter closed-loop operation (if employed) within an engine manufacturer specified minimum time interval.

(2) Audio/visual alert device deactivation:

(A) *Misfire and Fuel System Malfunctions*: For *misfire* or fuel system malfunctions, the audio/visual alert device may be deactivated if the fault does not recur when monitored during three subsequent sequential operating cycles in which conditions are similar to those under which the malfunction was first determined.

(B) *All Other Malfunctions*: For all other faults, the audio/visual alert device may be deactivated after three subsequent sequential operating cycles during which the monitoring system responsible for activating the audio/visual alert device functions without detecting the malfunction and if no other malfunction has been identified that would independently activate the audio/visual alert device according to the requirements outlined above.

(3) Erasing a diagnostic trouble code: The diagnostic system may erase a diagnostic trouble code if the same fault is not re-registered in at least forty (40) engine warm-up cycles, and the audio/visual alert device is not activated for that diagnostic trouble code.

(e) Tampering protection: Computer-coded engine operating parameters shall not be changeable without the use of specialized tools and procedures (e.g. soldered or potted computer components or sealed (or soldered) computer enclosures). Subject to Executive Officer approval, engine manufacturers may exempt from this requirement those product lines that are unlikely to require protection. Criteria to be evaluated in making an exemption include, but are not limited to, current availability of performance chips, high performance capability of the engine, and sales volume.

(f) Certification documentation: The engine manufacturer shall submit the following documentation for each engine family at the time of certification. With Executive Officer approval, one or more of the documentation requirements specified in this section may be waived or al-

tered if the information required would be redundant or unnecessarily burdensome to generate:

(1) A written description of the functional operation of each monitoring strategy within the diagnostic system.

(2) A table providing the following information for each monitored component or system (either computer-sensed or -controlled) of the emission control system:

(A) corresponding diagnostic trouble code.

(B) monitoring method or procedure for malfunction detection.

(C) primary malfunction detection parameter and its type of output signal.

(D) fault criteria limits used to evaluate output signal of primary parameter.

(E) other monitored secondary parameters and conditions (in engineering units) necessary for malfunction detection.

(F) monitoring time length and frequency of checks.

(G) criteria for activating the audio/visual alert device.

(3) A logic flowchart describing the general method of detecting malfunctions for each monitored emission-related component or system. To the extent possible, abbreviations in SAE J1930 "Electrical/Electronic Systems Diagnostic Terms, Definitions, Abbreviations, and Acronyms," May 1998, shall be used. J1930 is incorporated by reference herein. The information required in the chart under (2) above may instead be included in this flow chart, provided all of the information required in (2) is included.

(4) A listing and block diagram of the input parameters used to calculate or determine calculated load values and the input parameters used to calculate or determine fuel trim values.

(5) Any other information determined by the Executive Officer to be necessary to demonstrate compliance with the requirements of this section.

(g) Confirmatory testing: The ARB may perform confirmatory testing of engine manufacturers' diagnostic systems for compliance with requirements of this section in accordance with malfunction criteria submitted in the engine manufacturer's approved certification documentation. The ARB or its designee may install appropriately deteriorated or malfunctioning components in an otherwise properly functioning test engine (or simulate a deteriorated or malfunctioning component response) in order to test the fuel system, oxygen sensor, catalyst system, and misfire (if applicable) monitors for compliance with the applicable constraints in this section. Diagnostic systems of a representative sample of engines that uniformly fail to meet the requirements of this section may be recalled for correction.

(h) Standardization: The spark-ignition inboard and sterndrive marine industry, in cooperation with ARB, will develop and adhere to standardized specifications for the implementation of OBD-M, including diagnostics trouble code formats, communication, and scan tool protocols.

(i) Implementation schedule.

(1) These OBD-M requirements, unless otherwise specified, shall be implemented beginning with the 2007 model year for engines complying with (a)(1) of this section, and with the 2008 model year for engines complying with (a)(2) of this section.

(2) All engine manufacturers shall meet these OBD-M requirements by the 2009 model year for engines complying with (a)(1) of this section, and the 2010 model year for engines complying with (a)(2) of this section.

(3) The Executive Officer, upon receipt of an application from the engine manufacturer, may certify the engines in question even though said engines may not comply with one or more of the requirements of these subsections. Such certification is contingent upon the extent to which these requirements are satisfied overall on the engine applications in question and a demonstrated good-faith effort to meet these requirements in full by evaluating and considering the best available monitoring technology. Each incident of non-compliance will be recorded as a deficiency.

(A) Engine manufacturers of non-complying systems shall be subject to fines pursuant to section 43016 of the California Health and Safety Code for each deficiency identified subject to the following limitations:

(i) The specified fines shall apply to the third and subsequently identified deficiencies, with the exception that fines shall apply to all monitoring system deficiencies wherein a required monitoring strategy is completely absent from the OBD-M system; and

(ii) Engine manufacturers may not carry over monitoring system deficiencies for more than two model years unless it can be adequately demonstrated that substantial engine hardware modifications and additional lead time beyond two years would be necessary to correct the deficiency, in which case the deficiency may be carried over for three model years.

(B) For the third deficiency and every deficiency thereafter identified in an engine model, the fines shall be in the amount of \$25 per deficiency per engine for non-compliance with any of the monitoring requirements specified in this section. Total fines per engine under this section shall not exceed \$250 per engine and shall be payable to the State Treasurer for deposit in the Air Pollution Control Fund.

NOTE: Authority cited: Sections 39515, 39600, 39601, 43013, 43018, 43104 and 44036.2, Health and Safety Code; Sections 27156 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 39667, 43000, 43004, 43008.6, 43013, 43016, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43204 and 44036.2, Health and Safety Code; Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).
2. Redesignation and amendment of introductory paragraphs as subsections (a)-(a)(2), subsection relettering, amendment of newly designated subsections (b)(2), (b)(5)(B), (b)(8), (b)(10) and (b)(13), new subsection (b)(14) and amendment of newly designated subsections (c)(5) and (h)(1)-(2) filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).

§ 2445.1. Defects Warranty Requirements for Model Year 2001 and Later Spark-Ignition Marine Engines.

(a) Applicability. This section applies to model year 2001 and later spark-ignition personal watercraft and outboard marine engines, and to model year 2003 and later spark-ignition inboard and sterndrive marine engines. The warranty period begins on the date the engine or equipment is delivered to an ultimate purchaser or first placed into service (e.g., a demonstration engine or watercraft).

(b) General Emissions Warranty Coverage. The manufacturer of each spark-ignition marine engine must warrant to the ultimate purchaser and each subsequent purchaser that the engine is:

(1) Designed, built and equipped so as to conform with all applicable regulations adopted by the Air Resources Board pursuant to its authority in Chapters 1 and 2, Part 5, Division 26 of the Health and Safety Code; and

(2) Free from defects in materials and workmanship that cause the failure of a warranted part to be identical in all material respects to that part as described in the engine manufacturer's application for certification.

(c) Warranty Period. In the case of all new, spark-ignition marine engines, the warranty period will be:

(1) For model year 2001 and later spark-ignition personal watercraft and outboard marine engines, a period of 4 years or 250 hours of use, whichever occurs first.

(2) For model year 2003-2005 spark-ignition inboard and sterndrive marine engines, a period of 2 years.

(3) For model year 2006 and later spark-ignition inboard and sterndrive marine engines:

(A) Manufacturers certifying engines according to Option 1 in Section 2442(b)(1) for model years 2006-2008, a period of 2 years.

(B) Manufacturers certifying engines according to Option 2 in Section 2442(b)(1):

1. For model years 2006-2007, a period of 2 years.

2. For model year 2008, a period of 3 years or 480 hours, whichever first occurs.

(C) Model Year 2009 and Later:

1. Engines 373 kilowatts or less, a period of 3 years or 480 hours, whichever first occurs.

2. Engines greater than 373 kilowatts, but less than or equal to 485 kilowatts:

a. A period of 3 years or 480 hours, whichever first occurs, for electronic emission-related components including, but not limited to, sensors (e.g., oxygen sensors, mass air flow sensors, crankshaft position sensors, etc.), solenoids (e.g., fuel injectors, idle control valves, pressure regulators, etc.), ignition components, powertrain control modules, and for the following: catalysts, carburetors, fuel pumps, evaporative components (including low-permeation hoses), exhaust gas recirculation, and other direct emissions devices,

b. A period of 3 years or 150 hours, whichever first occurs, for mechanical emission-related components, including but not limited to, the engine block, crankshaft, camshaft, connecting rods, valves, manifolds, rotating parts, pistons, and turbo/superchargers.

3. Engines greater than 485 kilowatts:

a. A period of 3 years or 480 hours, whichever first occurs, for electronic emission-related components including, but not limited to, sensors (e.g., oxygen sensors, mass air flow sensors, crankshaft position sensors, etc.), solenoids (e.g., fuel injectors, idle control valves, pressure regulators, etc.), ignition components, powertrain control modules, and for the following: catalysts, carburetors, fuel pumps, evaporative components (including low-permeation hoses), exhaust gas recirculation, and other direct emissions devices,

b. A period of 1 year or 50 hours, whichever first occurs, for mechanical emission-related components, including but not limited to, the engine block, crankshaft, camshaft, connecting rods, valves, manifolds, rotating parts, pistons, and turbo/superchargers.

4. Notwithstanding (c)(3)(C)2. and (c)(3)(C)3. above, an engine manufacturer may request an alternate hourly warranty period for specific components in an engine family with rated power greater than 373 kW provided the following:

a. Under no circumstances may the manufacturer request an alternate interval that is less than 50 hours of operation, and the alternate interval must be at least as long as the engine manufacturer's recommended overhaul interval.

b. The manufacturer must submit actual durability test data if engines identical to those in the engine family for which the manufacturer is requesting an alternate warranty period have already been produced and are in use. Otherwise, the manufacturer must submit equivalent data from research engines or similar engine models that are already in production, along with an engineering evaluation relating the results of those data to the engine components for which an alternate interval is being requested.

c. The manufacturer may submit other information if the manufacturer believes it beneficial for demonstrating the appropriateness of the requested alternate interval.

d. The Executive Officer shall review the data provided, as well as any other information known to the executive officer, in determining whether or not the requested hourly interval is representative of the expected useful life of the affected components or of the engine itself. If this determination is affirmed, the Executive Officer shall approve the manufacturer's request for an alternate warranty period.

(d) Subject to the conditions and exclusions of Subsection (g), the warranty on emission-related parts is as follows:

(1) Any warranted part that is not scheduled for replacement as required maintenance in the written instructions required by Subsection (f) must be warranted for the warranty period defined in Subsection (c). If the part fails during the period of warranty coverage, the part must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under warranty must be warranted for the remainder of the period.

(2) Any warranted part that is scheduled only for regular inspection in the written instructions required by Subsection (f) must be warranted for the warranty period defined in Subsection (c). A statement in such written instructions to the effect of "repair and replace as necessary" will not reduce the period of warranty coverage. Any such part repaired or re-

placed under warranty must be warranted for the remaining warranty period.

(3) Any warranted part that is scheduled for replacement as required maintenance in the written instructions required by Subsection (f) must be warranted for the period of time before the first scheduled replacement date for that part. If the part fails before the first scheduled replacement, the part must be repaired or replaced by the engine manufacturer according to Subsection (4) below. Any such part repaired or replaced under warranty must be warranted for the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article must be performed at a warranty station at no charge to the owner.

(5) Notwithstanding the provisions of Subsection (4), warranty services or repairs must be provided at all engine manufacturer distribution centers that are franchised to service the subject engines.

(6) The engine owner must not be charged for diagnostic labor that is directly associated with diagnosis of a defective, emission-related warranted part, provided that such diagnostic work is performed at a warranty station.

(7) The engine manufacturer is liable for damages to other engine components proximately caused by a failure under warranty of any warranted part.

(8) Throughout the engine's warranty period defined in Subsection (c), the engine manufacturer must maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(9) Any replacement part may be used in the performance of any warranty maintenance or repairs and must be provided without charge to the owner. Such use will not reduce the warranty obligations of the engine manufacturer.

(10) Add-on or modified parts, as defined in Section 1900(b)(1) and (b)(10), Title 13, that are not exempted by the Air Resources Board may not be used. The use of any non-exempted add-on or modified parts by the ultimate purchaser will be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer will not be liable under this article to warrant failures of warranted parts caused by the use of a non-exempted add-on or modified part.

(11) The Executive Officer may request and, in such case, the engine manufacturer must provide, any documents that describe that engine manufacturer's warranty procedures or policies.

(e) Each engine manufacturer must provide a copy of the following emission warranty parts list with each new engine, using those portions of the list applicable to the engine.

(1) Fuel Metering System

(A) Carburetor and internal parts (and/or pressure regulator or fuel injection system)

(B) Air/fuel ratio feedback and control system

(C) Cold start enrichment system

(D) Intake valve(s)

(2) Air Induction System

(A) Controlled hot air intake system

(B) Intake manifold

(C) Air Filter

(D) Turbocharger systems

(E) Heat riser valve and assembly

(3) Ignition System

(A) Spark plugs

(B) Magneto or electronic ignition system

(C) Spark advance/retard system

(D) Ignition coil and/or control module

(E) Ignition wires

(4) Lubrication System

(A) Oil pump and internal parts

(B) Oil injector(s)

(C) Oil meter

(5) Positive Crankcase Ventilation (PCV) System

(A) PCV valve

(B) Oil filler cap

(6) Exhaust Gas Recirculation (EGR) System

(A) EGR valve body, and carburetor spacer if applicable

(B) EGR rate feedback and control system

(7) Air Injection System

(A) Air pump or pulse valve

(B) Valves affecting distribution of flow

(C) Distribution manifold

(8) Exhaust System

(9) Catalyst or Thermal Reactor System

(A) Catalytic converter

(B) Thermal reactor

(C) Exhaust manifold

(D) Exhaust valve(s)

(10) Miscellaneous Items Used in Above Systems

(A) Hoses, clamps, fittings, tubing, sealing gaskets or devices, and mounting hardware

(B) Pulleys, belts and idlers

(C) Vacuum, temperature, check, and time sensitive valves and switches

(D) Electronic Controls

(f) Each engine manufacturer must provide with each new engine written instructions for the maintenance and use of the engine by the owner. The instructions must be consistent with this Article. A copy of the instructions for each engine family must be provided to the Executive Officer upon commencement of its production.

(g) Exclusions.

(1) The repair or replacement of any warranted part otherwise eligible for warranty coverage under Subsection (d) may be excluded from such warranty coverage if the engine manufacturer demonstrates that the engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

(2) Engine manufacturers must warrant engines for the yearly warranty period specified in paragraph (c). For Outboard and Personal Watercraft engines, and for inboard/sterndrive engines greater than 485 kilowatts, manufacturers may warrant engines for the hour warranty period if the engines:

(A) are equipped with hour meters; (an ECM-integrated hour meter for inboard/sterndrive engines)

(B) are equipped with devices similar to hour meters that are approved by the Executive Officer; or

(C) are or will be accompanied by other evidence or methods that the Executive Officer determines reliable for determining engine usage in hours.

(3) Except as provided in Subsection (1) above, any adjustment of a component that has a factory installed, and properly operating, adjustment limiting device (such as an idle limiter cap or plug) is eligible for warranty coverage under Subsection (d).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

2. Amendment of subsection (d)(10) filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

3. Amendment of subsections (a) and (c), new subsections (c)(1)-(3) and amendment of subsection (g)(2) filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).

4. Amendment of subsections (c)(2)-(3), new subsections (c)(3)(A)-(c)(3)(C)4.d. and amendment of subsections (g)(2) and (g)(2)(A) filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).

§ 2445.2. Emission Control Warranty Statements.

(a) Each engine manufacturer must provide a verbatim copy of the following statement with each new 2001 model year and later spark-ignition personal watercraft and outboard marine engine and with each new

2003 model year and later spark-ignition inboard and sterndrive marine engine, using those portions of the statement applicable to the engine.

**CALIFORNIA EMISSION CONTROL
WARRANTY STATEMENT
YOUR WARRANTY RIGHTS AND OBLIGATIONS**

The California Air Resources Board (and engine manufacturer's name, optional) is (are) pleased to explain the emission control system warranty on your (model year)(inboard, sterndrive, outboard, or personal watercraft) engine. In California, new (inboard, sterndrive, outboard, or personal watercraft) engines must be designed, built and equipped to meet the State's stringent anti-smog standards. (Engine manufacturer's name) must warrant the emission control system on your (inboard, sterndrive, outboard, or personal watercraft) engine for the periods of time listed below provided there has been no abuse, neglect or improper maintenance of your (inboard, sterndrive, outboard or personal watercraft) engine.

Your emission control system may include parts such as the carburetor or fuel injection system, the ignition system, and catalytic converter. Also included may be hoses, belts, connectors and other emission-related assemblies.

Where a warrantable condition exists, (engine manufacturer's name) will repair your (inboard, sterndrive, outboard or personal watercraft) engine at no cost to you, including diagnosis, parts and labor.

MANUFACTURER'S WARRANTY COVERAGE:

(For spark-ignition personal watercraft and outboard marine engines:) Select emission control parts from model year 2001 and later (outboard or personal watercraft) engines are warranted for 4 years, or for 250 hours of use, whichever occurs first.

(For 2003-2005 spark-ignition inboard and sterndrive marine engines:) Select emission control parts from model year 2003-2005 (inboard or sterndrive) engines are warranted for 2 years.

(For 2006-2008 spark-ignition inboard and sterndrive marine engines certified according to Option 1 in Section 2442(b)(1):)

Select emission control parts from 2006-2008 (inboard or sterndrive) engines are warranted for 2 years.

(For 2006-2007 spark-ignition inboard and sterndrive marine engines certified according to Option 2 in Section 2442(b)(1):)

Select emission control parts from 2006-2007 (inboard or sterndrive) engines are warranted for 2 years.

(For 2008 spark-ignition inboard and sterndrive marine engines certified according to Option 2 in Section 2442(b)(1):)

Select emission control parts from 2008 (inboard or sterndrive) engines are warranted for 3 years or 480 hours, whichever first occurs.

(For 2009 and later spark-ignition inboard and sterndrive marine engines 373 kilowatts and less:)

Select emission control parts from 2009 and later (inboard or sterndrive) engines are warranted for 3 years or 480 hours, whichever first occurs.

(For 2009 and later spark-ignition inboard and sterndrive marine engines greater than 373 kilowatts, but less than or equal to 485 kilowatts:)

Select electronic emission-related control parts from 2009 and later (inboard or sterndrive) engines are warranted for 3 years or 480 hours, whichever first occurs. Select mechanical emission-related components are warranted for 3 years or 150 hours of operation, whichever first occurs.

(For 2009 and later spark-ignition inboard and sterndrive marine engines greater than 485 kilowatts:)

Select electronic emission-related control parts from 2009 and later (inboard or sterndrive) engines are warranted for 3 years or 480 hours, whichever first occurs. Select mechanical emission-related components are warranted for 1 year or 50 hours of operation, whichever first occurs.

However, warranty coverage based on the hourly period is only permitted for engines that are equipped with hour meters as defined in § 2441(a)(13) or their equivalent. If any emission-related part on your engine is defective under warranty, the part will be repaired or replaced by (engine manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

– As the (inboard, sterndrive, outboard or personal watercraft) engine owner, you are responsible for the performance of the required maintenance listed in your owner's manual. (Engine manufacturer's name) recommends that you retain all receipts covering maintenance on your (inboard, sterndrive, outboard or personal watercraft) engine, but (engine manufacturer's name) cannot deny warranty solely for the lack of receipts or your failure to ensure the performance of all scheduled maintenance.

– As the (inboard, sterndrive, outboard or personal watercraft) engine owner, you should however be aware that (engine manufacturer's name) may deny you warranty coverage if your (inboard, sterndrive, outboard or personal watercraft) engine or a part has failed due to abuse, neglect, improper maintenance or unapproved modifications.

– You are responsible for presenting your (inboard, sterndrive, outboard or personal watercraft) engine to a (engine manufacturer's name) distribution center as soon as a problem exists. The warranty repairs will be completed in a reasonable amount of time, not to exceed 30 days.

If you have any questions regarding your warranty rights and responsibilities, you should contact (Insert chosen contact of engine manufacturer) at 1-XXX-XXX-XXXX.

(b) Commencing with the 2001 model year, each engine manufacturer must also provide with each new engine a warranty statement in accordance with section 2445.1, Title 13, California Code of Regulations, that generally describes the obligations and rights of the engine manufacturer and engine owner under this article. Engine manufacturers must also include in the warranty statement a phone number the consumer may use to obtain their nearest franchised service center.

(c) Each engine manufacturer must submit the documents required by Subsections (a) and (b) with the engine manufacturer's application for new engine certification for approval by the Executive Officer. The Executive Officer may reject or require modifications of the documents to the extent the submitted documents do not satisfy the requirements of Subsections (a) and (b). Approval by the Executive Officer of the documents required by Subsections (a) and (b) is a condition of certification. The Executive Officer will approve or disapprove the documents required by Subsections (a) and (b) within ninety (90) days of the date such documents are received from the engine manufacturer. Any disapproval must be accompanied by a statement of reasons therefore. In the event of disapproval, the engine manufacturer may petition the Board to review the decision of the Executive Officer pursuant to Subchapter 1.25 of Title 17, California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).
3. Amendment of subsection (a) filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).
4. Change without regulatory effect amending subsection (a) filed 11-13-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 46).

§ 2446. 2001 and Later Model Year Production-Line Test Procedures and Selective Enforcement Auditing Regulations for Spark-Ignition Marine Engines.

(a) Applicability. This section applies to 2001 and later spark-ignition personal watercraft and outboard marine engines. The allowable meth-

ods of production-line testing are specified in subsections (b) and (c), unless the engine manufacturer can satisfactorily provide an alternate method that shows an equivalent assurance of compliance to that of subsection (b). The engine manufacturer must choose only one method for each model year and submit its method of production-line testing to the Executive Officer for approval no later than 90 days prior to the start of the subject model year production. The 2003 and later spark-ignition inboard and sterndrive marine engines are only subject to the selective enforcement audit requirements specified within subsections (d) and (e) of this section. Inboard and sterndrive engines certified using the provision in Section 2442(b)(2)(F) are exempt from this Section.

(b) 2001 and Later Model Year Quality-Audit Production Line Test Procedures

(1) Engine Sample Selection.

(A) Except as provided in subsection (b)(2), the engine manufacturer must randomly select one percent of the California sales volume of engines from each engine family for quality-audit testing.

(B) The Executive Officer may, upon notice to the engine manufacturer, require the sample rate to be increased to a maximum of ten percent of production (not to exceed 30 additional engines or units of equipment) of the calendar quarterly production of any engine family.

(2) Alternate Quality-Audit Engine Selection Criteria for 2001 and Later Model Years.

(A) An engine manufacturer may use the alternate engine selection method outlined in this Subsection.

(B) Engines or equipment must be randomly selected at a rate of 1.0 percent of engine family production at the beginning of production. When test results of the first 10 engines or units of equipment have been accumulated, an evaluation as indicated below must be made.

(C) Calculate the family mean and standard deviation of HC+NOx. Identify engines or units of equipment that have emission levels greater than three standard deviations above the mean. Eliminate these emission data points and recalculate the mean and standard deviation. Continue the calculation until there are no values greater than three standard deviations above the mean. Count the number of these data points greater than the emission standard (outlier). If the total number of outlier is equal to or less than the allowable number in Table 1 for HC+NOx, the engine family is eligible to continue to a second evaluation, shown in paragraph (D) below. Otherwise, sampling must continue at a rate of 1.0 percent of production for the rest of the month.

(D) If the allowable outlier criterion is met, the family mean standard deviation, and sample size determined for HC + NOx before excluding any outlier, are substituted in the following expression:

$$\frac{(\text{emission standard} - \text{mean}) (N)^{0.5}}{(\text{standard deviation})}$$

(E) If the expression is greater than C in Table 2 below, and the engine manufacturer reasonably estimates that the quarterly engine family production will exceed 5,000 engines or units of equipment, the sampling rate for the remaining portion of the calendar month following the date of selection of the last of the 10 engines or equipment is 10 per month, applied on a prorated basis. If the expression is greater than C in Table 2 below, and the engine manufacturer reasonably estimates that the quarterly engine family production will be 5,000 engines or units of equipment or less, the sampling rate for the remaining portion of the calendar month following the date of selection of the last of the 10 engines or equipment is 5 per month, applied on a prorated basis. If the expression is equal to or less than C in Table 2, the sampling rate continues to be 1.0 percent of production for the remaining portion of the month in which selection of the 10 engines or equipment is completed. The value of C is a function of the coefficient of variation (standard deviation/mean). The coefficient of variation and C must be rounded to the number of decimal places shown in Table 2.

Table 1

Sample Size	Allowable Outlier	Sample Size	Allowable Outlier
1-32	1	430-478	11
33-68	2	479-528	12
69-107	3	529-578	13
108-149	4	579-629	14
150-193	5	630-680	15
194-238	6	681-731	16
239-285	7	732-783	17
286-332	8	784-835	18
333-380	9	836-887	19
381-429	10	888-939	20

Table 2

Coefficient of Variation	C
0.1	0.5
0.2	1.2
0.3	1.8
0.4	2.5
0.5	3.1
0.6	3.8
0.7	4.4
0.8	5.1
0.9	5.7

(F) At the conclusion of each month of quarterly engine family production, the emission test data must be evaluated in order to determine the sampling rate as set forth in Paragraphs C and D above. This evaluation must utilize all test data accumulated in the applicable quarter. The sample rate for the next month of production must be determined as follows: ten (10) engines per month when the engine manufacturer's estimated quantity of quarterly engine family production is greater than 5,000; five (5) engines per month when the engine manufacturer's estimated quantity of quarterly engine family production is equal to or less than 5,000; or, one (1) percent of the quarterly engine family production as determined by the sampling evaluation method set forth in Paragraphs D and E.

(G) For each subsequent quarter, the preceding sample selection method must be followed. The sample rate determination for the first month of each subsequent quarter must be based on the accumulated data from the previous quarter. The sample rate for the succeeding months of the quarter must be determined as previously set forth.

(H) If the start of production does not coincide with the first of a quarter, the sequence for sample rate determination must be followed, but references to remaining calendar months may not be appropriate.

(I) Where an engine manufacturer has sampled engines or equipment at a rate of 5 per month following a reasonable estimate that the quarterly engine family production will be 5,000 engines or units of equipment or less, and subsequently determines, or reasonably should determine based on information available to the engine manufacturer, that the quarterly engine family production will exceed 5,000 engines or units of equipment, the engine manufacturer must increase the sampling rate for the quarter such that the requirements of Paragraph D applicable to families reasonably estimated to exceed a quarterly production of 5,000 engines or units of equipment are satisfied.

(3) Compliance Evaluation.

(A) Each engine manufacturer must review the test results of the first 10 test engines or equipment of each engine family, from each calendar quarter of production or from the start of calendar year production. It must also review the quarter's cumulative test results of each engine family at the end of each month. If 10 or more engines or units of equipment have been tested, the engine manufacturer must notify the Chief of the Mobile Source Operations Division and the Manager of the New Vehicle Audit Section, P.O. Box 8001, 9528 Telstar Avenue, El Monte, CA, 91734-8001, in writing within ten working days whenever an engine family exceeds an emission standard.

(B) At the end of the quarter, all of the data accumulated during the quarter are evaluated, and the compliance of the engine family with the family emission levels or emission standards, whichever is applicable, is determined. If a sample size for a particular production quarter is less than ten engines, the data from that quarter must be combined with all of the data from each successive quarter of the calendar year until data from at least ten engines that have been quality-audit tested are included in the quarterly evaluation. If the sample size for the first quarter's production for a calendar year does not contain at least ten engines, the data available for that quarter are evaluated. However, compliance of the engine family with the family emission levels or emission standards, whichever is applicable, is not determined until subsequent quarterly production data is available that includes evaluations of at least ten engines. If the sample size for the last final quarter's production for a calendar year does not contain at least ten engines, the data from the last final quarter must be combined with all the data from each preceding quarter of the calendar year until the sample size contains at least ten engines.

(C) When the average value of any pollutant that is rounded off to the same number of significant digits as is the standard, in accordance with ASTM E 29-93a, exceeds the applicable family emission level or emission standard, whichever is applicable; or, when the engine manufacturer's submitted data reveal that the production line tests were performed improperly, the engine family may be determined to be in noncompliance. The Executive Officer will follow the manufacturer notification procedures in section (d)(4).

(D) A failed engine is one whose emission test results for a regulated pollutant exceeds the emission standard or FEL, as applicable.

(4) Reports.

(A) Each engine manufacturer shall submit a written report to the ARB within 45 calendar days of the end of each calendar quarter.

(B) The quarterly report shall include the following:

(i) The total production and sample size for each engine family.
(ii) Engine identification numbers and explanation of the identification code.

(iii) The applicable emissions standards or Family Emission Levels for each engine family.

(iv) A description of each test engine or equipment (i.e., date of test, engine family, engine size, engine or equipment identification number, fuel system, dynamometer power absorber setting in horsepower or kilowatts, engine code or calibration number, and test location).

(v) The exhaust emission data for HC+NO_x for each test engine or equipment. The data reported shall provide two significant figures beyond the number of significant figures in the applicable emission standard.

(vi) The retest emissions data, as described in Paragraph (v) above for any engine or unit of equipment failing the initial test, and description of the corrective measures taken, including specific components replaced or adjusted.

(vii) A statistical analysis of the quality-audit test results for each engine family stating:

1. Number of engines or units of equipment tested.
2. Average emissions and standard deviations of the sample for HC+NO_x.

(viii) Every aborted test data and reason for the aborted test.

(ix) The applicable quarterly report shall include the date of the end of the engine manufacturer's model year production for an engine family.

(x) The required information for all engine families in production during the quarter regardless of sample size.

(xi) The start and stop dates of batch-produced engine family production.

(C) Each engine manufacturer shall submit a copy of the report that has been stored (e.g., computer disc), or may be transmitted, in an electronically digitized manner, and in a format that is specified by the Executive Officer. This electronically based submission is in addition to the written submission of the report.

(c) 2001 and Later Model Year Cumulative Sum Production-Line Test Procedures.

(1) Engine Sample Selection.

(A) At the start of each model year, the engine manufacturer will begin to randomly select engines from each engine family with California sales greater than 20 units for production line testing, according to the criteria specified herein.

(i) For newly certified engine families: After two (2) engines are tested, the engine manufacturer will calculate the required sample size for the model year according to the Sample Size Equation in paragraph (c)(1)(B) of this section.

(ii) For carry-over engine families: After one engine is tested, the engine manufacturer must combine the test with the last test result from the previous model year and then calculate the required sample size for the model year according to the Sample Size Equation in paragraph (B) of this section.

(iii) The engines must be representative of the engine manufacturer's California sales. Each engine will be selected from the end of the assembly line. All engine models within the engine family must be included in the sample pool. Each selected engine for quality-audit testing must pass the inspection test, by being equipped with the appropriate emission control systems certified by the ARB. The procedure for randomly selecting engines or units of equipment must be submitted to the Chief, Mobile Source Operations Division, P.O. Box 8001, 9528 Telstar Avenue, El Monte, CA, 91734-8001, before the start of production for the first year of production.

(iv)a. Prior to the beginning of the 2001 model year, if an engine manufacturer cannot provide actual California sales data, it must provide its total production and an estimate of California sales at the end of the model year. The engine manufacturer must also provide supporting material for its estimate.

b. For the 2001 and later model years, engine manufacturers must provide actual California sales, or other information acceptable to the Executive Officer, including, but not limited to, an estimate based on market analysis and federal production or sales.

(B)(i) Engine manufacturers must calculate the required sample size for the model year for each engine family using the Sample Size Equation below. N is calculated from each test result. The number N indicates the number of tests required for the model year for an engine family. N is recalculated after each test. Test results used to calculate the variables in the Sample Size Equation must be final deteriorated test results as specified in paragraph (c)(3)(C).

$$N = \left[\frac{(t_{95} * \sigma)^2}{(x - FEL_{jx})} \right] + 1$$

where:

N = Required sample size for the model year.

t₉₅ = 95% confidence coefficient. It is dependent on the actual number of tests completed, n, as specified in the table in paragraph (c)(1)(B)(ii) of this section. It defines one-tail, 95% confidence intervals.

FEL_{jx} = Family Emission Limit

σ = Actual test sample standard deviation calculated from the following equation:

$$\sigma = \sqrt{\frac{\sum (X_i - x)^2}{n - 1}}$$

where:

X_i = Emission test result for an individual engine

x = Mean of emission test results of the actual sample

n = The actual number of tests completed in an engine family

(ii) Actual Number of Tests (n) and 1-tail Confidence Coefficients (t_{95}) are listed in Table 3 below:

Table 3
Actual Number of Tests (n) and 1-tail Confidence Coefficients (t_{95})

n	t_{95}	n	t_{95}	n	t_{95}
2	6.31	12	1.80	22	1.72
3	2.92	13	1.78	23	1.72
4	2.35	14	1.77	24	1.71
5	2.13	15	1.76	25	1.71
6	2.02	16	1.75	26	1.71
7	1.94	17	1.75	27	1.71
8	1.90	18	1.74	28	1.70
9	1.86	19	1.73	29	1.70
10	1.83	20	1.73	30	1.70
11	1.81	21	1.72	∞	1.645

(iii) An engine manufacturer must distribute the testing of the remaining number of engines needed to meet the required sample size N, evenly throughout the remainder of the model year.

(iv) After each new test, the required sample size, N, is recalculated using updated sample means, sample standard deviations and the appropriate 95% confidence coefficient.

(v) An engine manufacturer must continue testing and updating each engine family's sample size calculations according to paragraphs (c)(1)(B)(i) through (c)(1)(B)(iv) of this section until a decision is made to stop testing as described in paragraph (c)(1)(B)(vi) of this section or a noncompliance decision is made pursuant to paragraph (c)(2)(A)(v) of this section.

(vi) If, at any time throughout the model year, the calculated required sample size, N, for an engine family is less than or equal to the actual sample size, n, and the sample mean, \bar{x} , for each regulated pollutant is less than or equal to the FEL for that pollutant, the engine manufacturer may stop testing that engine family except as required by paragraph (c)(2)(A)(vi).

(vii) If, at any time throughout the model year, the sample mean, \bar{x} , for any regulated pollutant is greater than the FEL, the engine manufacturer must continue testing that engine family at the appropriate maximum sampling rate.

(viii) The maximum required sample size for an engine family (regardless of the required sample size, N, as calculated in paragraph (c)(1)(B)(i) of this section) is thirty (30) tests per model year.

(ix) Engine manufacturers may elect to test additional randomly chosen engines. All additional randomly chosen engines tested in accordance with the testing procedures specified in the Test Procedures must be included in the Sample Size and Cumulative Sum equation calculations as defined in paragraphs (c)(1)(B)(i) and (c)(2)(A)(i) of this section, respectively.

(C) The engine manufacturer must produce and assemble the test engines using its normal production and assembly process for engines to be distributed into commerce.

(D) No quality control, testing, or assembly procedures may be used on any test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and assembly of all other engines of that family, unless the Executive Officer approves the modification.

(2) Calculation of the Cumulative Sum Statistic.

(A) Each engine manufacturer must review the test results obtained in paragraph (c)(1) using the following procedure:

(i) Engine manufacturers must construct the following Cumulative Sum Equation for each regulated pollutant for each engine family. Test results used to calculate the variables in the Cumulative Sum Equation must be final deteriorated test results as defined in paragraph (c)(3)(C).

$$C_i = \max[0 \quad \text{or} \quad (C_{i-1} + X_i - (FEL)_{jx} = F)]$$

where:

C_i = The current Cumulative Sum statistic

C_{i-1} = The previous Cumulative Sum statistic. Prior to any testing, the Cumulative Sum statistic = 0 (i.e., $C_0 = 0$)

X_i = The current emission test result for an individual engine

FEL_{jx} = Family Emission Limit

F = $0.25 \times \sigma$

After each test, C_i is compared to the action limit, H, the quantity that the Cumulative Sum statistic must exceed, in two (2) consecutive tests, before the engine family may be determined to be in noncompliance for purposes of paragraphs (a)(2)(A)(iv) and (a)(2)(A)(v).

H = The Action Limit. It is $5.0 \times \sigma$, and is a function of the standard deviation, σ .

σ = The sample standard deviation and is recalculated after each test.

(ii) After each engine is tested, the Cumulative Sum statistic must be promptly updated according to the Cumulative Sum Equation in paragraph (c)(2)(A)(i) of this section.

(iii) If, at any time during the model year, an engine manufacturer amends the application for certification for an engine family as specified in Part I, section 28 or 29 of the Test Procedures by performing an engine family modification (i.e., a change such as a running change involving a physical modification to an engine, a change in specification or setting, the addition of a new configuration, or the use of a different deterioration factor), all previous sample size and Cumulative Sum statistic calculations for the model year will remain unchanged.

(iv) A failed engine is one whose final deteriorated test results pursuant to paragraph (c)(3)(C), for a regulated pollutant exceeds the FEL for that pollutant.

(v) An engine family may be determined to be in noncompliance if, at any time throughout the model year, the Cumulative Sum statistic, C_i , for a regulated pollutant is greater than the action limit, H, for two (2) consecutive tests.

(vi) The engine manufacturer must perform a minimum of two tests per engine family per quarter, regardless of whether the conditions of paragraph (c)(1)(B)(vi) have been met. The Executive Officer may waive the requirement of this paragraph if the engine manufacturer does not have a failing engine family in the prior two model years of testing.

(vii) All results from previous quarters of the same model year must be included in the on-going Cumulative Sum analysis, provided that the engine family has not failed (e.g., if three engines of a family were tested in the first quarter, the first test of the second quarter would be considered as the fourth test).

(viii) If the Cumulative Sum analysis indicates that an engine family has failed, the engine manufacturer must notify the Chief of the Mobile Source Operations Division, in writing and by telephone, within ten working days. Corrective action will be taken as noted in paragraph (c)(4)(E).

(ix) If an engine manufacturer performs corrective action on a failed engine family and then resumes production, all previous tests will be void, and Cumulative Sum analysis will begin again with the next test.

(B) Within 45 days after the end of the quarter, or when the Cumulative Sum analysis indicates that a decision has been made, the engine manufacturer must provide all the data accumulated during the quarter.

(3) Calculation and Reporting of Test Results.

(A) Initial test results are calculated following the applicable test procedure specified in the Test Procedures.

(B) Final test results are calculated by summing the initial test results derived in paragraph (A) for each test engine and dividing by the number of tests conducted on the engine.

(C) The final deteriorated test results for each test engine are calculated by applying the appropriate deterioration factors, derived in the certification process for the engine family, to the final test results, and rounding in accordance with ASTM E29–93a, incorporated by reference herein, to the same number of decimal places contained in the applicable standard expressed to one additional significant figure.

(D) If, at any time during the model year, the Cumulative Sum statistic exceeds the applicable action limit, H, in two (2) consecutive tests, the engine family may be determined to be in noncompliance and the engine manufacturer must notify the Chief of the Mobile Source Operations Division and the Manager of the New Vehicle Audit Section, P.O. Box 8001, 9528 Telstar Avenue, El Monte, CA, 91734–8001, within ten working days of such exceedance by the Cumulative Sum statistic.

(E) Within 45 calendar days of the end of each quarter, each engine manufacturer must submit to the Executive Officer a report that includes the following information:

(i) The location and description of the engine manufacturer's or other's exhaust emission test facilities that were utilized to conduct testing reported pursuant to this section;

(ii) Total production and sample sizes, N and n, for each engine family;

(iii) The applicable emissions standards for each engine family;

(iv) A description of the process to obtain engines on a random basis;

(v) A description of the test engines or equipment (i.e., date of test, engine family, engine size, engine or equipment identification number, fuel system, dynamometer power absorber setting in horsepower or kilowatts, engine code or calibration number, and test location);

(vi) The date of the end of the engine manufacturer's model year production for each engine family;

(vii) For each test conducted,

a. A description of the test engine, including:

1. Configuration and engine family identification,

2. Year, make, and build date,

3. Engine identification number and explanation of the identification code, and

4. Number of hours of service accumulated on engine prior to testing;

b. Location where service accumulation was conducted and description of accumulation procedure and schedule;

c. Test number, date, test procedure used, initial test results before and after rounding, and final test results for all exhaust emission tests, whether valid or invalid, and the reason for invalidation, if applicable;

d. The exhaust emission data for CO, NO_x and HC for each test engine or watercraft. The data reported must provide two (2) significant figures beyond the number of significant figures in the applicable emission standard.

e. The retest emissions data, as described in paragraph (b)(4)(B)(vi) of this section, for any engine or watercraft failing the initial test, and description of the corrective measures taken, including specific components replaced or adjusted.

f. A complete description of any adjustment, modification, repair, preparation, maintenance, and/or testing that was performed on the test engine, was not reported pursuant to any other part of this article, and will not be performed on all other production engines;

g. A Cumulative Sum analysis, as required in paragraph (c)(2)(A)(i) of this section, of the production line test results for each engine family;

h. Any other information the Executive Officer may request relevant to the determination whether the new engines being manufactured by the engine manufacturer do in fact conform with the regulations with respect to which the Executive Order was issued;

(viii) For each failed engine as defined in paragraph (vii)d., above, a description of the remedy and test results for all retests;

(ix) Every aborted test data and reason for the aborted test;

(x) The start and stop dates of batch-produced engine family production; and

(xi) The required information for all engine families in production during the quarter regardless of sample size.

(F) Each engine manufacturer must submit a copy of the report that has been stored (e.g., computer disc), or may be transmitted, in an electronically digitized manner, and in a format that is specified by the Executive Officer. This electronically based submission is in addition to the written submission of the report.

(d) Test Procedures Applicable to All Production-Line and Selective Enforcement Audit Testing.

(1) Standards and Test Procedures. The emission standards are those specified in Section 2442. The exhaust sampling and analytical procedures are those described in the Test Procedures. An engine is in compliance with the production-line or selective enforcement audit standards and test procedures only when all portions of the production-line or selective enforcement audit test procedures and requirements specified in Part IV of the Test Procedures are fulfilled, except that any adjustable engine parameters must be set to any value or position that is within the range available to the ultimate purchaser.

(2) Air Resources Board (ARB) personnel and mobile laboratories must have access to engine or equipment assembly plants, distribution facilities, and test facilities for the purpose of engine selection, testing, and observation. Scheduling of access must be arranged with the designated engine manufacturer's representative and must not unreasonably disturb normal operations (See section 31 of the Test Procedures).

(3) Engine Preparation and Preconditioning.

(A) No emissions tests may be performed on an engine before the first production-line test or selective enforcement audit test on that engine.

(B) The engine or watercraft must be tested after the engine manufacturer's recommended break-in period. The engine manufacturer must submit to the Executive Officer the schedule for engine break-in and any changes to the schedule with each quarterly report. This schedule must be adhered to for all production-line testing, or as required by the Executive Officer for selective enforcement audit testing, within an engine family and subgroup or engine family and assembly plant as appropriate.

(C) If an engine or watercraft is shipped to a remote facility for production-line or selective enforcement audit testing, and adjustment or repair is necessary because of such shipment, the engine manufacturer must perform the necessary adjustments or repairs only after the initial test of the engine or watercraft. Engine manufacturers must report to the Executive Officer in the quarterly report for all production-line testing, or as required by the Executive Officer for selective enforcement audit testing, all adjustments or repairs performed on engines or watercraft prior to each test. In the event a retest is performed, a request may be made to the Executive Officer, within ten days of the production quarter, for permission to substitute the after-repair test results for the original test results. The Executive Officer will either affirm or deny the request by the engine manufacturer within ten working days from receipt of the request.

(D) If an engine manufacturer determines that the emission test results of an engine or watercraft are invalid, the engine or equipment must be retested. Emission results from all tests must be reported. The engine manufacturer must include a detailed report on the reasons for each invalidated test in the quarterly report for all production-line testing, or as required by the Executive Officer for selective enforcement audit testing.

(4) Manufacturer Notification of Failure.

(A) The Executive Officer will notify the engine manufacturer that the engine manufacturer may be subject to revocation or suspension of the Executive Order authorizing sales and distribution of the noncompliant engines in the State of California of the noncompliant engines in the State of California pursuant to section 43017 of the Health and Safety Code. Prior to revoking or suspending the Executive Order, or seeking to enjoin an engine manufacturer, the Executive Officer will consider all information provided by the engine manufacturer, and other interested parties, including, but not limited to corrective actions applied to the noncompliant engine family.

(B) The Executive Officer will notify the equipment manufacturer that the equipment manufacturer may be subject to revocation or suspension of the Executive Order or penalized pursuant to section 43017 of the

Health and Safety Code. Prior to revoking or suspending the Executive Order, or penalizing an equipment manufacturer, the Executive Officer will consider all information provided by interested parties, including, but not limited to corrective actions applied to the noncompliant engine family.

(5) Suspension and Revocation of Executive Orders.

(A) The Executive Order is automatically suspended with respect to any engine failing pursuant to paragraph (b)(3)(D) or (c)(2)(A)(iv) or whose test results for a regulated pollutant exceed the emission standards effective from the time that testing of that engine is completed.

(B) The Executive Officer may suspend the Executive Order for an engine family that is determined to be in noncompliance pursuant to paragraphs (b)(3)(C) or (c)(2)(A)(v). This suspension will not occur before fifteen (15) days after the engine family is determined to be in noncompliance.

(C) If the results of testing pursuant to these regulations indicate that engines of a particular family produced at one plant of an engine manufacturer do not conform to the regulations with respect to which the Executive Order was issued, the Executive Officer may suspend the Executive Order with respect to that family for engines manufactured by the engine manufacturer at all other plants.

(D) Notwithstanding the fact that engines described in the application for certification may be covered by an Executive Order, the Executive Officer may suspend such Executive Order immediately in whole or in part if the Executive Officer finds any one of the following infractions to be substantial:

(i) The engine manufacturer refuses to comply with any of the requirements of this section.

(ii) The engine manufacturer submits false or incomplete information in any report or information provided to the Executive Officer under this section.

(iii) The engine manufacturer renders inaccurate any test data submitted under this section.

(iv) An ARB enforcement officer is denied the opportunity to conduct activities authorized in this section.

(v) An ARB enforcement officer is unable to conduct activities authorized in paragraph (d)(2) of this section because an engine manufacturer has located its facility in a foreign jurisdiction where local law prohibits those activities.

(E) The Executive Officer will notify the engine manufacturer in writing of any suspension or revocation of an Executive Order in whole or in part. A suspension or revocation is effective upon receipt of the notification or fifteen (15) days from the time an engine family is determined to be in noncompliance pursuant to paragraph (d)(1), except that the Executive Order is immediately suspended with respect to any failed engines as provided for in paragraph (b)(3)(D) or (c)(2)(iv) of this section.

(F) The Executive Officer may revoke an Executive Order for an engine family after the Executive Order has been suspended pursuant to paragraphs (d)(5)(B) or (C) of this section if the proposed remedy for the nonconformity, as reported by the engine manufacturer to the Executive Officer, is one requiring a design change or changes to the engine and/or emission control system as described in the application for certification of the affected engine family.

(G) Once an Executive Order has been suspended for a failed engine, as provided for in paragraph (d)(5)(A) of this section, the engine manufacturer must take the following actions before the Executive Order is reinstated for that failed engine:

(i) Remedy the nonconformity;

(ii) Demonstrate that the engine conforms to its applicable FEL by re-testing the engine in accordance with these regulations; and

(iii) Submit a written report to the Executive Officer, after successful completion of testing on the failed engine, that contains a description of the remedy and test results for each engine in addition to other information that may be required by this part.

(H) Once an Executive Order for a failed engine family has been suspended pursuant to paragraphs (d)(5)(B), (C) or (D) of this section, the

engine manufacturer must take the following actions before the Executive Officer will consider reinstating the Executive Order:

(i) Submit a written report to the Executive Officer that identifies the reason for the noncompliance of the engines, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the engine manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented.

(ii) Demonstrate that the engine family for which the Executive Order has been suspended does in fact comply with the regulations of paragraphs (b) or (c), as applicable, by testing as many engines as needed so that the Cumulative Sum statistic, as calculated in paragraph (c)(2)(A)(i), falls below the action limit, or the average emissions from the Quality-Audit testing as calculated in paragraph (b)(3)(A) remains below the FEL, as applicable. Such testing must comply with the provisions of paragraphs (b) or (c), as applicable. If the engine manufacturer elects to continue testing individual engines after suspension of an Executive Order, the Executive Order is reinstated for any engine actually determined to be in conformance with the emission standards through testing in accordance with the applicable test procedures, provided that the Executive Officer has not revoked the Executive Order pursuant to paragraph (d)(5)(F) of this section.

(I) Once the Executive Order has been revoked for an engine family, if the engine manufacturer wants to introduce into commerce a modified version of that family, the following actions must be taken before the Executive Officer may issue an Executive Order for that modified family:

(i) If the Executive Officer determines that the proposed change(s) in engine design may have an effect on emission performance deterioration, the Executive Officer will notify the engine manufacturer, within five (5) working days after receipt of the report in paragraph (d)(5)(H)(i) of this section, whether subsequent testing under this section will be sufficient to evaluate the proposed change or changes or whether additional testing will be required; and

(ii) After implementing the change or changes intended to remedy the nonconformity, the engine manufacturer must demonstrate that the modified engine family does in fact conform with the regulations of paragraphs (b) or (c), as applicable, by testing as many engines as needed from the modified engine family so that the Cumulative Sum statistic, as calculated in paragraph (c)(2)(A)(i), falls below the action limit, or the average emissions from the Quality-Audit testing as calculated in paragraph (b)(3)(A) remains below the FEL, as applicable. When this requirement is met, the Executive Officer will reissue the Executive Order or issue a new Executive Order, as the case may be, to include that family. The revocation of engine family executive orders issued based on Cumulative Sum testing results remains in effect as long as the Cumulative Sum statistic remains above the action limit.

(J) At any time after the suspension of an Executive Order for a test engine under to paragraph (d)(5)(A) of this section, but not later than fifteen (15) days (or such longer period as may be allowed by the Executive Officer) after notification of the Executive Officer's decision to suspend or revoke an Executive Order in whole or in part pursuant to paragraphs (d)(5)(B), (C) or (F) of this section, an engine manufacturer may request a hearing pursuant to subchapter 1.25, Title 17, California Code of Regulations, as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(K) Any suspension of an Executive Order under paragraph (d)(5)(D) of this section:

(i) must be made only after the engine manufacturer concerned has been offered an opportunity for a hearing pursuant to subchapter 1.25, Title 17, California Code of Regulations, and;

(ii) does not apply to engines no longer in the possession of the engine manufacturer.

(L) After the Executive Officer suspends or revokes an Executive Order pursuant to this section and before the commencement of a hearing, if the engine manufacturer demonstrates to the Executive Officer's satis-

faction that the decision to suspend or revoke the Executive Order was based on erroneous information, the Executive Officer will reinstate the Executive Order.

(M) To permit an engine manufacturer to avoid storing non-test engines while conducting subsequent testing of the noncomplying family, an engine manufacturer may request that the Executive Officer conditionally reinstate the Executive Order for that family. The Executive Officer may reinstate the Executive Order subject to the following condition: the engine manufacturer must commit to recall all engines of that family produced from the time the Executive Order is conditionally reinstated, and must commit to remedy any nonconformity at no expense to the owner.

(e) Selective Enforcement Auditing Regulations.

(1) Test Orders.

(A) A test order addressed to the engine manufacturer is required for any testing under paragraph (e).

(B) The test order is signed by the Executive Officer or his or her designee. The test order must be delivered in person by an ARB enforcement officer or ARB authorized representative to a company representative or sent by registered mail, return receipt requested, to the engine manufacturer's representative who signed the application for certification submitted by the engine manufacturer, pursuant to the requirements of the applicable portions of Title 13, California Code of Regulations, section 2447. Upon receipt of a test order, the engine manufacturer must comply with all of the provisions of this subsection and instructions in the test order.

(C) Information included in test order.

(i) The test order will specify the engine family to be selected for testing, the engine manufacturer's engine assembly plant or associated storage facility or port facility (for imported engines) from which the engines must be selected, the time and location at which engines must be selected, and the procedure by which engines of the specified family must be selected. The test order may specify the configuration to be audited and/or the number of engines to be selected per day. Engine manufacturers are required to select a minimum of four engines per day unless an alternate selection procedure is approved pursuant to paragraph (e)(2)(A), or unless total production of the specified configuration is less than four engines per day. If total production of the specified configuration is less than four engines per day, the engine manufacturer selects the actual number of engines produced per day.

(ii) The test order may include alternate families to be selected for testing at the Executive Officer's discretion in the event that engines of the specified family are not available for testing because those engines are not being manufactured during the specified time or are not being stored at the specified assembly plant, associated storage facilities, or port of entry.

(iii) If the specified family is not being manufactured at a rate of at least two (2) engines per day in the case of engine manufacturers specified in paragraph (e)(4)(G)(i) of this section, or one engine per day in the case of engine manufacturers specified in paragraph (e)(4)(G)(ii) of this section, over the expected duration of the audit, the Executive Officer or her or his designated representative may select engines of the alternate family for testing.

(iv) In addition, the test order may include other directions or information essential to the administration of the required testing.

(D) An engine manufacturer may submit a list of engine families and the corresponding assembly plants, associated storage facilities, or (in the case of imported engines) port facilities from which the engine manufacturer prefers to have engines selected for testing in response to a test order. In order that an engine manufacturer's preferred location be considered for inclusion in a test order for a particular engine family, the list must be submitted prior to issuance of the test order. Notwithstanding the fact that an engine manufacturer has submitted the list, the Executive Officer may order selection at other than a preferred location.

(E) Upon receipt of a test order, an engine manufacturer must proceed in accordance with the provisions of paragraph (e).

(2) Testing by the Executive Officer.

(A) The Executive Officer may require by test order under paragraph (e)(1) that engines of a specified family be selected in a manner consistent with the requirements of paragraph (e)(3) and submitted to the Executive Officer at the place designated for the purpose of conducting emission tests. These tests will be conducted in accordance with paragraph (e)(4) to determine whether engines manufactured by the engine manufacturer conform with the regulations with respect to which the certificate of conformity was issued.

(B) Designating official data.

(i) Whenever the Executive Officer conducts a test on a test engine or the Executive Officer and engine manufacturer each conduct a test on the same test engine, the results of the Executive Officer's test are the official data for that engine.

(ii) Whenever the engine manufacturer conducts all tests on a test engine, the engine manufacturer's test data are accepted as the official data, provided that if the Executive Officer makes a determination based on testing conducted under paragraph (e)(2)(A) of this section that there is a substantial lack of agreement between the engine manufacturer's test results and the Executive Officer's test results, no engine manufacturer's test data from the engine manufacturer's test facility will be accepted for purposes of this subsection.

(C) If testing conducted under paragraph (e)(1) is unacceptable under paragraph (B)(ii) of this subsection, the Executive Officer must:

(i) Notify the engine manufacturer in writing of the Executive Officer's determination that the test facility is inappropriate for conducting the tests required by this subsection and the reasons therefor; and

(ii) Reinstate any engine manufacturer's data upon a showing by the engine manufacturer that the data acquired under paragraph (e)(2) were erroneous and the engine manufacturer's data was correct.

(D) The engine manufacturer may request in writing that the Executive Officer reconsider the determination in paragraph (B)(ii) of this section based on data or information indicating that changes have been made to the test facility and these changes have resolved the reasons for disqualification.

(3) Sample selection.

(A) Engines comprising a test sample will be selected at the location and in the manner specified in the test order. If an engine manufacturer determines that the test engines cannot be selected in the manner specified in the test order, an alternative selection procedure may be employed, provided the engine manufacturer requests approval of the alternative procedure before starting test sample selection, and the Executive Officer approves the procedure.

(B) The engine manufacturer must produce and assemble the test engines of the family selected for testing using its normal production and assembly process for engines to be distributed into commerce. If, between the time the engine manufacturer is notified of a test order and the time the engine manufacturer finishes selecting test engines, the engine manufacturer implements any change(s) in its production or assembly processes, including quality control, which may reasonably be expected to affect the emissions of the engines selected, then the engine manufacturer must, during the audit, inform the Executive Officer of such changes. If the test engines are selected at a location where they do not have their operational and emission control systems installed, the test order will specify the manner and location for selection of components to complete assembly of the engines. The engine manufacturer must assemble these components onto the test engines using normal assembly and quality control procedures as documented by the engine manufacturer.

(C) No quality control, testing, or assembly procedures will be used on the test engine or any portion thereof, including parts and subassemblies, that have not been or will not be used during the production and as-

sembly of all other engines of that family, unless the Executive Officer approves the modification in production or assembly procedures pursuant to paragraph (B) of this subsection.

(D) The test order may specify that an ARB enforcement officer(s) or authorized representative(s), rather than the engine manufacturer, select the test engines according to the method specified in the test order.

(E) The order in which test engines are selected determines the order in which test results are to be used in applying the sampling plan in accordance with paragraph (e)(5).

(F) The engine manufacturer must keep on hand all untested engines, if any, comprising the test sample until a pass or fail decision is reached in accordance with paragraph (e)(5)(E). The engine manufacturer may ship any tested engine which has not failed the requirements as set forth in paragraph (e)(5)(B). However, once the engine manufacturer ships any test engine, it may not conduct retests as provided in paragraph (e)(4)(I).

(4) Test procedures.

(A)(i) For spark-ignition marine engines subject to the provisions of this subsection, the prescribed test procedures are the test procedures as specified in Part IV of the Test Procedures.

(ii) The Executive Officer may, on the basis of a written application by an engine manufacturer, prescribe test procedures other than those specified in paragraph (i) for any spark-ignition marine engine he or she determines is not susceptible to satisfactory testing using the procedures specified in paragraph (i).

(B)(i) The engine manufacturer may not adjust, repair, prepare, or modify the engines selected for testing and may not perform any emission tests on engines selected for testing pursuant to the test order unless this adjustment, repair, preparation, modification, and/or tests are documented in the engine manufacturer's engine assembly and inspection procedures and are actually performed or unless these adjustments and/or tests are required or permitted under this subsection or are approved in advance by the Executive Officer.

(ii) The Executive Officer may adjust or cause to be adjusted any engine parameter that the Executive Officer determines subject to adjustment for certification and Selective Enforcement Audit testing in accordance with Part I, section 18 of the Test Procedures, to any setting within the physically adjustable range of that parameter, as determined by the Executive Officer in accordance with section 18, prior to the performance of any tests. However, if the idle speed parameter is one which the Executive Officer has determined to be subject to adjustment, the Executive Officer may not adjust it to any setting that causes a lower engine idle speed than would have been possible within the physically adjustable range of the idle speed parameter if the engine manufacturer had accumulated 12 hours of service on the engine under paragraph (C) of this section, all other parameters being identically adjusted for the purpose of the comparison. The engine manufacturer may be requested to supply information needed to establish an alternate minimum idle speed. The Executive Officer, in making or specifying these adjustments, may consider the effect of the deviation from the engine manufacturer's recommended setting on emission performance characteristics as well as the likelihood that similar settings will occur on in-use engines. In determining likelihood, the Executive Officer may consider factors such as, but not limited to, the effect of the adjustment on engine performance characteristics and information from similar in-use engines.

(C) Service Accumulation. Before performing exhaust emission testing on a selective enforcement audit test engine, the engine manufacturer may accumulate on each engine a number of hours of service equal to the greater of 12 hours or the number of hours the engine manufacturer accumulated during certification on the emission data engine corresponding to the family specified in the test order.

(i) Service accumulation must be performed in a manner using good engineering judgment to obtain emission results representative of normal production engines. This service accumulation must be consistent with the new engine break-in instructions contained in the applicable owner's manual.

(ii) The engine manufacturer must accumulate service at a minimum rate of 6 hours per engine during each 24-hour period, unless otherwise approved by the Executive Officer.

a. The first 24-hour period for service begins as soon as authorized checks, inspections, and preparations are completed on each engine.

b. The minimum service accumulation rate does not apply on week-ends or holidays.

c. If the engine manufacturer's service or target is less than the minimum rate specified (6 hours per day), then the minimum daily accumulation rate is equal to the engine manufacturer's service target.

(iii) Service accumulation must be completed on a sufficient number of test engines during consecutive 24-hour periods to assure that the number of engines tested per day fulfills the requirements of paragraphs (G)(i) and (G)(ii) below.

(D) The engine manufacturer may not perform any maintenance on test engines after selection for testing, nor may the Executive Officer allow deletion of any engine from the test sequence, unless requested by the engine manufacturer and approved by the Executive Officer before any engine maintenance or deletion.

(E) The engine manufacturer must expeditiously ship test engines from the point of selection to the test facility. If the test facility is not located at or in close proximity to the point of selection, the engine manufacturer must assure that test engines arrive at the test facility within 24 hours of selection. The Executive Officer may approve more time for shipment based upon a request by the engine manufacturer accompanied by a satisfactory justification.

(F) If an engine cannot complete the service accumulation or an emission test because of a malfunction, the engine manufacturer may request that the Executive Officer authorize either the repair of that engine or its deletion from the test sequence.

(G) Whenever an engine manufacturer conducts testing pursuant to a test order issued under this subsection, the engine manufacturer must notify the Executive Officer within one working day of receipt of the test order as to which test facility will be used to comply with the test order. If no test cells are available at a desired facility, the engine manufacturer must provide alternate testing capability satisfactory to the Executive Officer.

(i) An engine manufacturer with projected spark-ignition marine engine sales for the California market for the applicable year of 20 or greater must complete emission testing at a minimum rate of two (2) engines per 24-hour period, including each voided test.

(ii) An engine manufacturer with projected spark-ignition marine engine sales for the California market for the applicable year of less than 20 must complete emission testing at a minimum rate of one engine per 24-hour period, including each voided test.

(iii) The Executive Officer may approve a lower daily rate of emission testing based upon a request by an engine manufacturer accompanied by a satisfactory justification.

(H) The engine manufacturer must perform test engine selection, shipping, preparation, service accumulation, and testing in such a manner as to assure that the audit is performed in an expeditious manner.

(I) Retesting.

(i) The engine manufacturer may retest any engines tested during a Selective Enforcement Audit once a fail decision for the audit has been reached in accordance with paragraph (e)(5)(E).

(ii) The Executive Officer may approve retesting at other times based upon a request by the engine manufacturer accompanied by a satisfactory justification.

(iii) The engine manufacturer may retest each engine a total of three times. The engine manufacturer must test each engine or vehicle the same number of times. The engine manufacturer may accumulate additional service before conducting a retest, subject to the provisions of paragraph (C) of this paragraph (4).

(J) An engine manufacturer must test engines with the test procedure specified in Part IV of the Test Procedures to demonstrate compliance

with the exhaust emission standard (or applicable FEL) for HC+NO_x. If alternate procedures were used in certification pursuant to Part 1, section 20(c) of the Test Procedures, then those alternate procedures must be used.

(5) Compliance with acceptable quality level and passing and failing criteria for selective enforcement audits.

(A) The prescribed acceptable quality level is 40 percent.

(B) A failed engine is one whose final test results for HC+NO_x pursuant to paragraph (b)(3)(D) or (c)(2)(iv), as applicable, exceed the applicable family emission level or whose test results for a regulated pollutant exceed the emission standards.

(C) The engine manufacturer must test engines comprising the test sample until a pass or fail decision is reached for HC+NO_x. A pass decision is reached when the cumulative number of failed engines, as defined in paragraph (B), for HC+NO_x is less than or equal to the pass decision number, as defined in paragraph (D), appropriate to the cumulative number of engines tested. A fail decision is reached when the cumulative number of failed engines for HC+NO_x is greater than or equal to the fail decision number, as defined in paragraph (D), appropriate to the cumulative number of engines tested.

(D) The pass and fail decision numbers associated with the cumulative number of engines tested are determined by using the tables in Appendix A to this subsection (e), "Sampling Plans for Selective Enforcement Auditing of Spark-Ignition Marine Engines," appropriate to the projected sales as made by the engine manufacturer in its report to ARB under paragraph (b)(4) or (c)(3)(A). In the tables in Appendix A to this subsection, sampling plan "stage" refers to the cumulative number of engines tested. Once a pass or fail decision has been made for HC+NO_x, the number of engines with final test results exceeding the emission standard for HC+NO_x shall not be considered any further for the purposes of the audit.

(E) Passing or failing a selective enforcement audit occurs when the decision is made on the last engine required to make a decision under paragraph (C).

(F) The Executive Officer may terminate testing earlier than required in paragraph (C) upon either a manufacturers' or Executive Officer's admission that further testing would not change the pass/fail decision.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section and appendix (tables 1-6) filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment of section heading and section filed 7-22-2002; operative 8-21-2002 (Register 2002, No. 30).
3. Amendment of subsection (a) filed 11-13-2006; operative 12-13-2006 (Register 2006, No. 46).

Appendix to Paragraph (e) of Section 2446—Sampling Plans for Selective Enforcement Auditing of Spark-Ignition Marine Engines

Table 1.—Sampling Plan Code Letter

<i>Annual engine family sales (in California)</i>	<i>Code letter</i>
20-50	AA. ¹
20-99	A.
100-299	B.
300-499	C.
500 or greater	D.

¹An engine manufacturer may use either the sampling plan for code letter "AA" or sampling plan for code letter "A" for Selective Enforcement Audits of engine families with annual sales between 20 and 50 engines. Additionally, the engine manufacturer may switch between these plans during the audit.

Table 2.—Sampling Plan for Code Letter "AA"

[Sample inspection criteria]

<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>	<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>
1	(1)	(2)	11	4	8
2	(1)	(2)	12	4	9
3	0	(2)	13	5	9
4	0	(2)	14	5	10
5	1	5	15	6	10
6	1	6	16	6	10
7	2	6	17	7	10
8	2	7	18	8	10
9	3	7	19	8	10
10	3	8	20	9	10

¹ Test sample passing not permitted at this stage.

² Test sample failure not permitted at this stage.

Table 3.—Sampling Plan for Code Letter "A"

[Sample inspection criteria]

<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>	<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>
1	(1)	(2)	16	6	11
2	(1)	(2)	17	7	12
3	(1)	(2)	18	7	12
4	0	(2)	19	8	13
5	0	(2)	20	8	13
6	1	6	21	9	14
7	1	7	22	10	14
8	2	7	23	10	15
9	2	8	24	11	15
10	3	8	25	11	16
11	3	8	26	12	16
12	4	9	27	12	17
13	5	10	28	13	17
14	5	10	29	14	17
15	6	11	30	16	17

¹ Test sample passing not permitted at this stage.

² Test sample failure not permitted at this stage.

Table 4.—Sampling Plan for Code Letter "B"

[Sample inspection criteria]

<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>	<i>Stage</i>	<i>Pass No.</i>	<i>Fail No.</i>
1	(1)	(2)	21	9	14
2	(1)	(2)	22	9	15
3	(1)	(2)	23	10	15
4	(1)	(2)	24	10	16
5	0	(2)	25	11	16
6	0	6	26	11	17
7	1	7	27	12	17
8	2	7	28	12	18
9	2	8	29	13	18
10	3	9	30	13	19
11	3	9	31	14	19
12	4	10	32	14	20
13	4	10	33	15	20
14	5	11	34	16	21
15	5	11	35	16	21
16	6	12	36	17	22
17	6	12	37	17	22
18	7	13	38	18	22
19	7	13	39	18	22
20	8	14	40	21	22

¹ Test sample passing not permitted at this stage.

² Test sample failure not permitted at this stage.

Table 5.—Sampling Plan for Code Letter “C”

[Sample inspection criteria]					
Stage	Pass No.	Fail No.	Stage	Pass No.	Fail No.
1	(1)	(2)	26	11	17
2	(1)	(2)	27	12	17
3	(1)	(2)	28	12	18
4	(1)	(2)	29	13	18
5	0	(2)	30	13	19
6	0	6	31	14	19
7	1	7	32	14	20
8	2	7	33	15	20
9	2	8	34	16	21
10	3	9	35	16	21
11	3	9	36	17	22
12	4	10	37	17	22
13	4	10	38	18	23
14	5	11	39	18	23
15	5	11	40	19	24
16	6	12	41	19	24
17	6	12	42	20	25
18	7	13	43	20	25
19	7	13	44	21	26
20	8	14	45	21	27
21	8	14	46	22	27
22	9	15	47	22	27
23	10	15	48	23	27
24	10	16	49	23	27
25	11	16	50	26	27

¹ Test sample passing not permitted at this stage.

² Test sample failure not permitted at this stage.

Table 6.—Sampling Plan for Code Letter “D”

[Sample inspection criteria]					
Stage	Pass No.	Fail No.	Stage	Pass No.	Fail No.
1	(1)	(2)	31	14	20
2	(1)	(2)	32	14	20
3	(1)	(2)	33	15	21
4	(1)	(2)	34	15	21
5	0	(2)	35	16	22
6	0	6	36	16	22
7	1	7	37	17	23
8	2	8	38	17	23
9	2	8	39	18	24
10	3	9	40	18	24
11	3	9	41	19	25
12	4	10	42	19	26
13	4	10	43	20	26
14	5	11	44	21	27
15	5	11	45	21	27
16	6	12	46	22	28
17	6	12	47	22	28
18	7	13	48	23	29
19	7	13	49	23	29
20	8	14	50	24	30
21	8	14	51	24	30
22	9	15	52	25	31
23	9	15	53	25	31
24	10	16	54	26	32
25	11	16	55	26	32
26	11	17	56	27	33
27	12	17	57	27	33
28	12	18	58	28	33
29	13	19	59	28	33
30	13	19	60	32	33

¹ Test sample passing not permitted at this stage.

² Test sample failure not permitted at this stage.

§ 2447. California Exhaust Emission Standards and Test Procedures for 2001 Model Year and Later Spark-Ignition Marine Engines.

Test Procedures referred to in this chapter may be obtained from the State Air Resources Board at P.O. Box 8001, 9528 Telstar Avenue, El Monte, California 91734-8001.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43105, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

§ 2448. Sunset Review of the California Regulations for 2001 and Later Model Year Spark-Ignition Marine Engines.

Within five years from the effective date of adoption or date of implementation, whichever comes later, the Air Resources Board, in consultation with the Secretary for Environmental Protection, shall review the provisions of this Article to determine whether they should be retained, revised or repealed.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39600 and 39601, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).

Article 4.8. In-Use Off-Road Diesel-Fueled Fleets

§ 2449. General Requirements for In-Use Off-Road Diesel-Fueled Fleets.

(a) Purpose

The purpose of this regulation is to reduce diesel particulate matter (PM) and criteria pollutant emissions from in-use off-road diesel-fueled vehicles.

(b) Applicability

Except as provided in the paragraphs below, the regulation applies to any person, business, or government agency who owns or operates within California any diesel-fueled or alternative diesel fueled off-road compression ignition vehicle engine with maximum power of 25 horsepower (hp) or greater that is used to provide motive power in a workover rig or to provide motive power in any other motor vehicle that (1) cannot be registered and driven safely on-road or was not designed to be driven on-road, and (2) is not an implement of husbandry or recreational off-highway vehicle. Vehicles that were designed to be driven on-road, have on-road engines, and still meet the original manufacturer's on-road engine emission certification standard are considered on-road and are specifically excluded from this regulation, even if they have been modified so that they cannot be registered and driven safely on-road. Off-road vehicles that were designed for off-road use and have off-road engines are considered off-road and are subject to this regulation, even if they have been modified so that they can be driven safely on-road.

This regulation also applies to any person who sells a vehicle with such an engine within California.

Persons who provide financing in the form of “finance leases,” as defined in California Uniform Commercial Code Section 10103(a)(7), for in-use off-road diesel-fueled vehicles, do not “own” such vehicles for the purposes of this regulation.

Vehicles with engines subject to this regulation are used in construction, mining, rental, government, landscaping, recycling, landfilling, manufacturing, warehousing, ski industry, composting, airport ground support equipment, industrial, and other operations. The regulation does not cover locomotives, commercial marine vessels, marine engines, recreational vehicles, or combat and tactical support equipment. The regulation also does not cover stationary or portable equipment, equipment or vehicles used exclusively in agricultural operations, or equipment already subject to the Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards. Off-road diesel vehicles owned and operated by an individual for personal, non-commercial, and non-governmental purposes are exempt from the provisions of this regulation.

(c) Definitions

(1) “Agricultural operations” means (1) the growing or harvesting of crops from soil (including forest operations) and the raising of plants at wholesale nurseries, but not retail nurseries), or the raising of fowl or ani-

mals for the primary purpose of making a profit, providing a livelihood, or conducting agricultural research or instruction by an educational institution, or (2) agricultural crop preparation services such as packing-houses, cotton gins, nut hullers and processors, dehydrators, and feed and grain mills. Agricultural crop preparation services include only the first processing after harvest, not subsequent processing, canning, or other similar activities. For forest operations, agricultural crop preparation services include milling, peeling, producing particleboard and medium density fiberboard, and producing woody landscape materials.

For purposes of this regulation, a vehicle that is used by its owner for both agricultural and nonagricultural operations is considered to be a vehicle engaged in agricultural operations, only if over half of its annual operating hours are for agricultural operations.

(2) *"Airport ground support equipment"* (GSE) is mobile diesel-fueled off-road compression ignition vehicles used to service and support aircraft operations. GSE vehicles perform a variety of functions, including but not limited to: aircraft maintenance, pushing or towing aircraft, transporting cargo to and from aircraft, loading cargo, and baggage handling. GSE vehicles include equipment types such as baggage tugs, belt loaders, and cargo loaders.

(3) *"Alternative diesel fuel"* means any fuel used in a compression ignition engine that is not a reformulated diesel fuel as defined in sections 2281 and 2282 of title 13, California Code of Regulations (CCR), and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer-Tropsch fuels, and emulsions of water in diesel fuel. A diesel fuel containing a fuel additive will be treated as an alternative diesel fuel unless:

(A) the additive is supplied to the vehicle or engine fuel by an on-board dosing mechanism, or

(B) the additive is directly mixed into the base fuel inside the fuel tank of the vehicle or engine, or

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.

(4) *"Alternative fuel"* means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric vehicles only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. *"Alternative fuel"* also means any of these fuels used in combination with each other or in combination with other non-diesel fuels.

(5) *"Best Available Control Technology"* (BACT) means the exhaust retrofit and accelerated turnover requirements in sections 2449.1(a)(2) and 2449.2(a)(2).

(6) *"Captive Attainment Area Fleet"* means a fleet or an identified subpart of the fleet (fleet portion, consistent with section 2449(d)), in which all of the vehicles in the fleet or fleet portion operate exclusively within the following counties: Alpine, Colusa, Del Norte, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Monterey, Plumas, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, Shasta, Sierra, Siskiyou, Trinity, Tehama, and Yuba. A fleet or identified fleet portion that operates one or more vehicles outside the counties listed above is not a captive attainment area fleet.

(7) *"Carryover retrofit credit"*, as calculated under section 2449.2(a)(2)(A)2., means a way of tracking retrofits accomplished in excess of those required by the BACT retrofit requirements. Fleets may take credit for such excess retrofits in order to do less retrofitting in later years.

(8) *"Carryover turnover credit"*, as calculated under section 2449.1(a)(2)(A)2., means a way of tracking turnover accomplished in excess of the BACT turnover requirements. Fleets may take credit for such excess turnover to do less turnover in later years.

(9) *"Combat and Tactical Support Equipment"* means equipment that meets military specifications, is owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and is used in combat,

combat support, combat service support, tactical or relief operations or training for such operations.

(10) *"Common ownership or control"* means being owned or managed day to day by the same person, corporation, partnership, or association. Vehicles managed by the same directors, officers, or managers, or by corporations controlled by the same majority stockholders are considered to be under common ownership or control even if their title is held by different business entities.

(11) *"Compression ignition engine"* means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(12) *"Dedicated Snow Removal Vehicle"* means a vehicle that is operated exclusively to remove snow from public roads, private roads, or other paths from which snow must be cleared to allow on-road vehicle access. Dedicated snow removal vehicles must have permanently affixed snow removal equipment such as a snow blower or auger and may include, but are not limited to, motor graders, loaders, and snow blowers.

(13) *"Diesel fuel"* has the same meaning as defined in title 13, CCR, sections 2281 and 2282.

(14) *"Diesel Particulate Filter"* means an emission control strategy that reduces diesel particulate matter emissions by directing all of the exhaust through a filter that physically captures particles but permits gases to flow through. Periodically, the collected particles are either physically removed or oxidized (burned off) in a process called regeneration.

(15) *"Diesel particulate matter"* (diesel PM) means the particles found in the exhaust of diesel-fueled compression ignition engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties. The Air Resources Board (ARB) has identified diesel PM as a toxic air contaminant.

(16) *"Diesel PM Index"* means an indicator of a fleet's overall diesel PM emission rate. The diesel PM Index for a specific fleet is determined by summing the product of the maximum power of each engine times the diesel PM Emission Factor, and dividing by the fleet's total maximum power.

(17) *"Diesel PM Target Rate"* means the fleet average that a specific fleet must meet in a compliance year in order to show compliance with the fleet average requirements. The Diesel PM Target Rate varies depending on a fleet's horsepower distribution. The Diesel PM Target Rate for a specific fleet for each compliance year is determined by summing (adding) the product of the maximum power of each engine times the diesel PM target, and dividing the resulting sum by the fleet's total maximum power.

(18) *"Emergency operation"* means helping alleviate an immediate threat to public health or safety. Examples of emergency operation include repairing or preventing damage to roads, buildings, terrain, and infrastructure as a result of an earthquake, flood, storm, fire, other infrequent act of nature, or terrorism. Routine maintenance or construction to prevent public health risks does not constitute emergency operation.

(19) *"Emission Factor"* means diesel PM or oxides of nitrogen (NOx) emission rate in grams per brake-horsepower hour (g/bhp-hr) as shown in Appendix A, unless the engine is a Post-2007 Flexibility Engine (see definition).

(A) Engines certified to Family Emission Limits and flexibility engines certified before January 1, 2007 must still use the emission factors in Appendix A.

(B) For engines that have been retrofit with VDECS, the PM Emission Factor is reduced 50 percent for a Level 2 VDECS, and 85 percent for a Level 3 VDECS; the NOx Emission Factor is reduced by the percentage NOx emission reductions that are verified, if any. The PM Emission Factor is not reduced for a Level 1 VDECS.

(20) *"Equipment Identification Number"* means a unique identification number assigned by ARB to each vehicle in an owner's fleet subject to this regulation. All reporting and recordkeeping will link vehicle data with this number.

(21) “*Executive Officer*” means the Executive Officer of the ARB or his or her authorized representative.

(22) “*Family Emission Limit*” (FEL) means an emission level that is declared by the manufacturer to serve in lieu of an emission standard for certification purposes and for the averaging, banking, and trading program, as defined in title 13, CCR, section 2423.

(23) “*Fleet*” means all off-road vehicles and engines owned by a person, business, or government agency that are operated within California and are subject to the regulation. A fleet may consist of one or more vehicles. A fleet does not include vehicles that have never operated in California.

(24) “*Fleet Owner*” means, except as qualified below, the person who owns and has possession of the vehicles in the fleet.

“*Rental or Leased Fleets*” — Vehicles that are owned by a rental or leasing company and that are leased by the same lessee for a period of one year or more may be excluded from the rental company fleet and included in the fleet of the lessee only if such arrangement is delineated in the written lease agreement.

Vehicles that are rented or leased for a period of less than one year must be included in the fleet of the rental or leasing company. Off-road vehicles and engines subject to this regulation that are owned by a lessor and leased to a lessee under a “lease” as defined in California Uniform Commercial Code, section 10103(a)(10), for a duration of at least one year, dated prior to the effective date of these regulations, are considered part of the fleet of the lessee rather than the lessor.

(25) “*Fleet Size Category*” — Fleets are classified by size as described below. A fleet must meet large fleet requirements if the total vehicles under common ownership or control would be defined as a large fleet. A fleet must meet medium fleet requirements if the total vehicles under common ownership or control would be defined as a medium fleet. Individual federal or state agencies may report as separate fleets, but all vehicles owned by agencies of the United States or the State of California agencies must meet the large fleet requirements. Low-use vehicles, dedicated snow-removal vehicles, and vehicles used solely for emergency operations need not be included in the total maximum power used to classify fleets by size.

(A) “*Large Fleet*” — A fleet with a total maximum power (as defined below) greater than 5,000 horsepower (hp). A fleet must meet large fleet requirements if the total vehicles under common ownership or control would be defined as a large fleet. All fleets owned by the United States, the State of California, or agencies thereof (i.e., an agency in the judicial, legislative, or executive branch of the federal or state government) will be considered as a unit whole and must meet the large fleet requirements.

(B) “*Medium Fleet*” — A fleet that is not a small or large fleet.

(C) “*Small Fleet*” — A fleet with total maximum power of less than or equal to 2,500 hp that is owned by a business, non-profit organization, or local municipality, or a local municipality fleet in a low population county irrespective of total maximum power, or a non-profit training center irrespective of total maximum power.

(26) “*Forest operations*” means cutting or removal or both of timber, other solid wood products, including Christmas trees, and biomass from forestlands for commercial purposes, together with all the work incidental thereto, including but not limited to, construction and maintenance of roads, fuel breaks, firebreaks, stream crossings, landings, skid trails, beds for falling trees, fire hazard abatement, and site preparation that involves disturbance of soil or burning of vegetation following forest removal activities. Forest operations include the cutting or removal of trees, tops, limbs and or brush which is processed into lumber and other wood products, and or for landscaping materials, or biomass for electrical power generation. Forest operations do not include conversion of forestlands to other land uses such as residential or commercial developments.

(27) “*Highest Level Verified Diesel Emission Control Strategy*” (VDECS) means the highest level VDECS verified by ARB under its *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emission from Diesel Engines (Verification Procedure)*, title 13, CCR, sections 2700–2710, for a specific en-

gine as of 10 months prior to the compliance date, which (1) can be used without impairing the safe operation of the vehicle as demonstrated per section 2449(e)(8), and (2) the diesel emission-control strategy manufacturer and authorized diesel emission-control strategy dealer agree can be used on a specific engine and vehicle combination without jeopardizing the original engine warranty in effect at the time of application.

Plus designations do not matter; that is, a Level 3 Plus is the same diesel PM level as Level 3; and Level 2 Plus is the same diesel PM level as Level 2.

The highest level VDECS is determined solely based on verified diesel PM reductions, not based on verified NOx reductions. All Level 3 diesel PM devices are higher than all Level 2 diesel PM devices. Level 1 devices are never considered highest level VDECS for the purpose of this regulation.

(28) “*Implement of husbandry*” is as defined in California Vehicle Code (Veh.Code) division 16.

(29) “*Local Municipality*” means a city, county, city and county, special district, or other public agency, or two or more public entities acting jointly, or the duly constituted body of an Indian reservation or rancheria. Agencies of the United States of America or the State of California, and departments, divisions, public corporations, or public agencies of this State or of the United States are not considered local municipalities.

(30) “*Low-Population County Local Municipality Fleet*” means a fleet owned by a local municipality (as defined above) that is located in a county as defined in title 13, CCR, section 2022(b)(2) and identified in section 2022(c)(2), Table 2, or, using the criteria set forth in title 13, CCR, section 2022.1(c)(4), a local municipality not located in a low-population county that has requested and has received Executive Officer approval to be treated like a municipality in a low-population county. Fleets owned by such local municipalities shall be treated as small fleets even if their total maximum power exceeds 2,500 horsepower.

(31) “*Low-use vehicle*” means a vehicle that operated in California less than 100 hours during the preceding 12-month period running from March 1 to end of February. For example, when reporting in 2009, the hours of use between March 1, 2008 and February 28, 2009 would be used to determine low-use status. To be considered a low-use vehicle, the fleet owner must submit engine operation data from a functioning non-resettable hour meter.

(A) Vehicles used outside California — Vehicles that operate both inside and outside of California can meet the low-use vehicle definition if they are used less than 100 hours per year in California.

(B) Three-year rolling average — A vehicle operated only in California for the previous three years and owned by the same owner during that period will be considered low-use if it operated on average less than 100 hours per year during that previous three-year period.

(C) Emergency operation hours — Hours used for emergency operations are not counted when determining low-use status.

(32) “*Maximum power*” (Max Hp) means the engine’s net horsepower or net flywheel power certified to Society of Automotive Engineers (SAE) Method J1349 or International Organization for Standardization (ISO) Method 9249. If the engine’s net horsepower or net flywheel power certified to SAE Method J1349 or ISO Method 9249 is not readily available, another net horsepower or net flywheel power from the manufacturer’s sales and service literature or horsepower from the engine label may be used.

(33) “*Model year*” has the same meaning as defined in title 13, CCR, section 2421(a)(37).

(34) “*Motor vehicle*” has the same meaning as defined in Veh. Code section 415.

(35) “*New fleet*” means a fleet that is acquired or that enters California after March 1, 2009. Such fleets may include new businesses or out-of-state businesses that bring vehicles into California for the first time after March 1, 2009.

(36) “*NOx index*” means an indicator of a fleet’s overall NOx emission rate. The NOx Index for a specific fleet is determined by summing the

product of the maximum power of each engine times the NOx Emission Factor, and dividing by the fleet's total maximum power.

(37) "*NOx target rate*" means the NOx fleet average that a specific fleet must meet in a compliance year in order to show compliance with the fleet average requirements. The NOx Target Rate varies depending on a fleet's horsepower distribution. The NOx Target Rate for a specific fleet for each compliance year is determined by summing (adding) the product of the maximum power (Max Hp) of each engine times the NOx target, and dividing the resulting sum by the fleet's total maximum power.

(38) "*Non-Profit Training Center*" means an entity that operates a program for training in the use of off-road vehicles and qualifies as a non profit or not for profit organization under title 26 Internal Revenue Code section 501(a), (c)(3), (c)(5), or (c)(6).

(39) "*Off-highway vehicle*" is defined in Veh. Code division 16.5.

(40) "*Oxides of nitrogen*" (NOx) means compounds of nitric oxide, nitrogen dioxide, and other oxides of nitrogen. Nitrogen oxides are typically created during combustion processes and are major contributors to smog formation and acid deposition.

(41) "*Post-2007 Flexibility Engine*" means an engine certified on or after January 1, 2007 to the implementation flexibility standards in title 13, CCR, section 2423(d). Such flexibility engines are generally labeled as follows by the engine manufacturer:

"THIS ENGINE COMPLIES WITH CALIFORNIA EMISSION REQUIREMENTS UNDER 13, CCR 2423(d). . ." or

"THIS ENGINE CONFORMS TO CALIFORNIA OFF-ROAD COMPRESSION-IGNITION ENGINE REGULATIONS UNDER 13 CCR, 2423(d)."

Post-2007 flexibility engines should use the emission standard to which the engine is certified. For example, a Tier 4 engine flexed back to Tier 2 emission levels should use the Tier 2 PM standard in title 13, CCR, section 2423(b)(1)(A) as the emission factor (converted from grams per kilowatt hour (g/kW-hr) to g/bhp-hr by multiplying by 0.746).

(42) "*Queuing*" means the intermittent starting and stopping of a vehicle while the driver, in the normal course of doing business, is waiting to perform work or a service, and when shutting the vehicle engine off would impede the progress of the queue and is not practicable. Queuing does not include the time a driver may wait motionless in line in anticipation of the start of a workday or opening of a location where work or a service will be performed.

(43) "*Registered and driven safely on-road*" means a vehicle meets the requirements to be registered for on-road operation in Veh. Code division 3, chap. 1, article 1, sections 4000 et seq. (i.e., required to be registered or could be registered), and the requirements to be driven safely on-road in "Equipment of Vehicles" requirements in Veh. Code division 12, chap. 1, sections 24000 et seq. and "Size, Weight, and Load" requirements in Veh. Code division 15, sections 35000 et seq. Having a California Special Construction Equipment plate as defined in California Veh. Code sections 565 and 570 does not constitute registration.

(44) "*Repower*" means to replace the engine in a vehicle with another engine meeting a subsequent engine emissions standard (e.g., replacing a Tier 0 engine with a Tier 2 or later engine).

(45) "*Responsible Official*" means one of the following:

(A) For a corporation: A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation,

(B) For a partnership or sole proprietorship: a general partner or the proprietor, respectively

(C) For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the U.S. EPA).

(46) "*Retire*" means to take an engine out of service and not operate it again in the State of California. To retire an engine, the vehicle with the engine may be moved outside of California, sold, or scrapped.

(47) "*Snow removal operations*" means removing snow from public roads, private roads, or driveways.

(48) "*Specialty vehicle*" means a vehicle for which no used vehicle with a cleaner engine that can serve an equivalent function and perform equivalent work is available.

(49) "*Tier 0 Engine*" means an engine not subject to the requirements in title 13, CCR, section 2423; Title 40, Code of Federal Regulations (CFR), Part 89; or Title 40, CFR, Part 1039.

(50) "*Tier 1 Engine*" means an engine subject to the Tier 1 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 1 Family Emission Limits (FEL) listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).

(51) "*Tier 2 Engine*" means an engine subject to the Tier 2 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 2 FEL listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).

(52) "*Tier 3 Engine*" means an engine subject to the Tier 3 new engine emission standards in title 13, CCR, section 2423(b)(1)(A) and/or Title 40, CFR, Part 89.112(a). This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 3 FEL listed in title 13, CCR, section 2423(b)(2)(A) and/or Title 40, CFR, Part 89.112(d).

(53) "*Tier 4 Final Engine*" means an engine subject to the final after-treatment-based Tier 4 emission standards in title 13, CCR, section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, CCR, section 2423(b)(2)(B) and/or Title 40, CFR, Part 1039.101.

(54) "*Tier 4 Interim Engine*" means an engine subject to the interim Tier 4 emission standards (also known as transitional) in title 13, CCR, section 2423(b)(1)(B) and/or Title 40, CFR, Part 1039.101. This also includes engines certified under the averaging, banking, and trading program with respect to the Tier 4 FEL listed in title 13, CCR, section 2423(b)(2)(B) and/or Title 40, CFR, Part 1039.101.

(55) "*Total maximum power*" means the sum of maximum power for all of a fleet's engines that are subject to this regulation. Low-use vehicles, dedicated snow-removal vehicles, and vehicles used solely for emergency operations need not be included in the sum.

(56) "*Verified Diesel Emission Control Strategy*" (VDECS) means an emissions control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the Verification Procedures. VDECS can be verified to achieve Level 1 diesel PM reductions (25 percent), Level 2 diesel PM reductions (50 percent), or Level 3 diesel PM reductions (85 percent). VDECS may also be verified to achieve NOx reductions. See also definition of Highest Level VDECS.

(57) "*VDECS Failure*" means the condition of not achieving the emissions reductions to which the VDECS is verified. Such condition could be due to inappropriate installation, damage, or deterioration during use. If a Level 3 VDECS is emitting visible smoke, it should be assumed to have failed.

(58) "*Workover rig*" means a mobile self-propelled rig used to perform one or more remedial operations, such as deepening, plugging back, pulling and resetting liners, on a producing oil or gas well to try to restore or increase the well's production.

(d) *Performance Requirements* —

Fleets that are subject to fleet average requirements may include vehicles and systems used in place of diesel vehicles in their fleet average index and target rate calculations as described in subsection (1) below.

Fleets that are subject to fleet average requirements may opt to include hours of operation in the fleet average calculation as described in subsection (2) below. Each fleet must meet the performance requirements in subsections (3) to (10) below. There are differing requirements for large, medium, and small fleets. If various portions of a fleet are under the control of different responsible officials because they are part of different subsidiaries, divisions, or other organizational structures of a company or agency, the fleet portions may comply with the performance requirements separately and be reported separately. However, the total maximum power of the vehicles under common ownership or control determines the fleet size. Fleets owned by low-population county local municipalities are subject to the small fleet requirements, even if their total maximum power exceeds 2,500 horsepower. Section 2449(d)(4) describes requirements for fleets that change in size.

(1) *Vehicles and Systems Used in Place of Diesel Vehicles* — Fleets with electric or alternative fuel vehicles may include such vehicles in their fleet average index and target rate calculations as follows:

(A) Electric and Alternative Fuel Vehicles Purchased on or after January 1, 2007

1. Fleets may include an electric and alternative fuel vehicle purchased on or after January 1, 2007, with a maximum power 25 horsepower or greater (or that replaced a diesel vehicle with maximum power 25 horsepower or greater) in their fleet average if all of the following conditions are met:

a. The owner can demonstrate it serves a function and performs the work equivalent to that of diesel vehicles and is used for a purpose for which diesel vehicles are predominantly used,

b. The electric or alternative fuel vehicle is used predominantly outdoors,

c. The electric or alternative fuel vehicle is not already included in the fleet average emission level requirements for large spark ignition engine fleets in title 13, Section 2775.1; and

d. If the vehicle is an alternative fuel vehicle, the owner must demonstrate that it is certified to a NOx standard less than or equal to the Tier 1 NOx standard for the same horsepower in title 13, CCR, section 2423(b)(1)(A) and is less than or equal to the NOx emissions of a diesel engine of the same model year and horsepower.

2. Fleets may include a diesel vehicle with a maximum power 25 horsepower or greater that has been converted to alternative fuel in their fleet average index and target rate calculations. The Emission Factor for NOx remains the same as the emission factor for the diesel vehicle. The Emission Factor for PM is 0.

3. For the purposes of compliance with sections 2449.1(a)(1) and 2449.2(a)(1), electric vehicles shall be credited as follows:

a. *Max Hp for Electric Vehicles* — For an electric vehicle that replaced a diesel vehicle in the owner's fleet, the maximum power of the diesel vehicle replaced may be used as the electric vehicle's *Max Hp*. For an electric vehicle added to the fleet, the fleet owner may apply to the Executive Officer to use the maximum power of a diesel vehicle that serves the same function and performs equivalent work to that of the electric vehicle. In making his or her determination, the Executive Officer will approve the use of the minimum *Max Hp* of a diesel vehicle that would be required to perform the same functions and equivalent work. If no request to the Executive Officer is received, the electric vehicle's own maximum power rating should be used.

b. *Double Credit for Electric in 2010–2016* — For compliance dates in 2010 through 2016, the *Max Hp* of all electric vehicles purchased on or after January 1, 2007 may be doubled in determining the *Max Hp* that is used in calculating the Diesel PM Index, and as appropriate, NOx Index. An Emission Factor of 0 may be used. The *Max Hp* of each electric vehicle is included but not doubled in the calculation of Diesel PM Target Rate and NOx Target Rate.

c. *Single Credit for Electric in 2017 and Later* — For compliance dates in year 2017 and later, the *Max Hp* of all electric vehicles purchased on or after January 1, 2007 is used in determining the *Max Hp* that is used

in calculating the Diesel PM and NOx Target Rates, Diesel PM Index, and, as appropriate, NOx Index. An *Emission Factor* of 0 may be used.

4. For the purposes of compliance with sections 2449.1(a)(1) and 2449.2(a)(1), each alternative fuel vehicle should use an Emission Factor equal to the emission standard to which its engine is certified in g/bhp-hr. If the alternative fuel vehicle is not certified to a NOx or diesel PM emission standard, the owner may apply to the Executive Officer to use an emission factor. In the application, the owner must demonstrate that the chosen emission factor is appropriate and not exceeded by the alternative fuel vehicle.

(B) Electric and Alternative Fuel Vehicle Purchased Prior to January 1, 2007

1. GSE: Electric airport GSE vehicles with a maximum power of 25 horsepower or greater (or that replaced a diesel vehicle with maximum power 25 horsepower or greater) purchased prior to January 1, 2007, may be partially counted in the fleet average calculations as follows:

a. *Max Hp for Electric Vehicles* — For an electric vehicle that replaced a diesel vehicle in the owner's fleet, the maximum power of the diesel vehicle replaced may be used as the electric vehicle's *Max Hp*. Otherwise, the electric vehicle's own maximum power rating should be used.

b. Include such vehicle's *Max Hp* times 0.2 as the *Max Hp* in calculating Target Rate, Diesel PM Index, and, as appropriate, NOx Index in sections 2449.1(a)(1) and 2449.2(a)(1), along with an *Emission Factor* of 0.

2. Non-GSE:

a. Fleet owners may count a non-GSE electric or alternative fuel vehicle purchased prior to January 1, 2007 in the fleet average calculations if all of the following conditions are met:

i. The owner can demonstrate it serves a function and performs the work equivalent to that of diesel vehicles and is used for a purpose for which diesel vehicles are predominantly used,

ii. the electric or alternative fuel vehicle is used predominantly outdoors,

iii. the vehicle is not already counted toward the fleet average emission level requirements for large spark ignition engine fleets in title 13, CCR, section 2775.1; and

iv. if the vehicle is alternative fuel vehicle with a certified NOx emission level, the certified NOx emission levels are lower than the NOx standard for the same model year and horsepower in section 2423(b)(1) and Title 40, CFR, Part 89.112(a) and Title 40, CFR, Part 1039.101.

b. Include such vehicle's *Max Hp* as the *Max Hp* in the calculating the Target Rate, Diesel PM Index, and, as appropriate, NOx Index in sections 2449.1(a)(1) and 2449.2(a)(1). For an electric vehicle, use an *Emission Factor* of 0. For an alternative fuel vehicle, use an Emission Factor equal to the emission standard to which its engine is certified in g/bhp-hr. If the alternative fuel vehicle is not certified to a NOx or diesel PM emission standard, the owner may apply to the Executive Officer to use an emission factor. In the application, the owner must demonstrate that the chosen emission factor is appropriate and not exceeded by the alternative fuel vehicle.

(C) *Stationary or Portable System Used to Replace Mobile Diesel Vehicle* Fleet owners may apply to the Executive Officer to include electric portable or electric stationary systems that replace mobile diesel vehicles, such as an electric conveyor system used to replace diesel haul trucks at a mine, in the fleet average calculations. The system may be considered in the fleet average calculations by including the maximum power of the diesel vehicles replaced in the calculations of Target Rate, Diesel PM Index, and NOx Index above, along with an *Emission Factor* of 0. In order to count such a system, all the following conditions must be met:

1. The owner must demonstrate that it replaced an off-road diesel fueled vehicle subject to this regulation on or after January 1, 2007, and

2. The system is not already counted toward the fleet average emission level requirements for large spark ignition engine fleets in title 13, CCR, section 2775.1 or for portable diesel engine fleets in title 17, CCR, section 93116.3.

(D) Gasoline-Powered Vehicles Used to Replace Diesel Vehicles — Fleets may include a gasoline-powered vehicle of 25 horsepower or greater that replaces a diesel vehicle on or after January 1, 2007 in their fleet average only if all the following conditions are met:

1. The owner can identify the diesel vehicle that the gasoline-powered vehicle replaced and show that the diesel vehicle was retired from the fleet within 6 months of the date that the gasoline-powered vehicle was added to the fleet.

2. The gasoline-powered vehicle serves the same function as the diesel vehicle that it replaced and is of similar horsepower.

3. The fleet would continue to be in compliance with the fleet average emission level requirements for large spark ignition engine fleets in title 13, CCR, section 2775.1 if the gasoline-powered vehicle that replaces a diesel vehicle were excluded from the large spark ignition average.

4. The owner must demonstrate the gasoline-powered vehicle is certified to a NOx standard less than or equal to the Tier 1 NOx standard for the same horsepower in title 13, CCR, section 2423(b)(1)(A) and less than or equal to the NOx emissions of a diesel engine of the same model year and horsepower.

If qualified, the gasoline-powered vehicle may use the maximum horsepower of the diesel vehicle replaced, a diesel PM emission factor of zero (0), and a NOx emission factor equal to the gasoline-powered vehicle's HC+NOx certified emission standard in g/bhp-hr multiplied by 0.95.

(2) *Hours in Fleet Average Option* — As an alternative to the formulas for calculating NOx index and diesel PM index in sections 2449.1(a)(1) and 2449.2(a)(1), fleet owners may opt to include annual hours of operation for all engines in the fleet on the compliance date in the calculation as follows:

NOx Index = 1.18 times [SUM of (Max Hp for each engine in fleet on compliance date multiplied by NOx Emission Factor for each engine in fleet on compliance date multiplied by Annual Hours of Operation for each engine in fleet on compliance date since the previous year's compliance date)] divided by [SUM of (Max Hp for each engine in fleet on compliance date multiplied by Annual Hours of Operation for each engine in fleet on compliance date since the previous year's compliance date)]

Diesel PM Index = 1.18 times [SUM of (Max Hp for each engine in fleet on compliance date multiplied by PM Emission Factor for each engine in fleet on compliance date multiplied by Annual Hours of Operation for each engine in fleet on compliance date since the previous year's compliance date)] divided by [SUM of (Max Hp for each engine in fleet on compliance date multiplied by Annual Hours of Operation for each engine in fleet on compliance date since the previous year's compliance date)]

Fleets that choose this option must have non-resettable hour meters on each vehicle in the fleet and must include hours in all index calculations for the compliance date.

(3) *Idling* — The idling limits in section 2449(d)(3) shall be effective and enforceable immediately upon this regulation being certified by the Secretary of State. Fleets must meet the following idling limits.

(A) *Idling Limit* — No vehicle or engines subject to this regulation may idle for more than 5 consecutive minutes. Idling of a vehicle that is owned by a rental company is the responsibility of the renter or lessee, and the rental agreement should so indicate. The idling limit does not apply to:

1. idling when queuing,
2. idling to verify that the vehicle is in safe operating condition,
3. idling for testing, servicing, repairing or diagnostic purposes,
4. idling necessary to accomplish work for which the vehicle was designed (such as operating a crane),
5. idling required to bring the machine system to operating temperature, and
6. idling necessary to ensure safe operation of the vehicle.

(B) *Written Idling Policy* — As of March 1, 2009, medium and large fleets must also have a written idling policy that is made available to operators of the vehicles and informs them that idling is limited to 5 consecutive minutes or less.

(C) *Waiver* — A fleet owner may apply to the Executive Officer for a waiver to allow additional idling in excess of 5 consecutive minutes. The Executive Officer shall grant such a request upon finding that the fleet owner has provided sufficient justification that such idling is necessary.

(4) *Changing Fleet Size* —

(A) Small fleets that become medium or large fleets must meet the medium or large fleet requirements, respectively, on the reporting date two years subsequent to the year they became a medium or large fleet. If such fleets become small again, they must keep meeting the medium or large fleet requirements for two years after becoming a small fleet.

(B) Large fleets that become medium fleets may meet either the medium or large fleet requirements on the next reporting date. Large fleets that become small fleets may meet either the small or large fleet requirements on the next reporting date.

(C) Medium fleets that become small fleets may meet either the small or medium fleet requirements on the next reporting date. Medium fleets that become large fleets must meet the large fleet requirements on the reporting date two years subsequent to the year they became a large fleet.

(5) *New Fleets* — New fleets must meet the fleet average requirements in sections 2449.1(a)(1) and 2449.2(a)(1) immediately upon purchasing vehicles subject to the regulation or bringing such vehicles into the State of California for the first time after March 1, 2009. New fleets do not have the option of complying with the BACT requirements in sections 2449.1(a)(2) and 2449.2(a)(2). New fleets must comply with the idling requirements in section 2449(d)(3) immediately upon purchasing vehicles subject to the regulation or upon bringing such vehicles into the State. New fleets must report vehicles subject to the regulation to ARB within 30 days of purchasing or bringing such vehicles into the State, in accordance with the requirements in section 2449(g).

(6) *Fleet Ownership Transferred* — If ownership of an entire fleet that was meeting the BACT requirements in lieu of the fleet average requirements is transferred to a new fleet owner who did not own a fleet before the transfer of ownership, the fleet may continue to meet the BACT requirements. That is, transfer of ownership to a new owner who did not own a fleet before does not automatically require the fleet to begin meeting the fleet average requirements in sections 2449.1(a)(1) and 2449.2(a)(1). Existing fleets may acquire other entire fleets without condition if both fleets were in compliance with the individual fleet requirements. If existing fleets acquire portions of fleets or entire fleets that did not previously comply with the regulation, however, they must meet the requirements for adding vehicles in section 2449(d)(7) when adding the entire fleet.

(7) *Adding Vehicles* — The requirements in (A) to (C) below apply to all fleets, except they do not apply to vehicles owned by a lessor and returned to the lessor fleet at the end of a lease, during which the vehicles were included in the fleet of the lessee. Vehicles returned to a lessor fleet must however be included in the lessor fleet's fleet average demonstration on subsequent compliance dates.

(A) *Beginning March 1, 2009* — Beginning March 1, 2009 a fleet may not add a vehicle with a Tier 0 engine to its fleet.

(B) *Between the First and Final Target Dates* — The following requirements apply between March 1, 2010 and March 1, 2020 for large fleets, between March 1, 2013 and March 1, 2020 for medium fleets, and between March 1, 2015 and March 1, 2025 for small fleets.

1. *Fleets Meeting the Target Rates* — If a fleet met the fleet average target rates in sections 2449.1(a)(1) and 2449.2(a)(2) on the previous compliance date, when it adds a vehicle to its fleet, the fleet must demonstrate that the fleet still meets the fleet average target rates within three months of adding the vehicle. That is, fleets may not add vehicles that cause them to exceed the most recent fleet average target rates. The added

vehicle also must be included in the fleet average demonstration required in sections 2449.1(a) and 2449.2(a) on the next compliance date.

2. **Fleets Not Meeting the Fleet Average Targets** — If a fleet did not meet the fleet average requirements in sections 2449.1(a)(1) and 2449.2(a)(1) on the previous compliance date, the fleet may not add a vehicle to its fleet that would further increase its emissions above the fleet average target rate, as described below.

a. **Large and Medium Fleets** — A large or medium fleet that met the BACT requirements in sections 2449.1(a)(2) and 2449.2(a)(2) instead of the fleet average requirements in sections 2449.1(a)(1) and 2449.2(a)(1) on the most recent compliance date may not add a vehicle to its fleet unless all of the following conditions are met:

i. The engine is Tier 2 or higher. (For the purposes of this requirement, a vehicle may be assumed to meet the new engine emission standard tier in effect for the model year unless the engine is a flexibility engine certified January 1, 2007 or later to the implementation flexibility standards at title 13 CCR, section 2423(d), in which case the emission standard tier to which the engine is certified should be used.)

ii. The vehicle engine's NO_x Emission Factor (after being adjusted for any VDECS) is less than or equal to the NO_x Target in Table 1 for engines in the same horsepower group for the most recent compliance date.

b. **Small Fleets** — A small fleet that met the BACT requirements in section 2449.2(a)(2) instead of the fleet average requirements in section 2449.2(a)(1) on the most recent compliance date may not add a vehicle to its fleet unless the following condition is met:

The vehicle engine is Tier 2 or higher. (For the purposes of this requirement, a vehicle may be assumed to meet the new engine emission standard tier in effect for the model year unless the engine is a flexibility engine certified January 1, 2007 or later to the implementation flexibility standards at title 13 CCR, section 2423(d), in which case the emission standard tier to which the engine is certified should be used.)

(C) **After the Final Target Date** — Commencing respectively on March 1, 2020 for large and medium fleets, and March 1, 2025 for small fleets, no fleet owner may add a vehicle to his fleet, unless the vehicle is equipped with an engine meeting the Tier 3, Tier 4 interim, or Tier 4 final emission standards.

(8) **VDECS Installation** — Before installing a VDECS on a vehicle, the fleet owner must ensure that:

(A) The VDECS is verified for use with the engine and vehicle, as described in the Executive Order for the VDECS.

(B) Use of the vehicle is consistent with the conditions of the Executive Order for the VDECS.

(C) The diesel emission control strategy is installed in a verified configuration.

(D) The engine to be retrofit is tuned up so that it meets engine manufacturer's specifications prior to VDECS installation.

(E) The VDECS label will be visible after installation.

(9) **VDECS Maintenance** — If a fleet owner installs a VDECS to meet the requirements in section 2449.1(a) or 2449.2(a), the VDECS must be kept installed until the VDECS fails or is damaged. Requirements for VDECS failure or damage are in section 2449(e)(1). The owner of a vehicle retrofit with a VDECS must ensure all maintenance on the VDECS and engine is performed as required by the respective manufacturers.

(10) **Compliance After the Final Target Date** —

(A) Commencing respectively on March 1, 2020, if a large or medium fleet does not meet the NO_x fleet average target rate for the final target date in section 2449.1(a)(1), the fleet must continue to meet the BACT turnover requirements in section 2449.1(a)(2)(A) and report annually each year until it does so.

(B) Except as provided below, commencing respectively on March 1, 2021 for large and medium fleets, and March 1, 2026 for small fleets, all vehicles in each fleet must be equipped with the highest level VDECS. The vehicles must be retrofit at the annual retrofit rate required in section 2449.2(a)(2)(A)1. for BACT PM retrofits, and the fleet must report annually until all vehicles have been retrofitted. In meeting the requirements of this paragraph, the fleet owner may not use any previously accrued

carryover PM retrofit credits. The following engines and vehicles are exempt from the requirements of this paragraph:

1. Low-use vehicles,

2. Engines for which there is no highest level VDECS (i.e., for which there is no Level 2 or 3 VDECS, or for which there is a Level 2 or 3 VDECS which cannot be used without impairing the safe operation of the vehicle as demonstrated per section 2449(e)(8)),

3. Engines equipped with an original equipment manufacturer diesel particulate filter that came new with the vehicle,

4. Engines already retrofit with a Level 2 or 3 VDECS that was the highest level VDECS available at time of installation, and

5. Vehicles in large and medium fleets that have not yet met the NO_x fleet average target rate for the final target date in section 2449.1(a)(1).

(e) **Special Provisions/Compliance Extensions**

(1) **VDECS Failure** — In the event of a failure or damage of a VDECS, the following conditions apply:

(A) **Failure or Damage During the Warranty Period.** If a VDECS fails or is damaged within its warranty period and it cannot be repaired, the fleet owner must replace it with the same level VDECS or higher for the vehicle within 90 days of the failure.

(B) **Failure or Damage Outside the Warranty Period.**

1. **Before Final Target Date** — If a VDECS fails or is damaged outside of its warranty period before March 1, 2021 for large and medium fleets, or before March 1, 2026 for small fleets, and cannot be repaired, and if the fleet could not meet an applicable fleet average target for the most recent compliance date without the failed VDECS, the fleet owner must replace the failed or damaged VDECS within 90 days of its failure, with the highest level VDECS available for the engine at time of failure.

2. **After Final Target Date** — If a VDECS fails or is damaged outside of its warranty period on or after March 1, 2021 for large and medium fleets, or on or after March 1, 2026 for small fleets, and cannot be repaired, the fleet owner must replace the failed or damaged VDECS within 90 days of its failure with the highest level VDECS available for the engine at time of failure, regardless of whether the fleet met the applicable fleet average requirement for the most recent compliance date.

(2) **Fuel-based Strategy VDECS** —

(A) If a fleet owner determines that the highest level VDECS for a large percentage of his fleet would be a Level 2 fuel verified as a diesel emission control strategy, and implementation of this VDECS would require installation of a dedicated storage tank, then the fleet owner may request prior approval from the Executive Officer to allow use of the level 2 fuel-based strategy across its fleet.

(B) **Waiver for Discontinuation of Fuel Verified as a Diesel Emission Control Strategy.** If a fleet owner has relied upon a fuel verified as a diesel emission control strategy to meet an applicable fleet average requirement and has to discontinue use of the fuel due to circumstances beyond the fleet owner's control, the fleet owner may apply to the Executive Officer no later than 30 days after discontinuing use of the fuel for a compliance waiver of up to two years to provide it time to return to compliance with the applicable fleet average requirement. The Executive Officer then has 30 days to act upon the request. Fleets that did not meet the applicable fleet average requirement in the most recent compliance year may not apply for this waiver.

(3) **Exemption for Vehicles Used for Emergency Operations** — Vehicles used solely for emergency operations are exempt from the performance requirements in sections 2449(d), 2449.1(a), 2449.2(a) and 2449.3(d) but still must be labeled and reported in accordance with sections 2449(f) and (g). Vehicles used solely for emergency operations need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required horsepower for the BACT turnover and retrofit requirements in sections 2449.1(a)(2) and 2449.2(a)(2).

Owners of vehicles brought into California for emergency operations that last longer than three months must report such entry to ARB and request an equipment identification number within three months of entering the state. Vehicles used solely for emergency operations and that stay

in California for less than three months do not have to be labeled. For vehicles used both for emergency operations and for other purposes, hours of operation accrued when the vehicle is used for emergency operations do not need to be included when determining whether the vehicle meets the low-use vehicle definition.

(4) *Special Provisions for Snow Removal Vehicles* — Dedicated snow removal vehicles are exempt from the performance requirements in sections 2449(d), 2449.1(a), 2449.2(a) and 2449.3(d) but still must be labeled and reported in accordance with sections 2449(f) and (g). Dedicated snow removal vehicles need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required horsepower for the BACT turnover and retrofit requirements in sections 2449.1(a)(2) and 2449.2(a)(2). Publicly owned vehicles used exclusively to support snow removal operations (such as a loader without a special snow removal attachment), but which do not meet the dedicated snow removal vehicle definition, are exempt from the performance requirements in sections 2449(d), 2449.1(a), 2449.2(a) and 2449.3(d) but still must be labeled and reported in accordance with sections 2449(f) and (g).

(5) *Use of Experimental Diesel Emission Control Strategies* — If a fleet owner wishes to use an experimental, or non-verified, diesel emission control strategy, the owner must first obtain approval from the Executive Officer for a compliance extension. To obtain approval, the owner must demonstrate either that (A) a VDECS is not available or not feasible or not safe for their vehicle or application, or (B) that use of the non-verified strategy is needed to generate data to support verification of the strategy. The owner or operator shall keep documentation of this use in records as specified by the Executive Officer. The application must include emissions data and detailed control technology description demonstrating the experimental control achieves at least a Level 2 diesel PM emission reduction. If the application demonstrates that the strategy achieves at least 50 percent reductions in diesel PM, it may be treated like a Level 2 VDECS. If the application demonstrates that the strategy achieves at least 85 percent reductions in diesel PM, it may be treated like a Level 3 VDECS. If the application demonstrates that the strategy achieves a NOx reduction over 15%, the NOx reduction may be counted.

Upon approval by the Executive Officer, each vehicle engine retrofit with the experimental strategy will be allowed to operate for a specified time period necessary to make a determination that the experimental strategy can achieve the projected emissions reductions. The vehicle equipped with the experimental strategy will be considered to be in compliance during the specified time period. A fleet owner who participates in an experimental diesel emission control program approved by the Executive Officer may retain carryover retrofit PM credits or carryover turnover credits actually accumulated during the experiment, regardless of whether the experiment achieved the projected emissions reductions or whether the strategy is eventually verified. If a strategy installed in an experimental diesel emission control program approved by the Executive Officer fails to be verified or is removed, it will no longer count in the fleet's fleet average calculations. The fleet owner must bring the fleet into compliance prior to the expiration of the experimental diesel emission control strategy extension.

(6) *Compliance Extension for Equipment Manufacturer Delays* — A fleet owner who has purchased new equipment (including VDECS) or vehicles in order to comply with this regulation, will be excused from immediate compliance if the new equipment or vehicles have not been received due to manufacturing delays as long as all the conditions below are met:

(A) The equipment or vehicle was purchased, or the fleet owner and seller had entered into contractual agreement for the purchase, at least four months prior to the required compliance date, or — for a VDECS purchased to replace a failed or damaged VDECS — the fleet owner and seller had entered into contractual agreement for the purchase within 60 days of the VDECS failure.

(B) Proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable piece of

equipment, must be maintained by the fleet owner and provided to an agent or employee of ARB upon request.

(C) The new equipment or vehicles are immediately placed into operation upon receipt.

(7) *Exemption for Low-Use Vehicles* — Low-use vehicles are exempt from the performance requirements in sections 2449(d), 2449.1(a), 2449.2(a) and 2449.3(d) but still must be labeled and reported in accordance with sections 2449(f) and (g). Low-use vehicles need not be included when calculating fleet average indices or target rates, when determining fleet size, or when calculating the required horsepower for the BACT turnover and retrofit requirements in sections 2449.1(a)(2) and 2449.2(a)(2).

Vehicles that formerly met the low-use vehicle definition, but whose use increases to 100 hours per year or greater must meet the BACT requirements or be included in the fleet average calculation by the next compliance date. For example, a formerly low-use engine that exceeds 100 hours per year between March 1, 2013 and February 28, 2014 must be included in the fleet average indices and target rates reported in 2014.

(8) *VDECS That Impairs Safe Operation of Vehicle* — A fleet owner may request that the Executive Officer find that a VDECS should not be considered the highest level VDECS available because (A) it cannot be safely installed or operated in a particular vehicle application, or (B) its use would make compliance with occupational safety and health requirements, mining safety and health requirements, or an ongoing local air district permit condition, such as for use of a diesel oxidation catalyst, impossible. If a VDECS manufacturer states that there is no safe or appropriate method of mounting its VDECS on the requesting party's vehicle, then the VDECS will not be considered safe. In the absence of such a declaration by the VDECS manufacturer, the requesting party shall provide other documentation to support its claims. Documentation must include published reports and other findings of federal, state or local government agencies, independent testing laboratories, engine or equipment manufacturers, or other equally reliable sources. The request will only be approved if the requesting party has made a thorough effort to find a safe method for installing and operating the VDECS, including considering the use of mirrors, various locations for VDECS mounting, and use of an actively regenerated VDECS. The Executive Officer shall review the documentation submitted and any other reliable information that he or she wishes to consider and shall make his or her determination based upon the totality of the evidence. Upon finding that a VDECS cannot be installed without violating the safety standards prescribed under title 8, CCR by the California Department of Industrial Relations, Division of Occupational Safety and Health or federal or state mine safety laws, the Executive Officer shall issue a determination that there is no highest level VDECS available. The Executive Officer shall inform the requesting party, in writing, of his or her determination, within 60 days of receipt of the request. Parties may appeal the Executive Officer's determination as described in (A) and (B) below. During the appeal process described in (A) and (B) below, the requesting party may request the administrative law judge to stay compliance until a final decision is issued. If the stay is granted and the Executive Officer denies the requesting party's request, the requesting party has six months from the date of the Executive Officer's final written decision to bring his or her fleet back into compliance.

(A) Appeals — Hearing Procedures —

1. Any party whose request has been denied may request a hearing for the Executive Officer to reconsider the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:

- a. name of the requesting party;
- b. copy of the Executive Officer's written notification of denial;
- c. a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial (conclusory allegations will not suffice);
- d. a brief summary of evidence in support of the statement of facts required in c. above; and

- e. the signature of an authorized person requesting the hearing
 2. A request for a hearing shall be filed within 30 days from the date of issuance of the notice of the denial.
 3. A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the denial at issue. In a request for reconsideration, the hearing officer, after reviewing the request for hearing and supporting documentation provided under paragraph 1. above, shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.
 4. If a hearing is granted, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.
 5. Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:
 - a. the determination issued by the Executive Officer which is the subject of the request for hearing;
 - b. the request for hearing and the supporting documents that are submitted with it;
 - c. all documents relating to and relied upon by the Executive Officer in making the initial determination to deny the requesting party's original claim; and
 - d. correspondence and other documents material to the hearing.
 6. The hearing file shall be available for inspection by the applicant at the office of the hearing officer.
 7. An applicant may appear in person or be represented by counsel or by any other duly-authorized representative.
 8. The ARB may be represented by staff or counsel familiar with the regulation and may present rebuttal evidence.
 9. Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.
 10. Declarations may be used upon stipulation by the parties.
 11. The hearing shall be recorded either electronically or by a certified shorthand reporter.
 12. The hearing officer shall consider the totality of the circumstances of the denial, including but not limited to, credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.
 13. The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.
 14. Within 30 days of the conclusion of a hearing, the hearing officer shall submit a written proposed decision, including proposed finding as well as a copy of any material submitted by the hearing participants as part of that hearing and relied on by the hearing officer, to the Executive Officer. The hearing officer may recommend to the Executive Officer any of the following:
 - a. uphold the denial as issued;
 - b. modify the denial; or
 - c. overturn the denial in its entirety.
 15. The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:
 - a. adopt the hearing officer's proposed decision;
 - b. modify the hearing officer's proposed decision; or
 - c. render a decision without regard to the hearing officer's proposed decision.
- (B) Appeals — Hearing Conducted by Written Submission. In lieu of the hearing procedure set forth in (A) above, an applicant may request that the hearing be conducted solely by written submission. In such case

the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:

1. ARB staff shall submit a written response to the requestor's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;
2. The applicant may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;
3. If the applicant submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and
4. The hearing officer shall be designated in the same manner as set forth in section 2449(c)(8)(A)3. above. The hearing officer shall receive all statements and documents and submit a proposed written decision and such other documents as described in section 2449(e)(8)(A)13. above to the Executive Officer no later than 30 working days after the final deadline for submission of papers. The Executive Officer's final decision shall be mailed to the applicant no later than 60 days after the final deadline for submission of papers.
5. The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:
 - a. adopt the hearing officer's proposed decision;
 - b. modify the hearing officer's proposed decision; or
 - c. render a decision without regard to the hearing officer's proposed decision.

(9) *Compliance Flexibility for Delays in Availability of Tier 3 or Tier 4 Vehicles* — If the Executive Officer finds that there is a delay in availability of vehicles with engines meeting the Tier 3 or Tier 4 interim or final emission standards so that vehicles with Tier 3 or Tier 4 interim or final engines to meet a fleet's needs are not available or not available in sufficient numbers or in a sufficient range of makes, models, and sizes, then the Executive Officer may grant an extension to the fleet from the requirements in sections 2449.1(a)(1), 2449.2(a)(1), 2449.1(a)(2) and 2449.2(a)(2). If such a delay affects a group of fleets, the Executive Officer may issue an extension to all fleets with similar characteristics. Any such delay must be documented based on verifiable information from the fleet regarding its vehicle needs and/or verifiable information from the equipment manufacturer, engine manufacturer, distributor, and/or dealer regarding the unavailability of appropriate vehicles with Tier 3 or Tier 4 interim or final engines.

(10) *Exemption for Vehicles Awaiting Sale* — Vehicles in the possession of dealers, financing companies, or other entities who do not intend to operate the vehicle nor offer the vehicle for hire, that are operated only to demonstrate functionality to potential buyers or to move short distances while awaiting sale or for maintenance purposes are exempt from all requirements in sections 2449, 2449.1, 2449.2, and 2449.3.

(11) *Exemption for Vehicle Used Over Half the Time for Agriculture* — A vehicle that is used by its owner for agricultural operations for over half of its annual operating hours but that is not used exclusively for agricultural operations is exempt from the performance requirements in section 2449(d), 2449.1(a), and 2449.2(a), but still must be labeled and reported in accordance with sections 2449(f) and (g). Vehicles used exclusively for agricultural operations are completely exempt from the performance, labeling, and reporting requirements. A vehicle that is rented or leased for use by others is exempt only if it is exclusively used for agricultural operations.

(12) *Exemption for Vehicles Used Solely on San Nicolas or San Clemente Islands* — Vehicles used solely on San Nicolas or San Clemente Islands are exempt from all requirements in section 2449. If the land use plans for the islands are changed to allow use by the general public of the islands, this exemption shall no longer be applicable.

(13) *Exemption for Job Corps Vehicles* — Vehicles used by the Job Corps nonprofit apprenticeship training program are exempt from the performance requirements in sections 2449(d), 2449.1(a), 2449.2(a) and

2449.3(d) but still must be labeled and reported in accordance with sections 2449(f) and (g).

(f) *Labeling* —

All vehicles with engines subject to the regulation must be labeled with an ARB-issued equipment identification number (EIN). Electric and alternative fuel vehicles, stationary or portable systems, and gasoline-powered vehicles used to replace diesel vehicles under section 2449(d)(1)(C) must also be labeled with an ARB-issued EIN. ARB will issue unique EIN to the fleet owner for each vehicle subject to the regulation in response to the initial reporting described in section 2449(g)(1) and, for vehicles added in the 30 days before the annual reporting date, the annual reporting described in section 2449(g)(2). Vehicles with two engines that provide motive power will receive two EINs. All owners of vehicles subject to the regulation must comply with the following labeling requirements.

(1) *Application for EIN for added vehicle* — Notwithstanding the requirements for vehicles used for emergency operations in section 2449(e)(3), if a fleet owner adds a vehicle to his California fleet or brings a vehicle into California from outside the state, the fleet owner has 30 days from the date of purchase or the date the vehicle enters California to apply to ARB for an EIN or, if the vehicle already has an EIN, to inform ARB of the purchase using forms approved by the Executive Officer for submittal of required reporting information. If the reporting date under section 2449(g)(2) occurs before 30 days after purchase, the annual reporting may serve as the application for an EIN.

Applications for an equipment identification number should be submitted electronically per the guidelines approved by the Executive Officer for electronic data reporting, or mailed or delivered to ARB at the address listed immediately below:

CALIFORNIA AIR RESOURCES BOARD
MOBILE SOURCE CONTROL DIVISION (IN-USE OFF-ROAD DIESEL)
P.O. BOX 2815
SACRAMENTO, CA 95812.

(2) *Affixing Equipment Identification Number* — Within 30 days of receipt of the ARB-issued EIN, fleet owners shall permanently affix or paint the EIN(s) on the vehicle in clear view according to the following specification:

(A) The EIN shall be white on a red background.

(B) The EIN shall be located in clear view on the right (starboard) side of the outside of the vehicle approximately 5 feet above the ground, or, if the vehicle is not 5 feet tall, lower on the vehicle.

(C) Each character shall be at least 3 inches (7.6 centimeters) in height and 1.5 inches (3.8 centimeters) in width.

(D) The EIN shall be maintained in a manner that retains its legibility for the entire life of the vehicle.

(g) *Reporting* —

Reporting is required for each and every fleet. Large and medium fleets may report separately for different divisions or subsidiaries of a given company or agency. Fleet owners may submit reporting information using forms (paper or electronic) approved by the Executive Officer.

(1) *Initial reporting* — All fleet owners must submit the information in section 2449(g)(1)(A) through (G) to ARB by their initial reporting date. In the initial reporting, fleet owners must report information regarding each vehicle subject to this regulation that was in their fleet on March 1, 2009. Systems or non-diesel fueled vehicles that are used in place of a vehicle that would be subject to this regulation must also be reported. The initial reporting date for large fleets is April 1, 2009. The initial reporting date for medium fleets is June 1, 2009. The initial reporting date for small fleets is August 1, 2009. Reports must include the following information:

(A) *Fleet Owner* —

1. Fleet owner's name;
2. Corporate parent name (if applicable);
3. Corporate parent taxpayer identification number (if applicable);
4. Company taxpayer identification number;
5. Address;

6. Responsible person name;

7. Responsible person title;

8. Contact name;

9. Contact phone number;

10. Contact email address (if available);

11. Whether the fleet owner is a low population county local municipality fleet;

12. Whether the fleet owner has an approval from the Executive Officer to be treated as if in a low-population county;

13. Whether the fleet owner is a non-profit training center;

14. Whether the fleet has an idling policy documented and available to employees;

15. Whether the fleet is using a fuel-based strategy as an emissions control strategy;

16. Whether the fleet is a Captive Attainment Area Fleet.

(B) *Vehicle List* — A list of each vehicle subject to this regulation along with the following information for each vehicle:

1. Vehicle type;

2. Vehicle manufacturer;

3. Vehicle model;

4. Vehicle model year;

5. Vehicle serial number;

6. Whether the vehicle is a low-use vehicle;

7. If the vehicle is a low-use vehicle, whether the vehicle was operated outside of California during the previous compliance year;

8. Whether the vehicle is a specialty vehicle;

9. Whether the vehicle is a vehicle used solely for emergency operations;

10. Whether the vehicle is a dedicated snow removal vehicle;

11. Whether the vehicle is used for agricultural operations for over half of its annual operating hours;

12. Whether the vehicle is an electric vehicle that replaced a diesel vehicle;

13. Whether the vehicle has been retrofit, repowered, or replaced with Surplus Off-road Opt-in for NOx program funding and, if so, the start and end dates of the contract period;

14. Whether the vehicle has been retrofit, repowered, or replaced with Carl Moyer program funding;

15. Whether the vehicle has been retrofit through a demonstration program, and — if so — which program;

16. EIN if it has already been assigned.

(C) *Engines* — For each engine that powers a vehicle listed per section 2449(g)(1)(B) report the following information.

1. Engine manufacturer;

2. Engine model;

3. Engine family (if any);

4. Engine serial number;

5. Engine model year;

6. Engine maximum power;

7. Engine displacement;

8. Whether the engine is a repower and — if so — date repowered;

9. If the engine is a Post-2007 flexibility engine, an engine certified to on-road standards, or an engine certified by ARB or U.S. Environmental Protection Agency to a lower emission standard than shown in Appendix A, the emission standard to which the engine is certified and the certification Executive Order or certificate number;

10. Whether the engine has been rebuilt to a more stringent emissions configuration.

(D) *Verified Diesel Emission Control Strategies* — For each VDECS that is installed on an engine listed per section 2449(g)(1)(C) report the following information.

1. VDECS Manufacturer;

2. VDECS Model;

3. Verification level;

4. Verified percent NOx reduction (if any);

5. Date installed;

(E) Non-Diesel Vehicle Used in Place of a Diesel Vehicle — For each electric, alternative fueled, or gasoline fueled vehicle, report the information listed in sections 2449(g)(1)(B)1. through 2449(g)(1)(B)5. and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. as well as

1. Date purchased;

2. If the vehicle replaced a diesel vehicle in the fleet, the horsepower of the diesel vehicle replaced and the date replaced;

3. If not electric, the NOx and PM emission factor;

(F) Stationary or Portable Systems Used in Place of a Diesel Vehicle — For stationary or portable systems that are used in place of a diesel vehicle, report the following information:

1. Description of the system;

2. Type and number of vehicles that would otherwise be used;

3. Horsepower of the vehicle(s) that would otherwise be used;

(G) Credit for Early Actions — Fleet owners claiming credit for early action must report information required under sections 2449(g)(1)(B)1. through 2449(g)(1)(B)5. and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. for each vehicle for which credit is claimed. As appropriate, the following information must also be reported:

1. For each vehicle within the fleet that was repowered with a Tier 1 or newer engine prior to March 1, 2009, the date of repower;

2. For each vehicle within the fleet that was retrofit with the highest level VDECS available at the time of retrofit prior to March 1, 2009, the date of retrofit and whether Carl Moyer Incentive Program funding was used to pay for the retrofit;

3. Fleet owners claiming early credit for retirement of Tier 0 vehicles per section 2449.1(a)(2)(A)(2)a.ii. must report information on each and every vehicle within the fleet between March 1, 2006 and March 1, 2009, as required under sections 2449(g)(1)(B)1. through 2449(g)(1)(B)4. and sections 2449(g)(1)(C)1. through 2449(g)(1)(C)6. as well as the date of any purchase and/or retirement between March 1, 2006 and March 1, 2009.

(2) *Annual Reporting and Compliance Certification* — All fleet owners must review and update the information submitted under section 2449(g)(1) annually, and submit the information in section 2449(g)(2)(A) through (C) to ARB by the reporting date of each subsequent reporting year. The large fleet reporting date is April 1, the medium fleet reporting date is June 1, and the small fleet reporting date is August 1. Fleet owners must report information regarding each vehicle subject to this regulation as it was on March 1 of the reporting year. Large fleets must report annually each year from 2010 to 2021. Medium fleets must report annually each year 2012 to 2021. Small fleets must report annually each year from 2014 to 2026. Any fleet that fails to meet the fleet average target rate for the final target date in section 2449.1(a)(1) or 2449.2(a)(1) must continue to report annually each year until it does so. After the final target date in 2449.2(a)(1), any fleet that is required to apply VDECS under section 2449.2(a)(2) must continue to report each year until the March 1 after all such retrofits are complete. Any fleet that operates designated low-use vehicles must continue to report annually for each low-use vehicle for as long as the fleet owns or operates the vehicle. Fleets may use forms (paper or electronic) approved by the Executive Officer for submittal of the required reporting information.

(A) *Compliance Certification* — A certification signed by a responsible official or a designee thereof that the information reported is accurate and that the fleet is in compliance with the regulation. The certification must be submitted on a form (paper or electronic) approved by the Executive Officer. If a designee signs the compliance certification, a written statement signed by the responsible official designating the designee must be attached to the compliance certification and submitted to ARB. If the fleet is a Captive Attainment Area Fleet, the certification must certify that the fleet's vehicles did not operate outside the counties listed in 2449(c)(6).

(B) *Changes Since Last Reporting* — If any information reported per section 2449(g)(1) has changed since either the initial or last annual report filed with ARB, the fleet owner must, in its next annual report identi-

fy such changes. Such changes include vehicles removed from the fleet, vehicles added to the fleet through purchase or by bringing into California, vehicles newly designated as low-use or specialty vehicles, repowers, and retrofits. If there are no changes, the fleet shall indicate that there have been no changes since the last report.

(C) *Engine Hour Meter Readings* — Engine hour meter readings must be reported for each engine in the following cases.

1. If the fleet has chosen the hours in fleet average option, the fleet owner shall report two engine hour meter readings, one from on or before March 1 of the prior year and one from on or after March 1 of the current year, and the dates of reading for every engine in the fleet.

2. For vehicles that fleet owners intend to designate as low-use, report two engine hour meter readings, one from on or before March 1 of the prior year and one from on or after March 1 of the current year, and the dates of reading. If using the three-year rolling average definition of low-use, report two hour meter readings, one from on or before March 1 of the first year of the three year period and one from on or after March 1 of the current year. Low-use vehicles used in emergency operations, must report the total hours used in emergency operations. Additionally, for vehicles designated as low-use that operate both inside and outside California, the fleet owner shall submit a log that contains the following information.

a. Each date the vehicle entered California and the hour meter reading upon entry;

b. Each date the vehicle exited California and the hour meter reading upon exit.

3. For vehicles that are used in agricultural operations, the fleet owner shall report two engine hour meter readings, one from on or before March 1 of the prior year and one from on or after March 1 of the current year, and the dates of such readings. Also the fleet owner shall report, the total number of hours the vehicle has been used in non-agricultural use.

(3) *New Fleet Reporting* — New fleets must submit the information in section 2449(g)(1)(A) through (G) to ARB for vehicles subject to the regulation within 30 days of purchase or bringing such vehicles into the State. Beginning the first March 1 that is more than 30 days after the date of purchase or bringing a vehicle into the State, new fleets must comply with the annual reporting requirements in section 2449(g)(2).

(h) *Record keeping* —

Fleet owners must maintain copies of the information reported under section 2449(g), as well as the records described in section 2449(h) below, and provide them to an agent or employee of the ARB within five business days upon request. Records must be kept at a location within the State of California.

(1) *Changes Since Last Reporting Period* — Documentation of any additions, deletions, or changes to the fleet since the last reporting. Documentation may include bills of sale, purchase orders, or other documentation.

(2) *Vehicles Not Yet Labeled* — For newly purchased or acquired vehicles or vehicles recently brought into the state that have not yet been labeled per section 2449(f)(2), records must be kept of the vehicle purchase date or the date the vehicle entered the state.

(3) *Engines Rebuilt to a More Stringent Emissions Configuration* — Records of engines that are rebuilt to a more stringent emissions configuration in accordance with Title 40, CFR, Part 89.130 and Part 1068.120 must be kept as long as the engine remains in operation. For a fleet to claim credit for rebuild to a more stringent emissions configuration of a Tier 1 engine rated at or above 37 kW that is exempt from the requirements in Title 40, CFR, Part 89.130 and title 13, CCR, section 2423(l), the Tier 1 engine must be rebuilt in accordance with the rebuild practices of those sections and the fleet must keep the records that would have been required if the engine were not exempt from those requirements. Records must include the following information:

(A) The name of the company that performed the rebuild, address, contact name, and contact phone number for that company;

(B) An invoice, or proof of purchase of the engine rebuild;

(C) The date(s) the engine upgrade was performed;

(D) All records required under Title 40, CFR, Part 1068.120 or, for engines exempt from Title 40, CFR, Part 1068.120, the records that would be required if the engine were not exempt;

(E) All records required under title 13, CCR, section 2423(l) or, for engines exempt from 13, CCR, section 2423(l), the records that would be required if the engine were not exempt.

(4) *VDECS Failure* — Records of any VDECS failure and replacement.

(5) *VDECS Serial Numbers* — Records of the serial numbers of the VDECS installed on each vehicle.

(6) *Manufacturer Delay* — For any vehicles or VDECS for which the fleet owner is utilizing the equipment manufacturer delay provision in section 2449(e)(6), proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable piece of equipment or vehicle.

(7) *Records Pertaining to Executive Officer Approval* — Records of Executive Officer approval of any of the following:

(A) A waiver to allow additional idling in excess of 5 consecutive minutes;

(B) Upon discontinuation of a fuel verified as a Diesel Emission Control Strategy, approval for up to two years additional time to come back into compliance with the applicable fleet average requirement;

(C) A finding that a VDECS should not be considered the highest level VDECS available due to safety concerns;

(D) Approval to use the maximum power of a diesel vehicle that serves the same function as an electric vehicle;

(E) Approval of an alternative fuel vehicle NOx emission standard;

(F) Approval of a vehicle designation as a specialty vehicle;

(G) Approval of and experimental diesel PM control strategy;

(H) Approval to grant an extension to the fleet from the requirements when Tier 4 vehicles are not available;

(I) Approval to use a fuel strategy as an emissions control strategy as in section 2449(e)(2);

(8) *Record Retention* — Each fleet owner shall maintain the records for each vehicle subject to the regulation until it is retired and for the overall fleet as long as the owner has a fleet or March 1, 2030, whichever is earlier. If vehicle ownership is transferred, the seller shall convey the vehicle records including vehicle data per section 2449(g)(1)(B), engine data per section 2449(g)(1)(C), and VDECS data per section 2449(g)(1)(D) to the buyer. If fleet ownership is transferred, the seller shall convey the fleet records including fleet data per sections 2449(g)(1)(A) through (G) to the buyer. Dealers must maintain records of the disclosure of regulation applicability required by Section 2449(j) for three years after the sale.

(i) *Right of Entry* —

For the purpose of inspecting off-road vehicles and their records to determine compliance with these regulations, an agent or employee of ARB, upon presentation of proper credentials, has the right to enter any facility (with any necessary safety clearances) where off-road vehicles are located or off-road vehicle records are kept.

(j) *Disclosure of Regulation Applicability* —

Any person selling a vehicle with an engine subject to this regulation in California must provide the following disclosure in writing to the buyer on the bill of sale, "When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. For more information, please visit the California Air Resources Board website at <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>."

(k) *Penalties* —

Any person who fails to comply with the performance requirements of this regulation, who fails to submit any information, report, or state-

ment required by this regulation, or who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained, or used for the purposes of compliance with this regulation may be subject to civil or criminal penalties under sections 39674, 39675, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, and 43016 of the Health and Safety Code. In assessing penalties, the Executive Officer will consider factors, including but not limited to the willfulness of the violation, the length of time of noncompliance, whether the fleet made an attempt to comply, and the magnitude of noncompliance.

(l) *ARB Certificate of Reported Compliance* —

After the initial reporting required by section 2449(g)(1) and the annual reporting and compliance certification required by section 2449(g)(2) is received by ARB, if the reporting indicates the fleet is in compliance with the requirements of the in-use off-road diesel vehicle regulation, ARB will provide the fleet with a Certificate of Reported Compliance with the In-Use Off-road Diesel Vehicle Regulation.

(m) *Severability* —

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of section 2449, 2449.1, 2449.2, or 2449.3 of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

NOTE: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42402.2, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

HISTORY

1. New article 4.8 (sections 2449–2449.3) and section filed 5–16–2008; operative 6–15–2008 (Register 2008, No. 20).

§ 2449.1. NOx Performance Requirements.

(a) *Performance Requirements*

Each fleet must meet the fleet average requirements in this section by March 1 of each year or demonstrate that it met the best available control technology (BACT) requirements as described in section 2449.1(a)(2). There are differing requirements for large and medium fleets. Small fleets are not subject to the NOx performance requirements.

If various portions of a fleet are under the control of different responsible officials because they are part of different subsidiaries, divisions, or other organizational structures of a company or agency, the fleet portions may comply with the performance requirements separately and be reported separately. A fleet may have some fleet portions that meet the definition of captive attainment area fleet and some fleet portions that do not. However, the total maximum power of the vehicles under common ownership or control determines the fleet size. Once a fleet begins to comply and report separately as fleet portions, the fleet portions must continue to comply and report separately, and the fleet portions must meet the adding vehicle requirements in section 2449(d)(7) just as if they were separate fleets.

Fleets owned by low-population county local municipalities are subject to the small fleet requirements, even if their total maximum power exceeds 2,500 horsepower. Captive attainment area fleets are not subject to the NOx performance requirements. Section 2449(d)(4) describes requirements for fleets that change size.

(1) *Fleet Average Requirements*

(A) *Fleet Average Requirements for Large and Medium Fleets*

1. *NOx Fleet Average* — For each compliance date, a large or medium fleet that is not a captive attainment area fleet must demonstrate that its NOx Index was less than or equal to the calculated NOx Target Rate.

The equation for calculating NOx Target Rate is below:

NOx Target Rate = $\frac{\text{SUM of (Max Hp for each engine in fleet multiplied by Target for each engine in fleet) for all engines in fleet}}{\text{SUM of (Max Hp) for all engines in fleet}}$

where Target is the NOx target in g/bhp-hr from Table 1. To find the Target for each engine, read the value for the appropriate row based on the compliance year and the appropriate column based on the engine's maximum power from Table 1.

The equation for calculating NOx Index is below:

NOx Index = $\frac{\text{SUM of (Max Hp for each engine in fleet multiplied by NOx Emission Factor for each engine in fleet) for all engines in fleet}}{\text{SUM of (Max Hp) for all engines in fleet}}$

Table 1 shows the targets used to calculate the NOx Target Rate for each compliance date for large and medium fleets. The Emission Factors are defined in Appendix A.

Table 1 — Large and Medium Fleet NOx Targets
For Use in Calculating NOx Target Rates [g/bhp-hr]

Compliance Date: March 1 of Year	NOx Targets for each Max Hp Group							
	25–49 hp	50–74 hp	75–99 hp	100–174 hp	175–299 hp	300–599 hp	600–750 hp	>750 hp
2010 (large fleets only)	5.8	6.5	7.1	6.4	6.2	5.9	6.1	7.2
2011 (large fleets only)	5.6	6.2	6.7	6.0	5.8	5.5	5.6	6.8
2012 (large fleets only)	5.3	5.8	6.2	5.5	5.3	5.1	5.2	6.5
2013	5.1	5.5	5.7	5.1	4.9	4.7	4.8	6.1
2014	4.9	5.1	5.2	4.7	4.5	4.3	4.4	5.7
2015	4.6	4.8	4.8	4.3	4.1	3.9	4.0	5.3
2016	4.4	4.4	4.3	3.8	3.6	3.5	3.6	4.9
2017	4.2	4.1	3.8	3.4	3.2	3.1	3.2	4.5
2018	4.0	3.7	3.3	3.0	2.8	2.7	2.7	4.1
2019	3.7	3.4	2.8	2.6	2.3	2.3	2.3	3.8
2020	3.5	3.2	2.4	2.2	1.9	1.9	1.9	3.4

(2) **BACT Requirements** — Each year, each fleet must determine if it will be able to meet the fleet average requirements for the next March 1 compliance date, and if not, the following BACT requirement must be met. If a fleet does not meet the NOx target rate in section 2449.1(a)(1), it must meet the BACT turnover requirements in section 2449.1(a)(2)(A) below.

(A) **Turnover Requirements for Fleets Not Meeting NOx Target Rate** — A fleet may meet the turnover requirements by retiring a vehicle, designating a vehicle as a low-use vehicle, repowering a vehicle, rebuilding the engine to a more stringent emissions configuration, or applying a VDECS verified to achieve NOx reductions. If repowering a vehicle or rebuilding the engine to a more stringent emissions configuration, the new engine must be Tier 2 or higher and must be a higher tier than the engine replaced or rebuilt. The method for counting VDECS verified to achieve NOx reductions is specified in section 2449.1(a)(2)(A)8.

1. **Turnover Rate** — If a fleet does not meet the NOx Target Rate in section 2449.1(a)(1) on a compliance date on or before March 1, 2015, it must demonstrate on the applicable compliance date that it has turned over 8 percent of the total maximum power of the fleet that existed on March 1 of the previous year since March 1 of the previous year. If a fleet does not meet the NOx Target Rate in section 2449.1(a)(1) on a compliance date after March 1, 2015, it must demonstrate on the applicable compliance date that it turned over 10 percent of its total maximum power that existed on March 1 of the previous year since March 1 of the previous year. Any carryover turnover credit previously accrued may be applied towards the turnover required in a later year.

2. **Carryover turnover credit** —

a. **Beginning** — All fleets other than those meeting the criteria in (i) or (ii) or (iii) below begin with zero carryover turnover credit on March 1, 2009. All fleets may begin accumulating carryover turnover credit on March 1, 2010.

i. **Credit for Early Repowers** — Fleets that have repowered their vehicles with Tier 1 or higher engines before March 1, 2009 begin with a carryover turnover credit (in horsepower) equal to: the maximum power of Tier 1 or higher repower engines installed in affected vehicles before

March 1, 2009. The credit can only be claimed for engines that remain in the fleet. To claim credit, fleets must keep adequate records as described in section 2449(h).

ii. **Credit for Early Retirement** — Fleets that have retired their Tier 0 vehicles at an average rate greater than 8 percent of total maximum power per year between March 1, 2006 and March 1, 2009 begin with carryover turnover credit (in horsepower) equal to: [(Total maximum power of Tier 0 vehicles retired between March 1, 2006 and March 1, 2009) minus (Total maximum power of Tier 0 vehicles added between March 1, 2006 and March 1, 2009)] minus [(Total maximum power of fleet on March 1, 2007 times 0.08) plus (Total maximum power of fleet on March 1, 2008 times 0.08) plus (Total maximum power of fleet on March 1, 2009 times 0.08)]. Tier 0 vehicles repowered with newer engines are counted under (i) above and shall not be counted under (ii). To claim such credit, fleets must keep adequate records as described in section 2449(h).

iii. **Credit for Early NOx Retrofits** — Fleets that have installed VDECS that have been verified as achieving NOx reductions on their vehicles before March 1, 2009 begin with a carryover turnover credit (in horsepower) equal to: (Verified Percent NOx Reduction divided by 60 percent) multiplied by (Maximum power on which VDECS verified to achieve NOx reductions was installed before March 1, 2009).

b. **Accumulating carryover turnover credit** —

i. **2010–2015** — From March 1, 2010 through March 1, 2015, a fleet accumulates carryover turnover credit each year it turns over more than 8 percent of its maximum power. The amount accumulated is the maximum power turned over in excess of 8 percent in the 12 months prior to March 1 of the year in which the carryover is calculated.

ii. **After 2015** — After March 1, 2015, a fleet accumulates carryover turnover credit each year it turns over more than 10 percent of its maximum power. The amount accumulated is the maximum power turned over in excess of 10 percent in the 12 months prior to March 1 of the year in which the carryover is calculated.

c. **Using carryover turnover credit** — Accumulated carryover turnover credit may be applied to meeting the turnover requirements of section 2449.1(a)(2)(A)1 in a later year. The amount of carryover turnover credit

used to meet the turnover requirements in any one year is subtracted from the carryover turnover credit total available in subsequent years. The amount of actual turnover plus the amount of carryover turnover credit used must equal the minimum BACT turnover required by section 2449.1(a)(2)(A)1.

3. Order of turnover — All engines in a fleet that were not subject to a PM standard for new engines (Tier 0 and Tier 1 with no PM standard, i.e., Tier 1 engines between 50 and 174 horsepower), except those in vehicles that qualify for an exemption under section 2449.1(a)(2)(A)4., must be turned over before turnover of any other higher tier engines may be counted toward the turnover requirements in section 2449.1(a)(2)(A) or toward accumulating carryover turnover credit.

4. Exemptions — A vehicle is exempt from the turnover of section 2449.1(a)(2)(A)1. if all vehicles in the fleet that do not qualify for an exemption under this section have been turned over and the vehicle meets one of the following conditions:

- a. On the compliance date, the vehicle is less than 10 years old from the date of manufacture;
- b. The vehicle meets all of the following specialty vehicle criteria:
 - i. The fleet has turned over all other vehicles first,
 - ii. No repower is available for the specialty vehicle, as demonstrated to the Executive Officer,
 - iii. A used vehicle with a cleaner engine is not available to serve a function and perform the work equivalent to that of the specialty vehicle, as demonstrated to the Executive Officer, and
 - iv. The specialty vehicle has been retrofit with highest level VDECS,
- c. The vehicle has been retrofitted within the last six years with a Level 2 or 3 VDECS that was highest level VDECS at the time of retrofit, or
- d. The vehicle has a Tier 4 interim or Tier 4 final engine.

5. Delay Tier 1 turnover — All vehicles with a Tier 1 or higher engine are exempt from the turnover requirement until March 1, 2013, provided that all Tier 0 vehicles in the fleet owner's fleet that do not qualify for an exemption under section 2449.1(a)(2)(A)4. have been turned over.

6. Designating vehicle as low-use — A fleet may designate a vehicle that was formerly used 100 hours or more per year as low-use by limiting its use to less than 100 hours per year and committing to keep its use less than 100 hours per year.

a. Only vehicles formerly used 100 hours or more per year may be so designated. Vehicles so designated may be counted toward the turnover requirements.

b. Once designated as low-use, a vehicle may never again be used more than 100 hours per year by the fleet unless the vehicle meets the adding vehicles requirements in section 2449(d)(7).

c. A fleet is not obliged to designate a vehicle whose use drops below 100 hours per year as low-use, or to count it toward the turnover requirements. If such a vehicle is not designated as low-use, its use may increase beyond 100 hours per year in subsequent years.

7. Rounding — If the horsepower required to be turned over under section 2449.1(a)(2)(A) is less than half of the maximum power of the lowest horsepower engine in the fleet that is subject to the turnover requirements, the next engine is not required to be turned over. However, on the next year's compliance date, any horsepower not turned over due to this rounding provision must be added to the required turnover under section 2449.1(a)(2)(A). Once the required horsepower to be turned over equals or exceeds half of the maximum power of the next engine in the fleet that is subject to the turnover requirements, the next engine must be turned

over.

8. Turnover Credit for NOx Retrofits — VDECS that have been verified as achieving NOx reductions may be used to satisfy the turnover requirements in section 2449.1(a)(2)(A)1 on each compliance date as follows:

Turnover credit for NOx retrofits equals (Verified Percent NOx Reduction divided by 60 percent) multiplied by (Maximum power on which VDECS verified to achieve NOx reductions was installed in last 12 months). Turnover credit for NOx retrofits may be applied to meet the turnover requirements of section 2449.1(a)(2)(A)1 or to accumulate carryover turnover credit.

NOTE: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

HISTORY

1. New section filed 5-16-2008; operative 6-15-2008 (Register 2008, No. 20).

§ 2449.2. PM Performance Requirements.

(a) Performance Requirements —

Each fleet must meet the fleet average requirements in section 2449.2(a)(1) by March 1 of each year or demonstrate that it met the best available control technology (BACT) requirements as described in section 2449.2(a)(2). There are differing requirements for large and medium, and small fleets. If various portions of a fleet are under the control of different responsible officials because they are part of different subsidiaries, divisions, or other organizational structures of a company or agency, the fleet portions may comply with the performance requirements separately and be reported separately. However, the total maximum power of the vehicles under common ownership or control determines the fleet size. Fleets owned by low-population county local municipalities are subject to the small fleet requirements, even if their total maximum power exceeds 2,500 horsepower. Section 2449(d)(4) describes requirements for fleets that change size.

(1) Fleet Average Requirements

(A) Fleet Average Requirements for Large and Medium Fleets

1. Diesel PM Fleet Average — For each compliance date, a large or medium fleet must demonstrate that its Diesel PM Index was less than or equal to the calculated Diesel PM Target Rate.

The equation for calculating Diesel PM Target Rate is below:

Diesel PM
Target Rate

=[SUM of (*Max Hp* for each engine in fleet multiplied by *Target* for each engine in fleet) for all engines in fleet] divided by [SUM of (*Max Hp*) for all engines in fleet]

where *Target* is the Diesel PM target in g/bhp-hr from Table 2. To find the *Target* for each engine, read the value for the appropriate row based on the compliance year and the appropriate column based on the engine's maximum power from Table 2.

The equation for calculating Diesel PM Index is below:

Diesel PM Index = [SUM of (*Max Hp* for each engine in fleet multiplied by *PM Emission Factor* for each engine in fleet) for all engines in fleet] divided by [SUM of (*Max Hp*) for all engines in fleet]

Table 2 shows the targets used to calculate the Diesel PM Target Rate for each compliance date for large and medium fleets. The Emission Factors are defined in Appendix A.

Table 2 — Large and Medium Fleet PM Targets
For Use in Calculating PM Target Rates [g/bhp-hr]

Compliance Date: March 1 of Year	PM Targets for each Max Hp Group							
	25–49 hp	50–74 hp	75–99 hp	100–174 hp	175–299 hp	300–599 hp	600–750 hp	>750 hp
2010 (large fleets only)	0.46	0.60	0.62	0.33	0.23	0.18	0.20	0.30
2011 (large fleets only)	0.46	0.60	0.62	0.33	0.23	0.18	0.20	0.30
2012 (large fleets only)	0.39	0.43	0.46	0.26	0.16	0.14	0.14	0.24
2013	0.39	0.43	0.46	0.26	0.16	0.14	0.14	0.24
2014	0.29	0.23	0.24	0.18	0.11	0.11	0.11	0.18
2015	0.29	0.23	0.24	0.18	0.11	0.11	0.11	0.18
2016	0.21	0.18	0.19	0.14	0.08	0.08	0.08	0.11
2017	0.21	0.18	0.19	0.14	0.08	0.08	0.08	0.11
2018	0.12	0.12	0.13	0.10	0.06	0.06	0.06	0.08
2019	0.12	0.12	0.13	0.10	0.06	0.06	0.06	0.08
2020	0.08	0.08	0.07	0.06	0.03	0.03	0.03	0.06

(B) Fleet Average Requirements for Small Fleets — Small fleets must meet a PM fleet average beginning in 2015. To meet the PM fleet average, for each compliance date, a small fleet must demonstrate that its Diesel PM Index was less than or equal to the calculated Diesel PM Target Rate.

The equations for calculating Target Rates and Diesel PM Index are below:

Diesel PM Target Rate

$$= \frac{\text{SUM of ((Max Hp for each engine in fleet multiplied by Target for each engine in fleet))}}{\text{SUM of (Max Hp) for all engines in fleet}}$$

Diesel PM Index

where Target is the PM target in g/bhp-hr from Table 3. To find the Target for each engine, read the value for the appropriate row based on the compliance year and the appropriate column based on the engine's maximum power from Table 3.

$$= \frac{\text{SUM of (Max Hp multiplied by PM Emission Factor) for each engine in fleet}}{\text{SUM of (Max Hp) for all engines in fleet}}$$

Table 3 shows the targets used to calculate the Diesel PM Target Rate for each compliance date for small fleets. The Emission Factors are defined in Appendix A.

Table 3 – Small Fleet PM Targets
For Use in Calculating PM Target Rates [g/bhp-hr]

Compliance Date: March 1 of Year	PM Targets for each Max Hp Group							
	25–49 hp	50–74 hp	75–99 hp	100–174 hp	175–299 hp	300–599 hp	600–750 hp	>750 hp
2015	0.46	0.60	0.62	0.33	0.23	0.18	0.20	0.30
2016	0.46	0.60	0.62	0.33	0.23	0.18	0.20	0.30
2017	0.39	0.43	0.46	0.26	0.16	0.14	0.14	0.24
2018	0.39	0.43	0.46	0.26	0.16	0.14	0.14	0.24
2019	0.29	0.23	0.24	0.18	0.11	0.11	0.11	0.18
2020	0.29	0.23	0.24	0.18	0.11	0.11	0.11	0.18
2021	0.21	0.18	0.19	0.14	0.08	0.08	0.08	0.11
2022	0.21	0.18	0.19	0.14	0.08	0.08	0.08	0.11
2023	0.12	0.12	0.13	0.10	0.06	0.06	0.06	0.08
2024	0.12	0.12	0.13	0.10	0.06	0.06	0.06	0.08
2025	0.08	0.08	0.07	0.06	0.03	0.03	0.03	0.06

(2) BACT Requirements — Each year, each fleet must determine if it will be able to meet the fleet average requirements for the next March 1 compliance date, and if not, the following BACT requirement must be met. If a fleet does not meet the Diesel PM Target Rate in section 2449.2(a)(1), it must meet the BACT Retrofit Requirements in section 2449.2(a)(2)(A). Fleets that fail to meet both an applicable NOx target rate in section 2449.1(a)(1) and the Diesel PM Target Rates in section 2449.2(a)(1) in a compliance year must first meet the BACT turnover re-

quirements in section 2449.1(a)(2) in that year and then meet the BACT Retrofit Requirements in section 2449.2(a)(2)(A) in that year.

(A) PM Retrofit Requirements for Fleets Not Meeting Diesel PM Target Rate

1. PM Retrofit Rate — If a fleet does not meet the Diesel PM Target Rate in section 2449.2(a)(1), it must demonstrate that it retrofit 20 percent of its total maximum power (not including specialty vehicles retrofitted and exempted from turnover in section 2449.1(a)(2)(A)4.b.) with

highest level VDECS since March 1 of the previous year. Any carryover retrofit credit previously accrued may be applied toward the 20 percent retrofit required. If the VDECS is not new (i.e., is being reused), it must have been taken from a vehicle that is no longer operating in California. Fleets may count acquisition of vehicles with Tier 4 interim or Tier 4 final engines or retirement of Tier 0 vehicles toward the retrofit requirement as described below.

a. **Turnover to Tier 4 In Lieu of Retrofitting** — If since March 1 of the previous year, a fleet acquired Tier 4 interim or Tier 4 final engines already equipped with an original equipment manufacturer diesel particulate filter or vehicles equipped with such engines, the total maximum power of the Tier 4 interim and Tier 4 final engines may be counted toward the required hp to be retrofit under section 2449.2(a)(2)(A)1. or used to accumulate carryover PM retrofit credit if during that same period, the fleet also retired Tier 0, 1, 2, or 3 engines with that total maximum power or greater.

b. **Retirement of Tier 0 Vehicles in Lieu of Retrofitting for Fleets with Reduced Horsepower** — If since March 1 of the previous year, a fleet's total maximum power has decreased, the lesser of the total maximum power of Tier 0 vehicles retired since March 1 of the previous year and the total horsepower by which the fleet has been decreased may be counted toward the required hp to be retrofit under section 2449.2(a)(2)(A)1. Such retirement of Tier 0 vehicles may not be used to accumulate carryover PM retrofit credit. Retired Tier 0 vehicles that are counted toward the required hp to be retrofit under this subsection may not be used in subsection a. above to demonstrate that the fleet retired Tier 0, 1, 2, or 3 engines with at least the total maximum power of the Tier 4 engines added.

c. **Conversion of Diesel Vehicles to Alternative Fuel** — Fleets that convert a diesel vehicle subject to the regulation to alternative fuel may count the max power of the vehicle converted toward the required hp to be retrofit under section 2449.2(a)(2)(A)1. or to accumulate carryover PM retrofit credit.

2. Carryover PM retrofit credit —

a. **Beginning** — All fleets other than those meeting the criteria in (i) or (ii) below for vehicles remaining in their fleets begin with zero carryover retrofit credit on March 1, 2009.

i. **Double Credit for Early PM Retrofits** — Fleets that have installed the highest level VDECS on their vehicles before March 1, 2009 begin with a carryover retrofit credit equal to: 2 multiplied by total maximum power of engines on which highest level VDECS was installed before March 1, 2009, unless the contract for funding the VDECS stipulates single credit for installation of the VDECS.

ii. **Single Credit for Other PM Retrofits Before Initial Compliance Date** — Medium fleets that install highest level VDECS on their vehicles between March 1, 2009 and February 29, 2012 accumulate carryover retrofit credit equal to total maximum power of engines on which highest level VDECS was installed. Small fleets that install highest level VDECS on their vehicles between March 1, 2009 and February 28, 2014 accumulate carryover retrofit credit equal to total maximum power of engines on which highest level VDECS was installed.

b. **Accumulating carryover PM retrofit credit** — Beginning March 1, 2010 for large fleets, March 1, 2013 for medium fleets, and March 1, 2015 for small fleets, a fleet accumulates carryover retrofit credit each year it retrofits more than 20 percent of its maximum power. The amount accumulated is the percent of maximum power retrofit in excess of 20 percent in the past 12 months prior to March 1.

c. **Using carryover PM retrofit credit** — Accumulated carryover retrofit credit may be applied to meeting the retrofit requirements of section 2449.2(a)(2)(A)1. in a later year. The amount of carryover retrofit credit used to meet the retrofit requirements in any one year is subtracted from the carryover retrofit credit total available in subsequent years. The amount of actual retrofit plus the amount of carryover retrofit credit used must equal the minimum BACT retrofit rate required by section 2449.2(a)(2)(A)1.

3. **Order of PM Retrofit** — No Level 2 VDECS may be counted toward the retrofit requirements in section 2449.2(a)(2)(A) until all engines in vehicles older than 5 years for which the highest level VDECS available is a Level 3 VDECS have been retrofit, except for specialty vehicles utilizing the exemption in section 2449.1(a)(2)(A)4.b. for which Level 2 is the highest level VDECS.

4. **Exemptions** — A vehicle is exempt from the retrofit requirements in section 2449.2(a)(2)(A)1. if all vehicles in the fleet that do not qualify for an exemption under the following conditions have been retrofitted, and the vehicle meets one of the following conditions:

a. On the date of compliance, the vehicle is less than 5 years old from the vehicle's date of manufacture,

b. There is no highest level VDECS available for the vehicle's engine (i.e., there is no Level 2 or 3 VDECS, or there is no Level 2 or 3 VDECS which can be used without impairing the safe operation of the vehicle as demonstrated per section 2449(e)(8)),

c. The vehicle's engine is equipped with an original equipment manufacturer diesel particulate filter that came new with the vehicle, or

d. The vehicle's engine has already been retrofitted with a Level 2 or 3 VDECS that was the highest level VDECS available at time of installation. An engine with a Level 2 VDECS that was not the highest level VDECS at time of installation does not qualify for this exemption.

5. **Rounding** — If the horsepower required to be retrofit under section 2449.2(a)(2)(A) is less than half of the maximum power of the lowest horsepower engine in the fleet that is subject to the retrofit requirements, the next engine is not required to be retrofitted. However, on the next year's compliance date, any horsepower not retrofit due to this rounding provision must be added to the required retrofit under section 2449.2(a)(2)(A). Once the required horsepower to be retrofit equals or exceeds half of the maximum power of the next engine in the fleet that is subject to the retrofit requirements, the next engine must be retrofitted.

(3) **Adding Vehicles After the Final Target Date** — Commencing respectively on March 1, 2020 for large and medium fleets, and March 1, 2025 for small fleets, if a fleet owner adds a vehicle to his fleet and the engine did not come with an original equipment manufacturer diesel particulate filter, it must be equipped with the highest level VDECS within 3 months of acquisition.

NOTE: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42400.3.5, 42402, 42402.1, 42402.2, 42402.4, 42403, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 39674, 39675, 40000, 41511, 42400, 42400.1, 42400.2, 42402.2, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

HISTORY

1. New section filed 5-16-2008; operative 6-15-2008 (Register 2008, No. 20).

§ 2449.3. Surplus Off-Road Opt-In for NOx (SOON) Program.

(a) Purpose

To achieve additional reductions of oxides of nitrogen (NOx) emissions from in-use off-road diesel-fueled vehicles in California. The reductions must be surplus to those that would otherwise be achieved through implementation of title 13, California Code of Regulations, sections 2449, 2449.1 and 2449.2, "Regulation for In-Use Off-Road Diesel Vehicles".

(b) Applicability

(1) **District Applicability** — Section 2449.3 applies to any air quality management district or air pollution control district (jointly referred to hereafter as air district) whose governing board elects to opt into the provisions of this section as set forth in section 2449.3(f) below.

(2) **Fleet Applicability** — Section 2449.3 applies to a fleet that:

(A) Operates individual vehicles within the air district;

(B) As of January 1, 2008, on a statewide level, consisted of more than 40 percent Tier 0 and Tier 1 vehicles, and;

(C) Has a statewide fleet with maximum power greater than 20,000 horsepower (hp).

(c) Definitions

The definitions in title 13, CCR, section 2449(c) apply, along with the following definitions:

(1) *Contract period* means the period of time in which the vehicle participates in the program and is under contract to the air district to achieve additional emission reductions.

(2) *Operated within the district* means a vehicle that currently operates within the boundaries of the air district and, during the three years immediately prior to the solicitation deadline, operated at least one hundred hours per year and operated more hours within the boundaries of the air district than in any other district.

(3) *Project* means actions on one vehicle to reduce NOx emissions, such as retrofit, repower, or vehicle replacement, for which funding is requested.

(4) *Solicitation* means a public announcement by the air district, requesting that fleets submit grant applications to the air district to participate in emission reduction incentive programs under this section.

(5) *Solicitation deadline* means the last day, as provided in the solicitation, that an application may be physically received by the air district.

(d) Requirements

(1) If an air district, having held a public hearing and opted into the SOON program and made the program mandatory per section

2449.3(e)(9), issues a solicitation for applications for funding under the SOON program, and if the solicitation so requires, a fleet that meets the applicability criteria of subsection (b) on the date of the solicitation must, before the solicitation deadline, do the following:

(A) Report to District and ARB — File a report, in a format approved by the Executive Officer, of all information required under section 2449(g) with the air district and ARB on its statewide fleet and that part of the fleet that has operated within the air district, as defined in section (c)(2) above. If the solicitation deadline is before April 1, 2009, the fleet must provide information regarding the fleet as it existed on January 1, 2008. If the solicitation deadline is on or after April 1, 2009, the fleet must provide the information that was reported to ARB on the most recent April 1 reporting date.

(B) Calculate NOx index — Determine the NOx index for vehicles that operated within the air district for the year in which the solicitation deadline occurs according to the formula in section 2449.1(a)(1)(A)1.

(C) Calculate NOx target rate — Determine the NOx target rate for vehicles that operated within the air district for the year in which the solicitation deadline occurs according to the formula in section 2449.1(a)(1)(A)1, and using the NOx targets set forth in Table 1 below. If there is no NOx target rate for the year in which the solicitation deadline occurs, the nearest future target rate should be used.

Table 1: NOx Targets for each Max Hp Group [g/bhp-hr]

<i>Compliance Date: March 1 of Year</i>	<i>25–49 hp</i>	<i>50–74 hp</i>	<i>75–99 hp</i>	<i>100–174 hp</i>	<i>175–299 hp</i>	<i>300–599 hp</i>	<i>600–750 hp</i>	<i>>750 hp</i>
2011	5.6	6.2	6.7	6.0	5.4	5.1	5.3	6.4
2014	4.9	5.1	5.2	4.7	2.8	2.7	2.7	4.2
2017	4.2	4.1	3.8	3.4	1.5	1.5	1.5	3.2
2020	3.5	3.2	2.4	2.2	0.9	0.9	0.9	2.6
2023	3.5	3.2	2.4	2.2	0.9	0.9	0.9	2.6

(D) Apply for funding — Except as provided in section 2449.3(d)(2) and 2449.3(e)(3) below, a fleet for which the NOx index, as calculated in section 2449.3(d)(1)(B), is greater than the NOx target rate, as calculated in section 2449.3(d)(1)(C), must apply for SOON funding. The application submitted must be completed according to the guidelines and conditions established under the solicitation and, if the necessary NOx retrofits, repower, or vehicle replacements are available, must indicate how NOx retrofits, repowers, or vehicle replacements for which funding is requested will bring the NOx index for vehicles that operated within the air district from where it would have been under compliance with section 2449.1 to less than or equal to the NOx target rate calculated in section 2449.3(d)(1)(C). The application must also indicate whether the fleet wants the application to be given high priority for SOON program funding by the district. The funding priority shall be determined under the air district guidelines developed per section 2449.3(f)(2).

(E) Achieve NOx reductions — Fleets that receive SOON program funding must complete the actions for which they were funded per the conditions of the solicitation. Fleets that do not receive requested SOON program funding are not required to take actions beyond compliance with the in-use off-road diesel vehicle regulation, as specified in sections 2449, 2449.1, and 2449.2.

(2) Fleets not meeting the applicability provisions — A fleet that operates individual vehicles within the air district, but does not meet the applicability provisions of sections 2449.3(b)(2)(B) and 2449.3(b)(2)(C), are not required to file a report with the ARB or the air district under section 2449.3(d)(1). It is also not required to apply for funding under subsection (d)(1)(D), but may file a report with ARB or the air district under section 2449.3(d)(1) and apply for funding if the NOx index calculated for its fleet operating within the air district exceeds the NOx target rate, and the fleet would like to qualify for funding. If the air district approves the fleet's application for funding, the fleet must achieve the NOx reductions

as set forth in subsection (d)(1)(E). Participating in the SOON program in one year does not obligate the fleet to participate in subsequent years.

(3) Air districts that opt into the SOON program — Districts must prioritize requested projects based on the optimum NOx cost-effectiveness and on whether the fleet requesting the SOON program funding has requested high priority for SOON program funding. Air districts must report to ARB, in a format approved by the Executive Officer, all projects funded under the SOON program, including the equipment identification number of all vehicles funded.

*(e) Special Provisions —**(1) Accounting for the in-use off-road diesel vehicle rule —*

(A) Reductions achieved through the SOON program must be surplus, over the entire contract period, to those required by the "Regulation for In-Use Off-Road Diesel Vehicles", sections 2449–2449.2 above.

(B) During the contract period, vehicles equipped with NOx retrofits, repowered with new engines, or that have been replaced using SOON program funding, cannot use this lower emission rate to calculate NOx indices, PM indices, NOx target rates, PM target rates, turnover credit and retrofit credit under sections 2449.1 and 2449.2. Instead, for the purposes of calculating NOx indices, PM indices, NOx target rates, PM target rates, turnover credit and retrofit credit under sections 2449.1 and 2449.2, these vehicles must be reflected as if the actions taken under the SOON program did not occur. Actions taken using SOON program funding may be used for determining compliance under sections 2449.1 and 2449.2 after the completion of the SOON program project contract period for that vehicle. For example, if a Tier 0 vehicle is repowered with a Tier 3 engine with SOON program funds, for purposes of compliance with sections 2449.1 and 2449.2, that vehicle is still treated as if it were a Tier 0 until the end of the contract period for the SOON program project.

(C) If a fleet pays for a retrofit that is installed concurrently with a repower or vehicle replacement funded with SOON program funding, the fleet may count the retrofit toward determining compliance under section 2449.2. If a fleet's vehicle is repowered using SOON program funding with a Tier 4 engine that comes with an original engine manufacturer diesel particulate filter, and if the fleet pays a portion of the repower costs such that it offsets the cost of an equivalent retrofit diesel particulate filter, the fleet may count the retrofit toward determining compliance under section 2449.2.

(2) *Turnover in section 2449.1* — A fleet may apply to the Executive Officer for an extension from the requirements in section 2449.1(a)(2)(A) if, using the accounting provisions in section 2449.3(e)(1), section 2449.1(a)(2)(A) would require, prior to March 1, 2014, a fleet to turn over vehicles that are Tier 2 or better. The exemptions in section 2449.1(a)(2)(A)4.a. and section 2449.1(a)(2)(A)5. for vehicles less than 10 years old and Tier 1 vehicles do not apply to the SOON program.

(3) *Compliance plans* — In addition to a SOON program application, a fleet applying for SOON program funding must prepare and submit to the air district a compliance plan, in the format described in the district guidelines, laying out the actions it is required to take under sections 2449.1 and 2449.2 and the actions for which it is applying for funding under section 2449.3. Compliance plans must demonstrate that in the absence of any actions taken to satisfy section 2449.3, the fleet will be able to meet the requirements of sections 2449.1 and 2449.2 through the remaining actions set forth in the plan.

(4) *Surplus* — Participation in the SOON program does not reduce the actions required for any fleet to comply with any requirements in the statewide in-use off-road diesel vehicle regulation under sections 2449.1 and 2449.2.

(5) *Tracking devices* — An air district may require any vehicle repowered, retrofitted, or replaced with incentive money through the SOON program to be equipped with a vehicle location device (per the air district's guidelines and conditions for receiving funding) to ensure that the vehicle is used in the air district for the required percent of operating hours.

(6) *Particulate Matter Retrofits* —

a. The exemption from retrofit requirements for vehicles less than 5 years old in section 2449.2(a)(2)(A)4.a. does not apply to vehicles that are replaced or repowered with SOON program funds.

b. If a fleet has a vehicle that has been retrofitted within the last six years with a Level 2 or 3 VDECS, which was the highest level VDECS at the time of retrofit, the fleet may but is not required to apply for SOON funding for that vehicle.

c. A fleet that receives SOON funding to repower or replace a vehicle is not required to install the highest level VDECS along with the repower or replacement.

(7) *Funding Guidelines* — Projects funded under the SOON program with Carl Moyer program money must be administered consistent with applicable Carl Moyer program guidelines, except as noted in section 2449.3(e)(6)c. If a project is funded from other sources, the SOON program must be administered consistent with any applicable guidelines. The air district shall develop guidelines for administration of the SOON program, as provided in section 2449.3(f)(2).

(8) *Vehicles Scheduled to Leave District* — A fleet that has operated within the air district as defined in section 2449.3(c)(1) but that is planning to move vehicles out of the air district such that the vehicles will not operate enough hours in the air district to qualify for SOON funding may leave such vehicles out of the NOx index calculation in section 2449.3(d)(1)(B), the NOx target rate calculation in section 2449.3(d)(1)(C), and the application for funding in section 2449.3(d)(1)(D). The fleet must submit a statement under penalty of perjury to the district for each such vehicle stating its intent to move each such vehicle out of the district.

(9) *Voluntary or Mandatory Nature of SOON* — An air district, having held a public hearing and opted into this regulation, may issue a solicitation for applications for funding under the SOON program.

a. For fleets in the South Coast Air Quality Management District and San Joaquin Valley Air Pollution Control District, solicitations with a deadline before April 2, 2009, shall be voluntary. For solicitations with a deadline on or after April 2, 2009, the South Coast Air Quality Management District and San Joaquin Valley Air Pollution Control District may elect to make participation by fleets voluntary or mandatory.

b. In any district other than the South Coast Air Quality Management District or San Joaquin Valley Air Pollution Control District, for solicitations with a deadline before April 2, 2010, participation by fleets is voluntary. For solicitations with a deadline on or after April 2, 2010, the district may choose to make participation by fleets voluntary or mandatory.

c. The solicitation shall announce the air district's decision regarding voluntary or mandatory participation.

(f) *Local Air District Opt-In*

(1) To participate in the SOON program, an air district's governing board must hold a formally noticed public hearing, where public comment is taken, and, by majority vote, elect to opt into the program. As part of this hearing, for years when section 2449.3(e)(9) gives the district a choice between a voluntary and mandatory SOON program, the air district's governing board must decide whether participation by fleets is voluntary or mandatory.

(2) *District Guidelines* — An air district opting into section 2449.3 must develop, through a public process including a duly noticed public workshop and formally noticed public hearing, additional administrative provisions necessary to implement this section, including, but not limited to, funding guidelines (as required under section 2449.3(e)(7)), compliance planning requirements, and reporting and monitoring requirements. Funding guidelines may include limitations on the cost-effectiveness of projects that may be funded and must include the method used for prioritizing projects based on cost-effectiveness and whether applying fleets requested high priority for SOON program funding, and a description of any requirements on fleets that receive SOON funding to pay part of the SOON project cost. Compliance planning guidelines must indicate the format and length of compliance plans. Air district guidelines may include a pre-application process that collects vehicle data (model year, horsepower, hours of use) and then requires full SOON project applications only for vehicles likely to receive funding.

(3) *ARB Approval of District Guidelines* — Before any guidelines, including administrative or funding guidelines, approved by an air district take effect, they must be approved by the Executive Officer. Air district staff shall submit proposed guidelines to the Executive Officer before they are acted on by the district's governing board. The Executive Officer will respond within 30 days with a description of any required changes to the proposed guidelines necessary for Executive Officer approval. In evaluating proposed air district guidelines, the Executive Officer shall consider, among other factors, the adequacy of cost-effectiveness criteria, whether fleet requests for high priority for SOON funding are given preference, and uniformity of district guidelines between air districts. After guidelines are adopted by a district's governing board, air district staff shall submit the adopted guidelines to the Executive Officer. The Executive Officer will respond within 30 days with approval or a description of any required changes to the guidelines.

(4) *ARB Authority* — ARB has sole authority to enforce the requirements of section 2449.3. The Executive Officer retains the authority to review any district's administration of section 2449.3 and to address any unforeseen circumstances or events.

NOTE: Authority cited: Sections 39002, 39515, 39516, 39600, 39601, 39602, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code. Reference: Sections 39002, 39515, 39516, 39600, 39601, 39602, 39650, 39656, 39657, 39658, 39659, 39665, 39667, 43000, 43000.5, 43013, 43016 and 43018, Health and Safety Code.

HISTORY

1. New section filed 5-16-2008; operative 6-15-2008 (Register 2008, No. 20).

Appendix A

Use the values in these tables unless engine is a Post-2007 Flexibility Engine, or unless the engine is an engine certified to on-road standards.

Engines certified to on-road standards should use the standard to which the engine is certified. Flexibility engines certified January 1, 2007 or later should use the emission standard to which the engine is certified. Engines certified to Family Emission Limits and flexibility engines certified before January 1, 2007, should still use the emission factors in the table below.

Replacement engines produced per title 13, CCR, section 2423(j) should use the engine model year of the engine replaced. For an engine certified to an emission standard lower than that shown in these tables for its model year, the emission standard to which the engine is certified may be used, provided that the certification Executive Order or certificate

number is provided along with the initial and annual reporting required by section 2449(g)(1) and 2449(g)(2).

If the model year of an engine is unknown because it is missing a serial number, manufacturer's build code, and/or an engine family number, and the engine manufacturer or authorized representative is unable to determine the model year of the engine by examining the engine's build and components, such an engine shall be treated as a 1969 model year engine. If a manufacturer can bracket the model year of an engine (for example that an engine was built between 1987 and 1994) by examining the engine's build and components, the earliest date the engine could have been manufactured shall be used as the model year of that engine (in the example, 1987).

For engines that have been retrofit with VDECS, the PM Emission Factor is reduced 50 percent for a Level 2 VDECS, and 85 percent for a Level 3 VDECS; the NOx Emission Factor is reduced by whatever percentage NOx emission reductions are verified. The PM Emission Factor is not reduced for a Level 1 VDECS.

PM Emissions Factors by Horsepower and Year (g/bhp-hr)

Engine Model Year	Horsepower Group							
	25-49	50-74	75-99	100-174	175-299	300-599	600-750	Over 750
1900-1969	0.950	1.200	1.200	1.100	1.100	0.950	0.950	0.950
1970-1971	0.950	1.200	1.200	0.940	0.940	0.810	0.810	0.810
1972-1987	0.950	1.200	1.200	0.780	0.780	0.680	0.680	0.680
1988	0.950	0.980	0.980	0.540	0.540	0.490	0.490	0.490
1989-1995	0.950	0.980	0.980	0.540	0.540	0.490	0.490	0.490
1996	0.950	0.980	0.980	0.540	0.40	0.40	0.40	0.500
1997	0.950	0.980	0.980	0.600	0.40	0.40	0.40	0.500
1998	0.950	1.090	1.090	0.600	0.40	0.40	0.40	0.500
1999	0.60	1.090	1.090	0.600	0.40	0.40	0.40	0.500
2000	0.60	1.090	1.090	0.600	0.40	0.40	0.40	0.40
2001	0.60	1.090	1.090	0.600	0.40	0.15	0.40	0.40
2002	0.60	1.090	1.090	0.600	0.40	0.15	0.15	0.40
2003	0.60	1.090	1.090	0.22	0.15	0.15	0.15	0.40
2004	0.45	0.30	0.30	0.22	0.15	0.15	0.15	0.40
2005	0.45	0.30	0.30	0.22	0.15	0.15	0.15	0.40
2006	0.45	0.30	0.30	0.22	0.15	0.15	0.15	0.15
2007	0.45	0.30	0.30	0.22	0.15	0.15	0.15	0.15
2008	0.22	0.22	0.30	0.22	0.15	0.15	0.15	0.15
2009	0.22	0.22	0.30	0.22	0.15	0.15	0.15	0.15
2010	0.22	0.22	0.30	0.22	0.15	0.15	0.15	0.15
2011	0.22	0.22	0.30	0.22	0.015	0.015	0.015	0.07
2012	0.22	0.22	0.015	0.015	0.015	0.015	0.015	0.07
2013	0.02	0.02	0.015	0.015	0.015	0.015	0.015	0.07
2014	0.02	0.02	0.015	0.015	0.015	0.015	0.015	0.07
2015 and later	0.02	0.02	0.015	0.015	0.015	0.015	0.015	0.03

NOx Emissions Factors by Horsepower and Year (g/bhp-hr)

Engine Model Year	Horsepower Group							
	25-49	50-74	75-99	100-174	175-299	300-599	600-750	Over 750
1900 – 1969	7.2	14.8	14.8	15.9	15.9	15.2	15.2	15.2
1970 – 1971	7.2	14.8	14.8	14.8	14.8	14.1	14.1	14.1
1972 – 1979	7.2	14.8	14.8	13.6	13.6	13.0	13.0	13.0
1980 – 1987	7.2	14.8	14.8	12.5	12.5	11.9	11.9	11.9
1988	7.1	9.9	9.9	9.3	9.3	8.9	8.9	8.9
1989 – 1995	7.1	9.9	9.9	9.3	9.3	8.9	8.9	8.9
1996	7.1	9.9	9.9	9.3	6.9	6.9	6.9	8.9
1997	7.1	9.9	9.9	6.9	6.9	6.9	6.9	8.9
1998	7.1	6.9	6.9	6.9	6.9	6.9	6.9	8.9
1999	6.2	6.9	6.9	6.9	6.9	6.9	6.9	8.9
2000	6.2	6.9	6.9	6.9	6.9	6.9	6.9	6.9
2001	6.2	6.9	6.9	6.9	6.9	4.2	6.9	6.9
2002	6.2	6.9	6.9	6.9	6.9	4.2	4.2	6.9
2003	6.2	6.9	6.9	4.3	4.3	4.2	4.2	6.9
2004	4.9	4.9	4.9	4.3	4.3	4.2	4.2	6.9
2005	4.9	4.9	4.9	4.3	4.3	4.2	4.2	6.9
2006	4.9	4.9	4.9	4.3	2.6	2.6	2.6	4.2
2007	4.9	4.9	4.9	2.6	2.6	2.6	2.6	4.2
2008	4.9	3.0	3.0	2.6	2.6	2.6	2.6	4.2
2009	4.9	3.0	3.0	2.6	2.6	2.6	2.6	4.2
2010	4.9	3.0	3.0	2.6	2.6	2.6	2.6	4.2
2011	4.9	3.0	3.0	2.6	1.5	1.5	1.5	2.6
2012	4.9	3.0	2.5	2.5	1.5	1.5	1.5	2.6
2013	3.0	3.0	2.5	2.5	1.5	1.5	1.5	2.6
2014	3.0	3.0	2.5	2.5	0.3	0.3	0.3	2.6
2015 and later	3.0	3.0	0.3	0.3	0.3	0.3	0.3	2.6

Article 5. Portable Engine and Equipment Registration

§ 2450. Purpose.

These regulations establish a statewide program for the registration and regulation of portable engines and engine-associated equipment (portable engines and equipment units) as defined herein. Portable engines and equipment units registered under the Air Resources Board program may operate throughout the State of California without authorization (except as specified herein) or permits from air quality management or air pollution control districts (districts). These regulations preempt districts from permitting, registering, or regulating portable engines and equipment units, including equipment necessary for the operation of a portable engine (e.g. fuel tanks), registered with the Executive Officer of the Air Resources Board except in the circumstances specified in the regulations.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New article 5 (sections 2450–2465) and section filed 9–17–97; operative 9–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12–1–99; operative 12–1–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).

3. Amendment of section and NOTE filed 8–2–2005; operative 9–1–2005 (Register 2005, No. 31).

§ 2451. Applicability.

(a) Registration under this regulation is voluntary for owners of portable engines or equipment units.

(b) This regulation applies to portable engines and equipment units as defined in section 2452. Except as provided in paragraph (c) of this section, any portable engine or equipment unit may register under this regulation. Examples include, but are not limited to:

(1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;

(2) consistent with section 209(e) of the federal Clean Air Act, engines and associated equipment used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; woodchippers; dredges; equipment necessary for the operation of portable engines and equipment units; and military tactical support equipment.

(c) The following are not eligible for registration under this program:

(1) any engine used to propel mobile equipment or a motor vehicle of any kind as defined in section 2452(z)(1)(A);

(2) any engine or equipment unit not meeting the definition of portable as defined in section 2452(cc) of this regulation;

(3) engines, equipment units, and associated engines determined by the Executive Officer to qualify as part of a stationary source permitted by a district;

(4) any engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);

(5) any engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS) [Note: This shall not prevent statewide registration of portable engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];

(6) any dredging operation in the Santa Barbara Harbor;

(7) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor;

(8) generators used for power production into the grid, except to maintain grid stability during an emergency event or other unforeseen event that affects grid stability; and

(9) generators used to provide primary or supplemental power to a building, facility, stationary source, or stationary equipment, except during unforeseen interruptions of electrical power from the serving utility, maintenance and repair operations, electrical upgrade operations including startup, shutdown, and testing that do not exceed 60 calendar days, operations where the voltage, frequency, or electrical current requirements can only be supplied by a portable generator, or remote operations where grid power is unavailable.

(d) In the event that the owner of an engine or equipment unit elects not to register under this program, the engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment of subsections (a), (c)(1)-(c)(5) and (c)(9)-(e) filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
5. Amendment of subsections (c)(3) and (c)(9) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-26-2007 order, including further amendment of subsection (c)(3) and repealer of subsections (d)-(e), transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
7. Change without regulatory effect amending subsections (c)(1)-(2) filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 2452. Definitions.

(a) "Air Contaminant" shall have the same meaning as set out in section 39013 of the Health and Safety Code.

(b) "ARB" means the California Air Resources Board.

(c) "Certified Compression-Ignition Engine" means an engine meeting the nonroad engine emission standards for compression-ignition engines, as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 89 in effect at the time of application.

(d) "Certified Spark-Ignition Engine" means an engine meeting the nonroad engine emission standards for spark-ignition engines, as set forth in Title 13 of the California Code of Regulations or 40 CFR Part 1048 in effect at the time of application.

(e) "Compression-Ignition (CI) Engine" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. Compression-ignition engines usually control fuel supply instead of using a throttle to regulate power.

(f) "Corresponding Onshore District" means the district which has jurisdiction for the onshore area that is geographically closest to the engine or equipment unit.

(g) "District" means an air pollution control district or air quality management district created or continued in existence pursuant to provisions of Part 3 (commencing with section 40000) of the California Health and Safety Code.

(h) "Electrical Upgrade" means replacement or addition of electrical equipment and systems resulting in increased generation, transmission and/or distribution capacity.

(i) "Emergency Event" means any situation arising from sudden and reasonably unforeseen natural disaster such as earthquake, flood, fire, or other acts of God, or other unforeseen events beyond the control of the portable engine or equipment unit operator, its officers, employees, and contractors that threatens public health and safety and that requires the immediate temporary operation of portable engines or equipment units to help alleviate the threat to public health and safety.

(j) "Engine" means any piston driven internal combustion engine.

(k) "Equipment Unit" means equipment that emits PM₁₀ over and above that emitted from an associated engine.

(l) "Executive Officer" means the Executive Officer of the California Air Resources Board or his/her designee.

(m) "Hazardous Air Pollutant (HAP)" means any air contaminant that is listed pursuant to section 112(b) of the federal Clean Air Act.

(n) "Home District" means the district designated by the responsible official as the district in which the registered engine or equipment unit resides most of the time. For registered engines or equipment units based out of California, the responsible official shall designate the home district based on where the registered engine or equipment unit is likely to be operated a majority of the time the registered engine or equipment units is in California.

(o) "Identical Replacement" means a substitution due to mechanical breakdown of a registered portable engine or equipment unit with another portable engine or equipment unit that has the same manufacturer, type, model number, manufacturer's maximum rated capacity, and rated brake horsepower; and is intended to perform the same or similar function as the original portable engine or equipment unit; and has equal or lower emissions expressed as mass per unit time; and meets the emission requirements of sections 2455 through 2457 of this article.

(p) "In-field Inspection" means an inspection that is conducted at the location that the portable engine or equipment unit is operated under normal load and conditions.

(q) "Location" means any single site at a building, structure, facility, or installation.

(r) "Maximum Achievable Control Technology (MACT)" means any federal requirement promulgated as part of 40 CFR Parts 61 and 63.

(s) "Maximum Rated Capacity" is the maximum throughput rating or volume capacity listed on the nameplate of the registered equipment unit as specified by the manufacturer.

(t) "Maximum Rated Horsepower (brake horsepower (bhp))" is the maximum brake horsepower rating specified by the registered engine manufacturer and listed on the nameplate of the registered engine.

(u) "Mechanical Breakdown" means any failure of an engine's electrical system or mechanical parts that necessitates the removal of the registered engine from service.

(v) "Modification" means any physical change to, change in method of operation of, or in addition to registered engine or equipment unit, which may cause or result in an increase in the amount of any air contaminant emitted or the issuance of air contaminants not previously emitted. Routine maintenance and/or repair shall not be considered a physical change. Unless previously limited by an enforceable registration condition, a change in the method of operation shall not include:

(1) an increase in the production rate, unless such increase will cause the maximum design capacity of the registered equipment unit to be exceeded;

(2) an increase in the hours of operation;

(3) a change of ownership; and

(4) the movement of a registered engine or equipment unit from one location to another;

(w) "New Nonroad Engine" means a nonroad engine, the equitable or legal title to which has never been transferred to an ultimate purchaser. If the equitable or legal title to an engine is not transferred to an ultimate purchaser until after the engine is placed into service, then the engine will no longer be new after it is placed into service. A nonroad engine is placed into service when it is used for its functional purposes. The term "ultimate purchaser" means, with respect to a new nonroad engine, the first person who purchases a new nonroad engine for purposes other than resale.

(x) "New Source Performance Standard (NSPS)" means any federal requirement promulgated as part of 40 CFR Part 60.

(y) "Non-field Inspection" means an inspection that is either conducted at a location that is mutually acceptable to the district and the owner or operator or where the engine or equipment unit is stored and does not require operation of the engine or equipment unit for purposes of the inspection.

(z) "Nonroad Engine" means:

(1) Except as discussed in paragraph (B) of this definition, a nonroad engine is any engine:

(A) in or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers); or

(B) in or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or

(C) that, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be and capable of being carried or moved from one location to another. Indicia of transportability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.

(2) An engine is not a nonroad engine if:

(A) the engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under section 202 of the federal Clean Air Act; or

(B) the engine is regulated by a federal New Source Performance Standard promulgated under section 111 of the federal Clean Air Act; or

(C) the engine otherwise included in paragraph (1)(C) of this definition remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location approximately three (or more) months each year.

(aa) "Outer Continental Shelf (OCS)" shall have the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. Section 1331 et seq.).

(bb) "Placard" means a visible indicator supplied by the Air Resources Board to indicate that an engine or equipment has been registered in the Portable Equipment Registration Program and is in addition to the registration identification device.

(cc) "Portable" means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. For the purposes of this regulation, dredge engines on a boat or barge are considered portable. The engine or equipment unit is not portable if any of the following are true:

(1) the engine or equipment unit or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. The period during which the engine or equipment unit is maintained at a storage facility shall be excluded from the residency time determination. Any engine or equipment unit such as back-up or stand-by engines or equipment units, that replace engine(s) or equipment unit(s) at a location, and is intended to perform the same or similar function as the engine(s) or equipment unit(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s) or equipment unit(s), including the time between the removal of the original engine(s) or equipment unit(s) and installation of the replacement engine(s) or equipment unit(s), will be counted toward the consecutive time period; or

(2) the engine or equipment unit remains or will reside at a location for less than 12 consecutive months if the engine or equipment unit is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or

(3) the engine or equipment unit is moved from one location to another in an attempt to circumvent the portable residence time requirements.

(dd) "Prevention of Significant Deterioration (PSD)" means any federal requirements contained in or promulgated pursuant to Part C of the federal Clean Air Act.

(ee) "Process" means any air-contaminant-emitting activity associated with the operation of a registered engine or equipment unit.

(ff) "Project, for the purposes of onshore operation," means the use of one or more registered engines or equipment units operated under the same or common ownership or control to perform a single activity.

(gg) "Project, for the purposes of State Territorial Waters (STW)," means the use of one or more registered engines and equipment units operating under the same or common ownership or control to perform any and all activities needed to fulfill specified contract work that is performed in STW. For the purposes of this definition, a contract means verbal or written commitments covering all operations necessary to complete construction, exploration, maintenance, or other work. Multiple or consecutive contracts may be considered one project if they are intended to perform activities in the same general area, the same parties are involved in the contracts, or the time period specified in the contracts is determined by the Executive Officer to be sequential.

(hh) "Provider of Essential Public Service (PEPS)" means any privately-owned corporation or public agency that owns, operates, controls, or manages a line, plant, or system for the transportation of people or property, the transmission of telephone or telegraph messages, or the production, generation, transmission or furnishing of heat, light, water, power, or sanitation directly or indirectly to the public.

(ii) "Registration" means issuance of a certificate by the Executive Officer acknowledging expected compliance with the applicable requirements of this article, and the intent by the owner or operator to operate the engine or equipment unit within the requirements established by this article.

(jj) "Rental Business" means a business which rents or leases registered engines or equipment units.

(kk) "Renter" means a person who rents and or operates registered engines or equipment units not owned by that person.

(ll) "Resident Engine" means either of the following:

(1) a portable engine that at the time of applying for registration, has a current, valid district permit or registration that was issued prior to January 1, 2006, or an engine that lost a permit to operate exemption through a formal district action. Moving an engine from a district that provides

a permit to operate exemption to a district that requires a permit to operate or registration does not qualify for consideration as a resident engine; or

(2) a certified compression-ignition engine that operated in California at any time between March 1, 2004 and October 1, 2006. The responsible official shall provide sufficient documentation to prove the engine's residency to the satisfaction of the Executive Officer. Examples of adequate documentation include but are not limited to: tax records, purchase records, maintenance records, or usage records.

An engine permitted or registered by a district pursuant to Title 17 of the California Code of Regulations Section 93116.3(b)(6) is not a resident engine.

(mm) "Responsible Official" refers to an individual employed by the company or public agency with the authority to certify that the registered engines or equipment units under his/her jurisdiction comply with applicable requirements of this regulation. A company or public agency may have more than one Responsible Official.

(nn) "Spark-Ignition (SI) Engine" means an internal combustion engine with a spark plug (or other sparking device) with operating characteristics significantly similar to the theoretical Otto combustion cycle. Spark-ignition engines usually use a throttle instead of using fuel supply to control intake air flow to regulate power.

(oo) "State Territorial Waters (STW)" includes all of the following: an expanse of water that extends from the California coastline to 3 miles off-shore; a 3 mile wide belt around islands; and estuaries, rivers, and other inland waterways.

(pp) "Statewide Registration Program" means the program for registration of portable engines and equipment units set out in this article.

(qq) "Stationary Source" means any building, structure, facility or installation which emits any air contaminant directly or as a fugitive emission. "Building," "structure," "facility," or "installation" includes all pollutant emitting activities which:

(1) are under the same ownership or operation, or which are owned or operated by entities which are under common control;

(2) belong to the same industrial grouping either by virtue of falling within the same two-digit standard industrial classification code or by virtue of being part of a common industrial process, manufacturing process, or connected process involving a common raw material; and

(3) are located on one or more contiguous or adjacent properties.

[NOTE: For purposes of this regulation a stationary source and nonroad engine are mutually exclusive.]

(rr) "Storage" means a warehouse, enclosed yard, or other area established for the primary purpose of maintaining registered engines or equipment units when not in operation.

(ss) "Tactical Support Equipment (TSE)" means equipment using a portable engine, including turbines, that meets military specifications, owned by the U.S. Department of Defense, the U.S. military services, or its allies, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations. Examples include, but are not limited to, internal combustion engines associated with portable generators, aircraft start carts, heaters and lighting carts.

(tt) "Third-party Rental" means a non-rental business renting or leasing registered engines and/or equipment units to another party by written agreement.

(uu) "Tier 1 Engine" means a certified compression-ignition engine according to the horsepower and model year as follows:

- ≥50 bhp and <100 bhp; 1998 through 2003
- ≥100 bhp and <175 bhp; 1997 through 2002
- ≥175 bhp and <300 bhp; 1996 through 2002
- ≥300 bhp and <600 bhp; 1996 through 2000
- ≥600 bhp and ≤750 bhp; 1996 through 2001
- >750 bhp; 2000 through 2005.

(vv) "Tier 2 Engine" means a certified compression-ignition engine according to the horsepower and model year as follows:

- ≥50 bhp and <100 bhp; 2004 through 2007
- ≥100 bhp and <175 bhp; 2003 through 2006
- ≥175 bhp and <300 bhp; 2003 through 2005

≥300 bhp and <600 bhp; 2001 through 2005

≥600 bhp and ≤750 bhp; 2002 through 2005

750 bhp; 2006 through 2010.

(ww) "Transportable" means the same as portable.

(xx) "U.S. EPA" means the United States Environmental Protection Agency.

(yy) "Vendor" means a seller or supplier of portable engines or equipment units for use in California.

(zz) "Volatile Organic Compound (VOC)" means any compound containing at least one atom of carbon except for the following exempt compounds: acetone, ethane, parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene), methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, ammonium carbonates, methylene chloride (dichloromethane), methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), CFC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane), HCFC-142b (chlorodifluoroethane), HCFC-124 (chlorotetrafluoroethane), HFC-23 (trifluoromethane), HFC-134 (tetrafluoroethane), HFC-125 (pentafluoroethane), HFC-143a (trifluoroethane), HFC-152a (difluoroethane), cyclic, branched, or linear completely methylated siloxanes, the following classes of perfluorocarbons:

(1) cyclic, branched, or linear, completely fluorinated alkanes;

(2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(4) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds to carbon and fluorine, acetone, ethane, and parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. New subsections (hh)(3)-(4) and (rr)-(ss) filed 12-27-2006 as an emergency; operative 12-27-2006 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-26-2007 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 12-27-2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2007, No. 17).
6. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
7. Amendment of subsections (o), (kk) and (mm), new subsections (mm)(1)-(2) and (uu)-(ww) and subsection relettering filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4-26-2007 order, including further amendment of section, transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
9. Change without regulatory effect amending section filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 2453. Application Process.

(a) In order for an engine or equipment unit to be considered for registration by the Executive Officer, the engine or equipment unit must be portable as defined in section 2452(cc) and meet all applicable requirements established in this article.

(b) For purposes of registration under this article, an engine and the equipment unit it serves are considered to be separate emissions units and require separate applications.

(c) For an identical replacement, an owner or operator of a registered portable engine or equipment unit is not required to complete a new application and may immediately operate the identical replacement. Except for TSE, the owner or operator shall notify the Executive Officer in writing within five calendar days of replacing the registered engine or equipment unit with an identical replacement. Notification shall include company name, responsible official, phone number, registration certificate number of the engine or equipment unit to be replaced, and make, model, rated brake horsepower, serial number of the identical replacement; description of the mechanical breakdown; and applicable fees as required in section 2461. Misrepresentation of engine or equipment unit information or the failure to meet the requirements of this regulation shall be deemed a violation of this article.

(d) The Executive Officer shall inform the applicant, in writing, if the application is complete or deficient, within 30 days of receipt of an application. If deemed deficient, the Executive Officer shall identify the specific information required to make the application complete.

(e) The Executive Officer shall issue or deny registration within 90 days of receipt of a complete application.

(f) Upon finding that an engine or equipment unit meets the requirements of this article, the Executive Officer shall issue a registration for the engine or equipment unit. The Executive Officer shall notify the applicant in writing that the engine or equipment unit has been registered. The notification shall include a registration certificate, any conditions to ensure compliance with State and federal requirements, and a registration identification device for each engine or equipment unit registered pursuant to this regulation. Except for TSE, the registration identification device shall be affixed on the engine or equipment unit at all times, and the registration certificate including operating conditions shall be kept on the immediate premises with the engine or equipment at all times and made accessible to the Executive Officer or districts upon request. Failure to properly maintain the registration identification device shall be deemed a violation of this article.

(g) Except for TSE, each application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:

- (1) indication of general nature of business (e.g., rental business, etc.);
- (2) the name of applicant, including mailing address and telephone number;
- (3) a brief description of typical engine or equipment-unit use;
- (4) detailed description, including engine or equipment-unit make, model, manufacture year (for portable engines only), rated brake horsepower, throughput, capacity, emission control equipment, and serial number;
- (5) necessary engineering data, emissions test data, or manufacturer's emissions data to demonstrate compliance with the requirements as specified in sections 2455, 2456, and 2457;
- (6) for resident engines, a copy of either a current permit to operate that was granted by a district, or documentation as described in section 2452(l); and
- (7) the printed name and signature of the responsible official and date of the signature.

(h) For TSE, application for registration and the appropriate fee(s) as specified in section 2461, shall be submitted in a format approved by the Executive Officer and include, at a minimum, the following information:

- (1) the name of applicant, including mailing address and telephone number;
- (2) a brief description of typical engine or equipment-unit use;
- (3) engine or equipment-unit description, including type and rated brake horsepower; and
- (4) the printed name and signature of the responsible official and date of the signature.

(i) All registered engines and equipment units shall have a designated home district as defined in section 2452(n) according to the following:

(1) Owners holding valid registration(s) prior to the effective date shall designate in writing to the Executive Officer a home district within 90 days of the effective date of this regulation. The Executive Officer shall designate the home district for any and all registered engines and equipment units for existing registration program participants that fail to designate a home district;

(2) a home district shall be designated on each application for initial registration of an engine or equipment unit; and

(3) except for registered engines or equipment units owned by a rental business or involved in a third party rental, if the engine or equipment unit, based on averaging of annual operation in each district from the three annual reports submitted during the 3 year registration cycle, operated the largest percentage of the time in a district other than the designated home district, the owner shall change the home district designation at the time of renewal. The change is not required if the difference between the home district operation percentage and the district with the largest operating percentage is 5 percent or less.

(j) Engines or equipment units owned and operated for the primary purpose of rental by a rental business shall be identified as rental at the time of application for registration and shall be issued a registration specific to the rental business requirements of this article. Misrepresentation of portable engine or equipment unit use in an attempt to qualify under the rental business definition shall be deemed a violation of this article.

(k) New applications for non-operational engines or equipment units will not be accepted by the Executive Officer.

(l) Once registration is issued by the Executive Officer, district permits or registrations for engines or equipment units registered in the Statewide Registration Program are preempted by the statewide registration and are, therefore, considered null and void, except for the following circumstances where a district permit shall be required:

(1) engines or equipment units used in a project(s) operating in the OCS. The requirements of the district permit or registration apply to the registered engine or equipment unit while operating at the project(s) in the OCS; or

(2) engines or equipment units used in a project(s) operating in both the OCS and STW. The requirements of the district permit or registration apply to the registered engine or equipment unit while operating at the project(s) in the OCS and STW; or

(3) at STW project(s) that trigger district emission offset thresholds; or

(4) at any specific location where statewide registration is not valid. The owner of the engine or equipment unit shall obtain a district permit or registration for the location(s) where the statewide registration is not valid; or

(5) at any location where an engine or equipment unit that has been determined to cause a public nuisance as defined in Health and Safety Code Section 41700.

Under no circumstances shall a portable engine or equipment unit be operated under both statewide registration and a district permit at any specific location. Where both a district permit for operation at a specific location and statewide registration have been issued for an engine or equipment unit, the terms of the district permit shall take precedence at that location.

(m) When ownership of a registered engine or equipment unit changes, the new owner shall submit a change of ownership application. This application shall be filed within 30 days of the change of ownership. During the 30 day period the new owner is authorized to operate the registered engine or equipment unit. If an application is not received within 30 days, the engine or equipment unit may not operate and the existing registration is not valid for the new owner until the application has been filed and all applicable fees have been paid. Registration will be reissued to the new owner after a complete application has been approved by the Executive Officer.

(n) Except for TSE, a placard shall be required for every engine or equipment unit registered in the Statewide Registration Program. The placard shall be affixed on the registered engine or equipment unit at all times so that it may be easily viewed from a distance. Placards shall be purchased at the time of the first renewal or at the time of initial registration, whichever occurs first. Failure to properly maintain the placard shall be deemed a violation of this article.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Change without regulatory effect amending subsection (g)(7) filed 10-27-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 43).
5. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
6. Amendment of subsections (f), (g)(6) and (h)(5)-(n) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 4-26-2007 order, including amendment of subsection (g)(6), transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
8. Change without regulatory effect amending subsections (a) and (g)(6) filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 2454. Registration Process.

(a) The Executive Officer shall make registration data available to the districts via the Internet.

(b) The Executive Officer may conduct an inspection of an engine or equipment unit and/or require a source test in order to verify compliance with the requirements of this article prior to issuance of registration.

(c) After obtaining registration in accordance with this article, an owner or operator of the registered engines or equipment units:

(1) shall comply with all conditions set forth in the issued registration. Failure to comply with such conditions shall be deemed a violation of this article; and

(2) may operate within the boundaries of the State of California so long as such registered engines or equipment units comply with all applicable requirements of this article and any other applicable federal or State law.

(d) Districts shall provide the Executive Officer with written reports or electronic submittals via the Internet, describing any inspections and the nature and outcome of any violation of local, State or federal laws by the owner or operator of registered engines or equipment units. The Executive Officer shall make available to all districts such information via the Internet.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment of NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
3. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 2455. General Requirements.

(a) The emissions from engines or equipment units registered under this article shall not, in the aggregate, interfere with the attainment or maintenance of any California or federal ambient air quality standard. The emissions from one or more registered engines or equipment units, exclusive of background concentration, shall not cause an exceedance of any ambient air quality standard. This paragraph shall not be construed as requiring operators of registered engines or equipment units to provide emission offsets for engines or equipment units registered under this article.

(b) Engines or equipment units registered under this article shall comply with article 1, chapter 3, part 4, division 26 of the California Health and Safety Code, commencing with section 41700.

(c) Except for engines or equipment units permitted or registered by a district in which an emergency event occurs, an engine or equipment unit operated during an emergency event as defined in section 2452(i) of this article, is considered registered under the requirements of this article for the duration of the emergency event and is exempt from sections 2455, 2456, 2457, 2458, and 2459 of this article for the duration of the emergency event provided the owner or operator notifies the Executive Officer within 24 hours of commencing operation. The Executive Officer may for good cause refute that an emergency event under this provision exists. If the Executive Officer deems that an emergency event does not exist, all operation of engines and equipment units covered by this provision shall cease operation immediately upon notification by the Executive Officer. Misrepresentation of an emergency event and failure to cease operation under notice of the Executive Officer shall be deemed a violation of this article.

(d) For the purposes of registration under this article, the owner or operator of a registered equipment unit must notify the U.S. EPA and comply with 40 CFR 52.21 if:

(1) the registered equipment unit operates at a major stationary source under 40 CFR 51.166 or 52.21, and

(A) the major stationary source is located within 10 kilometers of a Class I area; or

(B) the registered equipment unit, operating in conjunction with other registered equipment units, operates at the major stationary source and its operation would be defined as a major modification to the stationary source under 40 CFR 51.166 or 52.21; or

(2) the registered equipment unit, operating in conjunction with other registered equipment units, would be defined as a major stationary source, as defined under 40 CFR 51.166 or 52.21.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of subsection (c) and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Change without regulatory effect amending subsection (c) filed 10-27-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 43).
5. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
6. Amendment of subsections (a) and (c) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 4-26-2007 order transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
8. Editorial correction adding inadvertently omitted subsection (d) (Register 2007, No. 51).

§ 2456. Engine Requirements.

(a) For TSE, no air contaminant shall be discharged into the atmosphere, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is as dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke designated as No. 2 on the Ringelmann Chart. No other requirements of this section are applicable to TSE.

(b) Registered diesel pile-driving hammers shall comply with the applicable provisions of section 41701.5 of the California Health and Safety Code and are otherwise exempt from further requirements of this section.

(c) To be registered in the Statewide Registration Program, a registered engine rated less than 50 brake horsepower shall be a certified compression-ignition engine or a certified spark-ignition engine, unless no

emission standards exist for that brake horsepower and year of manufacture. In that event, the engine shall comply with the applicable daily and annual emission limits contained in section 2456(d)(6) of this article. No other requirements of this section are applicable to portable engines rated less than 50 brake horsepower.

(d) After January 1, 2006, engines rated equal to, or greater than 50 bhp registered under this article shall:

(1) be certified compression-ignition engines or certified spark-ignition engines that meet the most stringent emissions standard in effect for the applicable horsepower range at the time the application is submitted by the responsible official. Spark-ignition engines that are not certified spark-ignition engines may be registered if they meet the emission standards in Table 1. Subsection (d)(1) does not apply to certified compression-ignition engines built under the flexibility provisions listed in 40 CFR part 89.102, engines that are resident engines, changes of ownership, or engines that meet the requirements of Title 17 of the California Code of Regulations sections 93116.3(b)(7) or 93116.3.1.

(2) meet all applicable requirements in Title 17 of the California Code of Regulations commencing with section 93116;

(3) use only fuels meeting the standards for California motor vehicle fuels as set forth in chapter 5, division 3, Title 13 of the California Code of Regulations, commencing with section 2250, or other fuels and/or additives that have been verified through the Verification Procedure for In-Use Strategies to Control Emissions from Diesel Engines;

(4) not exceed particulate matter emissions concentration of 0.1 grain per standard dry cubic feet corrected to 12 percent CO₂. This provision does not apply to certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements;

(5) not discharge air contaminants into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity; and

(6) not exceed the following emission limits:

(A) 550 pounds per day per engine of carbon monoxide (CO);

(B) 150 pounds per day per engine of particulate matter less than 10 microns (PM₁₀);

(C) for registered engines operating onshore, 10 tons for each-pollutant per district per year per engine for NO_x, SO_x, VOC, PM₁₀, and CO in nonattainment areas; and

(D) for registered engines operating within STW:

1. the offset requirements of the corresponding onshore district apply. Authorization from the corresponding onshore district is required prior to operating within STW. If authorization is in the form of a current district permit, the terms and conditions of the district permit supersede the requirements of the statewide registration for the project, except that the most stringent of the technology and emission concentration limits required by the district permit or statewide registration are applicable. If the registered engine does not have a current district permit, the terms and conditions of the statewide registration apply, and the corresponding onshore district may require offsets pursuant to district rules and regulations. The requirement for district offsets shall not apply to the owner or operator of an engine(s) registered in the statewide registration program when the engine(s) is operated at a stationary source permitted by the district; and

2. the corresponding onshore district may perform an ambient air quality impact analysis (AQIA) for the proposed project prior to granting authorization. The owner or operator of engine(s) registered in the statewide registration program shall be required, at the request of the district, to submit any information deemed by the district to be necessary for performing the AQIA. Statewide registration shall not be valid at any location where the AQIA demonstrates a potential violation of an ambient air quality standard.

(E) for registered engines operating in the South Coast Air Quality Management District (SCAQMD), 100 pounds nitrogen oxides (NO_x)

per project per day [An owner may substitute SCAQMD permit or registration limits in effect on or before September 17, 1997 (optional)];

(F) 100 pounds NO_x per registered engine per day, except in SCAQMD where the limit is 100 pounds NO_x per project per day.

(7) In lieu of (6)(E) and (6)(F) above, operation of a registered new nonroad engine rated at 750 brake horsepower or greater for which a federal or California standard pursuant to 40 CFR Part 89 or Title 13 of the California Code of Regulations has not yet become effective, shall not exceed 12 hours per day.

(8) For registered engines that operate in both STW and onshore, the 10 tons per district per year per engine limit in (6)(C) above shall only apply onshore.

(9) For certified compression-ignition engines, certified spark-ignition engines, or any spark-ignition engine meeting Table 1 requirements, the daily and annual emission limitations in section 6 above shall not apply.

(10) Effective January 1, 2010, all registered spark-ignition engines rated at 50 brake horsepower or greater shall be certified spark-ignition engines or shall meet Table 1 requirements. For those spark ignition engines that are not certified spark-ignition engines or do not meet Table 1 requirements, the registration shall expire on December 31, 2009 and the engine will not be allowed to operate under the authority of this regulation.

(e) All registered engines shall be equipped with a functioning non-resettable hour meter, fuel meter or other operation tracking device approved by the Executive Officer. Engines registered prior to the effective date of this regulation, that are not equipped with a functional non-resettable hour meter, fuel meter or other operation tracking device shall install one and notify ARB in writing within 6 months of the effective date of this regulation.

(f) Registered TSE is exempt from district New Source Review and Title V programs, including any offset requirements. Further, emissions from registered TSE shall not be included in Title V or New Source Review applicability determinations.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment of section and Tables 1 and 2 filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE, repealer of Table 1, renumbering of tables and amendment of newly designated Table 1 filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment of subsection (d)(5) and new subsections (k)-(k)(2) filed 12-27-2006 as an emergency; operative 12-27-2006 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-26-2007 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 12-27-2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2007, No. 17).
6. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
7. Amendment of subsections (a), (c) and (d)(1), repealer of subsections (d)(1)(A)-(C) and new subsection (d)(10) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4-26-2007 order, including amendment of subsection (d)(1), transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).

Table 1. Spark-Ignition Engine Requirements*

<i>Pollutant Emission Limits</i>		
NO _x **	VOC**	CO**
80 ppmdv NO _x (1.5 g/bhp-hr)**	240 ppmdv VOC (1.5 g/bhp-hr)	176 ppmdv CO (2.0 g/bhp-hr)

*These requirements are in addition to requirements of section 2455 and 2456.

**For the purpose of compliance with this article, ppmdv is parts per million @ 15 percent oxygen averaged over 15 consecutive minutes. Limits of ppmdv are the

approximate equivalent to the stated grams per brake horsepower hour limit based on assuming the engine is 24.2 percent efficient.

§ 2457. Requirements for Registered Equipment Units.

(a) Emissions from a registered equipment unit, exclusive of emissions emitted directly from the associated portable engine, shall not exceed:

- (1) 10 tons per year per district of PM₁₀; and
- (2) 82 pounds per project per day of PM₁₀.

(3) For registered equipment units that operate within STW and on-shore, emissions released while operating both in STW and onshore shall be included toward the 10 tons per year limit.

(b) Registered equipment units shall also meet the following applicable requirements:

- (1) Confined abrasive blasting operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;

(B) the particulate matter emissions shall be controlled using a fabric or cartridge filter dust collector;

(C) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the dust collection equipment;

(D) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters; and

(E) there shall be no visible emissions beyond the property line on which the equipment is being operated.

- (2) Concrete batch plants:

(A) all dry material transfer points shall be ducted through a fabric or cartridge type filter dust collector, unless there are no visible emissions from the transfer point;

(B) all cement storage silos shall be equipped with fabric or cartridge type vent filters;

(C) the silo vent filters shall be maintained in proper operating condition;

(D) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;

(E) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1;

- (F) silo service hatches shall be dust-tight;

(G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;

(H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;

(I) all aggregate transfer points shall be equipped with a wet suppression system to control fugitive particulate emissions unless there are no visible emissions;

(J) all conveyors shall be covered, unless the material being transferred results in no visible emissions;

(K) wet suppression shall be used on all stockpiled material to control fugitive particulate emissions, unless the stockpiled material results in no visible emissions; and

(L) there shall be no visible emissions beyond the property line on which the equipment is being operated.

(3) Sand and gravel screening, rock crushing, and pavement crushing and recycling operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour

which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity;

(B) there shall be no visible emissions beyond the property line on which the equipment is being operated;

(C) all transfer points shall be ducted through a fabric or cartridge type filter dust collector, or shall be equipped with a wet suppression system maintaining a minimum moisture content unless there are no visible emissions;

(D) particulate matter emissions from each crusher shall be ducted through a fabric dust collector, or shall be equipped with a wet suppression system which maintains a minimum moisture content to ensure there are no visible emissions;

(E) all conveyors shall be covered, unless the material being transferred results in no visible emissions;

(F) all stockpiled material shall be maintained at a minimum moisture content unless the stockpiled material results in no visible emissions;

(G) as a part of application for registration, the applicant shall provide manufacturer's specifications or engineering data to demonstrate a minimum particulate matter control of 99 percent for the fabric dust collection equipment;

(H) except for vent filters, each fabric dust collector shall be equipped with an operational pressure differential gauge to measure the pressure drop across the filters;

(I) open areas and all roads subject to vehicular traffic shall be paved, watered, or chemical palliatives applied to prevent fugitive emissions in excess of 20 percent opacity or Ringelmann 1; and

(J) if applicable, the operation shall comply with the requirements of 40 CFR Part 60 Subpart OOO.

- (4) Unconfined abrasive blasting operations:

(A) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 2 or equivalent 40 percent opacity;

(B) only California Air Resources Board-certified abrasive blasting material shall be used [Note: see Title 17, California Code of Regulations, section 92530 for certified abrasives.];

- (C) the abrasive material shall not be reused;

(D) no air contaminant shall be released into the atmosphere which causes a public nuisance;

(E) all applicable requirements of Title 17 of California Code of Regulations shall also apply; and

(F) there shall be no visible emissions beyond the property line on which the equipment is being operated.

- (5) Tub grinders and trommel screens:

(A) there shall be no visible emissions beyond the property line on which the equipment is being operated;

(B) no air contaminant shall be discharged into the atmosphere for a period or periods aggregating more than three minutes in any one hour which is as dark as or darker than Ringelmann 1 or equivalent 20 percent opacity; and

(C) water suppression or chemical palliatives shall be used to control fugitive particulate emissions from the tub grinder whenever the tub grinder is in operation, unless there are no visible emissions.

(c) Registered equipment units not described in section 2457(b) above, shall be subject to the most stringent district Best Available Control Technology (BACT) requirements in effect for that category of source at the time of application for registration.

(d) No change in equipment unit configuration, operating scenario, or number of transfer points from that set out in the registration for the equipment unit shall be made unless a complete application for modification has been filed and approved by the Executive Officer prior to operation.

(e) Registration is not valid for any equipment unit operating at a location if by virtue of the activity to be performed hazardous air pollutants will be emitted (e.g., rock crushing plant operating in a serpentine

quarry). [Note: The equipment unit would be subject to the requirements of the district in which the equipment unit is operated.]

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9–17–97; operative 9–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12–1–99; operative 12–1–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of subsections (a)(1), (b)(2)(I), (b)(3)(C), (b)(3)(F) and (b)(5)(B) and amendment of NOTE filed 8–2–2005; operative 9–1–2005 (Register 2005, No. 31).
4. Amendment of section heading and subsections (a), (b) and (c), new subsection (d), subsection relettering and amendment of newly designated subsection (e) filed 4–26–2007; operative 4–27–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 2458. Recordkeeping and Reporting.

(a) Except for registered engines owned by a rental business, used in a third-party rental, operated by a PEPS, or TSE, the owner of registered engines, including engines otherwise preempted under section 209(e) of the federal Clean Air Act, or registered equipment units shall maintain records of operation of each registered engine and equipment unit. Recordkeeping for engines not previously required to maintain records shall begin upon the effective date of the regulation or January 1, 2007, whichever is later. For engines not previously required to have an hour meter, fuel meter or other device approved by the Executive Officer, the owner or operator shall record hours of operation until the hour meter, fuel meter or other device approved by the Executive Officer has been installed. The records shall be maintained at a central place of business for five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, all of the following:

- (1) engine or equipment unit registration number;
- (2) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer, and the corresponding dates of the recordings for each registered engine or equipment unit based on the following:

(A) for each project as defined in 2452(ff) or (gg), readings shall be recorded prior to the commencement of operation and at the completion of the project; or

(B) for ongoing operation of a registered engine or equipment unit at multiple locations within a stationary source, readings shall be recorded at the beginning and end of each calendar week; or

(C) for each location, readings shall be recorded prior to commencement of operation and upon completion of operation at that location.

(3) For registered engines and equipment units subject to a daily operational limitation, daily records of either hours of operation, fuel usage, or process throughput as applicable.

(4) For equipment units subject to the requirements of section 2457(b)(3), daily throughput shall be the sum of measurements of material introduced into the equipment unit. These measurements shall be taken at the initial loading point(s) of the equipment unit.

(5) recordings from an hour meter, fuel meter, or other device approved by the Executive Officer and the corresponding dates of the recordings any time an engine or equipment unit is undergoing service, repair, or maintenance; and

(6) for each start and stop reading specified in (2) and (3) above, the location identified by district, county, or other indicator (i.e., street address, UTM coordinates, etc.)

(b) A rental business or the owner of a registered engine or equipment unit involved in a third party rental, shall maintain records for each rental or lease transaction. The written rental or lease agreement shall be kept onsite with the registered engine or equipment unit at all times. Recordkeeping for registered engines not previously required to maintain records shall begin upon the effective date of the regulations or January 1, 2007, whichever is later. For registered engines not previously required to have an hour meter, fuel meter or other device approved by the Execu-

tive Officer, the owner or operator shall record hours of operation until the hour meter, fuel meter or other device approved by the Executive Officer has been installed. The owner shall provide each person who rents a registered engine or equipment unit with a written copy of applicable requirements of this article, including recordkeeping and notification requirements, as a part of the agreement. The records, including written acknowledgment by each renter of the registered engine or equipment unit of having received the above information, shall be maintained by the rental business or the owner of the registered engine or equipment unit involved in a third-party rental at a central location for five years, and made accessible to the Executive Officer or districts upon request. Records shall be maintained in a format approved by the Executive Officer and include, at a minimum, for each rental engine all of the following:

- (1) registered engine registration number;
- (2) dates for the start and end of the rental transaction;
- (3) hours of operation for each rental period including the hour meter reading at the start of the rental transaction and the hour meter reading at the end of the rental transaction; and
- (4) location of use (by district, county or other indicator (i.e., street address, UTM coordinates, etc.)).

(c) For TSE, each military installation shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, within 60 days after the end of each calendar year. The report shall include the number, type, and rating of registered TSE at each installation as of December 31 of that calendar year, and be accompanied by the applicable fees pursuant to section 2461. Any variation of registered TSE to actual TSE shall be accounted for in this annual report, and the Executive Officer shall issue an updated TSE list accordingly. A renewal registration will be issued with the updated TSE list every three years according to expiration date.

(d) For each registered engine subject to the requirements of Title 17 California Code of Regulations section 93116, the owner shall keep records and submit reports in accordance with Title 17 California Code of Regulations section 93116.4.

(e) Except for registered engines or equipment units owned by a rental business, used in a third-party rental, operated by a PEPS or TSE, the owner of a registered engine or equipment unit shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:

- (1) the reporting year;
- (2) the registration number of each registered engine and/or equipment unit;
- (3) for registered engines, quarterly summaries for each district or county the total fuel usage in gallons per quarter, or total hours of operation per quarter, for each registered engine; and
- (4) for registered equipment units, quarterly summaries for each district or county in which the registered equipment unit was operated and the total process weight or throughput.

(f) The owner of a registered engine or equipment unit owned by a rental business or used in a third-party rental transaction shall provide the Executive Officer an annual report signed by the responsible official, in a format approved by the Executive Officer, by March 1 of each calendar year containing all of the following information:

- (1) the reporting year;
- (2) the registration number of each registered engine and/or equipment unit;
- (3) total hours of operation for the reporting year for each registered engine based on, and including, beginning and ending annual hour meter readings and dates upon which the total hours of annual operation calculation is based;
- (4) list of all counties in which the registered engine operated in during the reporting year as reported by the entity(ies) that operated the registered engine;
- (5) estimate of the percentage of total hours for each engine operated in each of the counties identified in (4) above; and

(6) for registered equipment units, quarterly and annual summaries for each district or county in which the registered equipment unit was operated and the total process weight or throughput.

(g) the owner or operator of a registered engine or equipment unit used by a PEPS shall provide the Executive Officer an annual report, in a format approved by the Executive Officer, by March 1st of each calendar year containing all of the following information:

- (1) the reporting year;
- (2) the registration number of each registered engine and/or equipment unit;
- (3) total hours of operation; and
- (4) estimate of the percentage of hours or fuel usage for the three counties in which the registered engine or equipment unit operated the most.

(h) Records requests made by a district or Executive Officer shall be made to the responsible official. The responsible official shall provide the requested records within 30 days from receipt of the request. Failure to provide the records by the specified date shall be deemed a violation of this article.

(i) Each district shall provide the Executive Officer with an annual report, in a format approved by the Executive Officer, by March 31 following the year in which the information was collected containing all of the following information:

- (1) the number of portable engines and equipment units inspected;
- (2) the number of portable engines and/or equipment units found operating without valid district permits or statewide registrations;
- (3) the number of registered engines and equipment units inspected; and
- (4) summary of results of inspections.

(j) Vendors selling new portable engines and/or equipment units in California shall:

- (1) notify the buyer about this regulation; and
- (2) on a monthly basis submit to the Executive Officer the number of portable engines and/or portable equipment units sold by the vendor for use in California including: the name, address, and contact information of the purchaser, and description of the engine and/or equipment unit including make, model, and engine family name.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
5. Amendment of subsection (a), new subsection (a)(4), subsection renumbering, amendment of subsections (b)–(b)(1) and (f)(4)–(5) and new subsection (f)(6) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-26-2007 order transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
7. Change without regulatory effect amending subsections (a)(2)(A) and (a)(6) filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 2459. Notification.

(a) Except as listed in subsection (d) of this section, if a registered equipment unit will be at a location for more than five days, the owner or operator of that registered equipment unit, shall notify the district in writing in a format approved by the Executive Officer, within two working days of commencing operations in that district. If the registered equipment unit is to be moved to different locations within the same district, the owner or operator shall be subject to the notification requirements above, unless the owner or operator and the district, by mutual

agreement, arrange alternative notification requirements on a case-by-case basis. The notification shall include all of the following:

- (1) the registration number of the registered equipment unit;
- (2) the name and phone number of the responsible official or renter with information concerning the locations where the registered equipment unit will be operated within the district; and
- (3) estimated time the registered equipment unit will be located in the district.

(b) If the district has not been notified as required in section 2459(a) above, because the owner or operator did not reasonably expect the duration of operation to trigger the notification requirement in section 2459(a) above, the owner or operator shall notify the district, in a format approved by the Executive Officer, within 12 hours of determining the registered equipment unit will be operating at a location more than five days.

(c) Owners and operators of TSE are not subject to the notification requirements of this section 2459.

(d) For STW projects, the owner or operator of a registered engine or registered equipment unit shall notify the corresponding onshore district in writing, in a format approved by the Executive Officer at least 14 days in advance of commencing operations in that district. The notification shall include all of the following:

- (1) the registration number of the registered engine or equipment unit;
- (2) the name and phone number of the responsible official with information concerning the locations where the registered engine or equipment unit will be operated within the district;
- (3) estimated time the registered engine(s) or equipment unit(s) will be located in the district; and
- (4) calculations showing the estimation of actual emissions expected for the project.

(e) Except as listed in section 2459(d) above, owners and operators of registered engines are not subject to notification requirements.

(f) The Executive Officer shall make available via the Internet a list of approved notification methods for each district.

(g) Failure to provide the required notifications within the timelines specified in this section shall be deemed a violation of this regulation.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of subsections (a), (a)(2), (e), (f) and (f)(2) and amendment of NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
5. Amendment of subsection (g) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-26-2007 order transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).

§ 2460. Inspections and Testing.

(a) In determining if a portable engine or equipment unit is eligible for registration, the Executive Officer may inspect the portable engine or equipment unit and/or require a source test, at the owner's expense.

(b) Each district shall inspect all registered engines and equipment units for which the district has been designated as the home district pursuant to section 2453(i) above, as specified below:

(1) Within 45 days after the date of initial issuance or renewal of a registration, the owner or operator shall contact the home district to arrange for inspection of the registered engine or equipment unit to be completed within one year of the initial registration or renewal date. If the registered engine or equipment unit shall be operating in a district, other than the home district, the owner or operator may request the home district to arrange for an inspection by the other district.

(2) For portable engines, each home district should conduct no more than 20 percent of the arranged inspections for that district as in-field inspections. All arranged inspections not conducted as in-field inspections shall be conducted as non-field inspections. If a portable engine is found in violation during an in-field inspection, the next arranged inspection for that engine shall be an in-field inspection. This section does not limit the authority of a district to conduct any number of non-arranged in-field or non-field inspections for which no fee is charged.

(3) For registered equipment units operating with registered engines, the owner or operator may not request that the registered engine be inspected at the hourly rate specified in Table 3 for equipment unit inspections. Inspection fees for registered engines are to be paid as listed in item 14 in Table 3.

(4) Arranged inspections for PEPS engines and registered equipment units shall be non-field inspections unless an in-field inspection is requested by the holder of the registration and a reasonable in-field inspection location is arranged with the appropriate district.

(5) The time for an arranged inspection shall be agreed upon in advance with the district and company preferences regarding time of day shall be accommodated within reason. To the extent that an arranged inspection does not fall within the district's normal workday, the district may charge for the off-hour time based on a fee as specified in Table 3.

(6) If an arranged inspection of a registered engine or registered equipment unit does not occur due to unforeseen circumstances, the owner or operator and the home district shall reschedule the arranged inspection no later than 90 days of the initially scheduled inspection. Any unreasonable actions on the part of the owner or operator that prevents the inspection to occur within the specified time frame shall be deemed a violation of this article. Actions taken by the owner or operator that could be deemed "unreasonable" include, but are not limited to:

(A) failing to respond to the district correspondences or other contracts made to schedule the inspection;

(B) failing to ensure that the registered engine or equipment unit is in operation for arranged "in-field inspections" or where the district has provided advance notification to the owner or operator that the registered engine or equipment unit is required to be observed in operation.

(7) The owner or operator may request the scheduling of one or more arranged inspections for multiple engines in order to qualify for an inspection fee discount as specified in section 2461(d). Within 45 days of date of initial issuance of registration or by January 30 of each year for renewals, the owner or operator shall submit a letter of intent including an equipment list and registration numbers to the district to arrange for inspection of multiple engines. The inspections shall be completed within one year after the registration renewal date for each engine inspected.

(8) If a registered engine or equipment unit is out of California for one year or more following initial registration or renewal, the engine or equipment unit shall be excused from having the arranged inspection within that period if:

(A) within 45 days after the date of initial issuance or renewal of the registration, the owner or operator submitted a letter to the district noting the registration number of the registered engine or equipment unit and that the engine or unit is out of California for the one-year period; and

(B) upon the return of the registered engine or equipment unit to the State, the owner or operator shall arrange to have the registered engine or equipment unit inspected within 30 days.

(c) After issuance of registration, the Executive Officer or district may at any time conduct an inspection of any registered portable engine or equipment unit in order to verify compliance with the requirements of this article. The district shall not charge the owner or operator an additional inspection fee for that inspection. Source testing of engines for compliance purposes shall not be required more frequently than once every three years (including testing at the time of registration), except as provided in section 2460(e), unless evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified. In no event shall the Executive Officer or district require source testing of a portable engine for

which there is no applicable emission standard, emission limit or other emission related requirement contained in this regulation.

(d) Testing shall be conducted in accordance with the following methods or other methods approved by the Executive Officer:

Particulate Matter:	ARB Test Method 5 with probe catch and filter catch only
VOC:	ARB Test Method 100 or U.S. EPA Test Method 25A
NOx:	ARB Test Method 100 or U.S. EPA Test Method 7E
Carbon Monoxide:	ARB Test Method 100 or U.S. EPA Test Method 10
Oxygen:	ARB Test Method 100 or U.S. EPA Test Method 3A
Gas Velocity and Flow Rate:	ARB Test Method 1 & 2 or U.S. EPA Test Method 1 & 2

(e) Initial or follow-up source testing of engines to verify compliance with the requirements of this regulation shall not be required for certified compression-ignition engines and spark-ignition engines.

(f) The exemption provided in section 2460(e) shall not apply to source testing of engines for compliance purposes where evidence of engine tampering, lack of proper engine maintenance, or other problems or operating conditions that could affect engine emissions are identified.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of subsections (c) and (d)(1) and amendment of NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment of section heading and section filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
5. Amendment of subsections (b)(3), (b)(5) and (e) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-26-2007 order, including further amendment of subsections (b)(3) and (b)(5), transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).

§ 2461. Fees.

(a) Except as otherwise set out herein, the Executive Officer shall assess and collect reasonable fees for registration, renewal, and associated administrative tasks, to recover the estimated costs to the Executive Officer for evaluating registration applications, and issuing registration documentation.

(b) Fees shall be due and payable to the Executive Officer at the time an application is filed or as part of any request requiring a fee. Fees are nonrefundable except in circumstances as determined by the Executive Officer.

(c) Except as provided in (k) below, the owner or operator of a registered engine or equipment unit shall submit fees to the Executive Officer in accordance with Table 3.

(d) The Executive Officer shall collect an inspection fee as listed in Table 3 one time per every three calendar years for each registered engine to be paid upon initial application and renewal. Except for TSE, when multiple registered engines are inspected at a given source or location, the owner shall receive a discount if the owner or operator intends to arrange multiple engines inspections with the district and complies with the requirements specified in section 2460(b)(7). The discounts shall be applied as follows:

- (1) no discount for 1 to 3 engines
- (2) 25 percent discount for 4 to 9 engines
- (3) 35 percent discount for 10 or more engines

(e) Failure to pay renewal fees when due may result in penalties. If a fee payment is not received or postmarked by the specified due date, fee

penalties may be assessed per unit in accordance with Table 2. Failure to pay renewal fees prior to expiration may result in cancellation of the registration. If a registration has expired for an engine or equipment unit that is eligible for reactivation, a canceled registration may be reactivated after payment of all renewal and penalty fees. Registration may be reissued under the original registration number and expiration date. A portable engine or equipment unit without valid registration is subject to the rules and regulations of the district in which it operates.

(f) Fees shall be periodically revised by the Executive Officer in accordance with the consumer price index, as published by the United States Bureau of Labor Statistics.

(g) A district may collect a fee for the inspection of a registered equipment unit pursuant to section 2460(b)(3). The district shall bill the owner of the equipment unit at a rate as specified in Table 3 of the regulation for actual staff time taken to perform the inspection, not to exceed the amount specified in Table 3. Upon receipt of the invoice for the inspection fee, the owner shall have the right to appeal the district's fee determination to the district Air Pollution Control Officer pursuant to the provisions of the district's rules and regulations that govern appeals of fee determinations.

(h) The Executive Officer shall annually distribute district inspection fees collected for that year. General inspection fees will be distributed equally among the districts. Home district inspection fees will be distributed to the corresponding home district.

(i) TSE fees are due at the time of the report pursuant to section 2458(c). Failure to submit the annual report and applicable fees within six calendar months after the end of the year will result in cancellation of the registration. For TSE, if registration is cancelled or allowed to expire, the applicant shall reapply and pay initial registration fees.

(j) The district may collect an inspection fee as listed in Table 3 one time per calendar year for each registered TSE inspected. When multiple registered TSE units are inspected at a given source or location, the inspection fee shall be equal to the lesser of the actual cost, including staff time, for conducting the inspection or the fee as listed in Table 3 per registered portable engine or equipment unit inspected. If the district performs an inspection leading to determination of non-compliance with this article, or any applicable state or federal requirements, the district may charge a fee as listed in Table 3 per portable engine or equipment unit for each inspection necessary for the determination and ultimate resolution of the violation. In no event shall the total fees exceed the actual costs, including staff time, to the district of conducting the investigations and resolving any violations.

(k) Portable engines qualifying for initial registration as resident engines per section 2452(l)(2) shall use the Table 2 fee schedule. The fees collected subject to this section shall be distributed to the districts, except that \$270 dollars per engine for initial registration, and an additional \$80 dollars per engine shall be retained by the Air Resources Board to provide for administrative costs. The fees shall be determined as follows:

(1) For tier 1 engines, as defined in section 2452(uu), registration fees will be based on the year listed in Table 2, as determined below:

(A) Where date of purchase can be verified by the Executive Officer, the earlier of:

- (1) for engines ≥ 50 bhp and < 100 bhp: year of purchase or 2004;
- (2) for engines ≥ 100 bhp and < 300 bhp: year of purchase or 2003;
- (3) for engines ≥ 300 bhp and < 600 bhp: year of purchase or 2001;
- (4) for engines ≥ 600 bhp and ≤ 750 bhp: year of purchase or 2002;
- (5) for engines > 750 bhp: year of purchase or 2006.

(B) Where the date of purchase can not be verified, the model year shall be used.

(2) For tier 2 engines, as defined in section 2452(vv), registration fees as listed in Table 2 will be based on the year the engine was purchased (as verified by the Executive Officer) or the model year of the engine (if purchase date is not available).

Table 2 Registration Fees For Resident Engines Per Section 2452(l)(2)

Portable Engine Date*	Application Submitted on or Before 12/31/07	Application Submitted in 2008	Application Submitted in 2009
1996	\$2,353	\$3,130	\$5,000
1997	\$2,195	\$2,920	\$4,685
1998	\$2,038	\$2,710	\$4,370
1999	\$1,880	\$2,500	\$4,055
2000	\$1,723	\$2,290	\$3,740
2001	\$1,565	\$2,080	\$3,425
2002	\$1,408	\$1,870	\$3,110
2003	\$1,250	\$1,660	\$2,795
2004	\$1,093	\$1,450	\$2,480
2005	\$935	\$1,240	\$2,165
2006	\$778	\$1,030	\$1,850

*As determined in section 2461(k).

Table 3. Fees for Statewide Registration Program
(Fees are per registered unit except where noted otherwise)

1	Initial Registration	\$270.00
2	TSE, initial registration	
A	Registration of first 25 units (or portion thereof)	\$750.00
B	Registration of every additional 50 units (or portion thereof)	\$750.00
3	Change of status from non-operational to operational	
A	Where initial evaluation has not been previously completed	\$180.00
B	Where initial evaluation has been previously completed	\$90.00
4	Identical replacement	\$75.00
5	Renewal, non-TSE	
6	Penalty fee for late renewal payments, non-TSE	\$225.00
A	Postmarked within 2 calendar months prior to registration expiration date	\$45.00
B	Postmarked within the calendar month prior to registration expiration date	\$90.00
C	Postmarked after the registration expiration date	\$250.00
7	Annual TSE inventory fee	
A	first 25 units (or portion thereof)	\$375.00
B	every additional 50 units (or portion thereof)	\$375.00
8	Modification to registered portable engine or equipment unit	\$75.00
9	Change of ownership	\$75.00
10	Replacement of registration identification device	\$30.00
11	Correction to an engine or equipment unit description	\$45.00
12	Update company information, copy of registration documents	\$45.00
13	Copy of registration documents	\$45.00
14	Total district inspection fee per registered portable engine, paid once every 3 years	\$345.00
A	General district inspection fee	\$30.00
B	Home district inspection fee	\$315.00
15	District off-hour service fee per hour	\$50.00
16	District inspection fees for equipment units:	
A	General district inspection fee, paid once every 3 years	\$75.00
B	District inspection fee per equipment unit, per hour	\$98.00 (not to exceed \$500.00)
17	TSE inspection fees:	
A	General district inspection fee per TSE unit, paid annually	\$10.00
B	District inspection fee per TSE unit per inspection	\$75.00
18	Placard	\$5.00

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment of subsection (g), new subsection (l) and amendment of Table 3 filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE, renumbering of Table 3 to Table 2 and amendment of table heading and table filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment of subsections (c)-(f) and new subsections (j)-(j)(2) and Table 3 filed 12-27-2006 as an emergency; operative 12-27-2006 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-26-2007 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 12-27-2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2007, No. 17).

6. Amendment of section and Table filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
7. Amendment of section and Table filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4-26-2007 order transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).
9. Change without regulatory effect amending section filed 4-7-2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 2462. Duration of Registration.

(a) Except for registrations that will expire on December 31, 2009 pursuant to sections 2456(d)(10) and 17 CCR 93116.3(b)(1)(A), registrations and renewals will be valid for three years from date of issuance. For change of ownership, the registration shall retain the original expiration date, except where the registration has expired.

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(b) The Executive Officer shall mail to the owner of a registered engine or equipment unit a renewal invoice at least 60 days prior to the registration expiration. Failure to send or receive a renewal invoice does not relieve the responsible official from paying all applicable fees when due.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment of subsection (a) filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).
3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
4. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).
5. Amendment of subsection (a) filed 4-26-2007 as an emergency; operative 4-27-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 10-23-2007 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4-26-2007 order, including further amendment of subsection (a), transmitted to OAL 7-31-2007 and filed 9-12-2007 (Register 2007, No. 37).

§ 2463. Suspension or Revocation of Registration.

(a) The Executive Officer for just cause may suspend or revoke registration in any of the following circumstances:

(1) the holder of registration has violated one or more terms and conditions of registration or has refused to comply with any of the requirements of this article;

(2) the holder of registration has materially misrepresented the meaning, findings, effect or any other material aspect of the registration application, including submitting false or incomplete information in its application for registration regardless of the holder's personal knowledge of the falsity or incompleteness of the information;

(3) the test data submitted by the holder of registration to show compliance with this regulation have been found to be inaccurate or invalid;

(4) enforcement officers of the ARB or the districts, after presentation of proper credentials, have been denied access, during normal business hours or hours of operation, to any facility or location where registered engines and equipment units are operated or stored and are prevented from inspecting such engines or equipment units as provided for in this article (the duty to provide access applies whether or not the holder of registration owns or controls the facility or location in question);

(5) enforcement officers of the ARB or the districts, after presentation of proper credentials, have been denied access to any records required by this regulation for the purpose of inspection and duplication;

(6) the registered engine or equipment unit has failed in-use to comply with the findings set forth in the registration. For the purposes of this section, noncompliance with the registration may include, but is not limited to:

(A) a repeated failure to perform to the standards set forth in this article; or

(B) modification of the engine or equipment unit that results in an increase in emissions or changes the efficiency or operating conditions of such engine or equipment unit, without prior notice to and approval by the Executive Officer; or

(7) the holder of registration has failed to take requested corrective action as set forth in a Notice of Violation or Notice to Comply within the time period set forth in such notice.

(8) the holder of the registration has failed to pay fees assessed by either the Executive Officer or district within 120 after the specified due date and there is no pending appeal.

(b) A holder of registration may be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.

(c) The Executive Officer shall notify each holder of registration by certified mail of any action taken by the Executive Officer to suspend or revoke any registration granted under this article. The notice shall set

forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.

(d) A holder of registration having received a notice to revoke or suspend registration may request that the action be stayed pending a hearing under section 2464. In determining whether to grant the stay, the Executive Officer shall consider the reasonable likelihood that the registration holder of registration will prevail on the merits of the appeal and the harm the holder of registration will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the holder of registration if the stay is not granted.

(e) Once a registration has been suspended pursuant to (a) above, the holder of registration shall satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the holder before the Executive Officer will consider reinstating the registration.

(f) After the Executive Officer suspends or revokes a registration pursuant to this section and prior to commencement of a hearing under section 2464, if the holder of registration demonstrates to the Executive Officer's satisfaction that the decision to suspend or revoke the registration was based on erroneous information, the Executive Officer will reinstate the registration.

(g) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).
2. Amendment of subsections (d)-(f) and amendment of NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).
3. Amendment of subsections (a)(4)-(6), new subsection (a)(8) and amendment of subsections (b) and (d) filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 2464. Appeals.

(a) Hearing Procedures.

(1) Any applicant for registration whose application has been denied or a holder of registration whose registration has been suspended, or revoked may request a hearing to review the action taken by sending a request in writing to the Executive Officer. A request for hearing shall include, at a minimum, the following:

(A) name of applicant or holder of registration;

(B) registration number;

(C) copy of the Executive Order revoking or suspending registration or the written notification of denial;

(D) a concise statement of the issues to be raised, with supporting facts, setting forth the basis for challenging the denial, suspension, or revocation (mere conclusory allegations will not suffice);

(E) a brief summary of evidence in support of the statement of facts required in (D) above; and

(F) the signature of an authorized person requesting the hearing.

(2) A request for a hearing shall be filed within 20 days from the date of issuance of the notice of the denial, suspension, or revocation.

(3) A hearing requested pursuant to this section shall be heard by a qualified and impartial hearing officer appointed by the Executive Officer. The hearing officer may be an employee of the ARB, but may not be any employee who was involved with the registration at issue. In a request for a hearing of a denial of registration, after reviewing the request for a hearing and supporting documentation provided under subsection (1) above, the hearing officer shall grant the request for a hearing if he or she finds that the request raises a genuine and substantial question of law or fact.

(4) Except as provided in (3) above, the hearing officer shall schedule and hold, as soon as practicable, a hearing at a time and place determined by the hearing officer.

(5) Upon appointment, the hearing officer shall establish a hearing file. The file shall consist of the following:

(A) the determination issued by the Executive Officer which is the subject of the request for hearing;

(B) the request for hearing and the supporting documents that are submitted with it;

(C) all documents relating to and relied upon in making the determination to deny registration or to suspend or revoke registration; and

(D) correspondence and other documents material to the hearing.

(6) The hearing file shall be available for inspection by the applicant at the office of the hearing officer.

(7) An applicant may appear in person or may be represented by counsel or by any other duly-authorized representative.

(8) The ARB may be represented by staff or counsel familiar with the registration program and may present rebuttal evidence.

(9) Technical rules of evidence shall not apply to the hearing, except that relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to relying in the conduct of serious affairs. No action shall be overturned based solely on hearsay evidence, unless the hearsay evidence would be admissible in a court of law under a legally recognized exception to the hearsay rule.

(10) The hearing shall be recorded either electronically or by a certified shorthand reporter.

(11) The hearing officer shall consider the totality of the circumstances of the denial, suspension, or revocation, including but not limited to, credibility of witnesses, authenticity and reliability of documents, and qualifications of experts. The hearing officer may also consider relevant past conduct of the applicant including any prior incidents involving other ARB programs.

(12) The hearing officer's written decision shall set forth findings of fact and conclusions of law as necessary.

(13) Within 30 days of the conclusion of a hearing, the hearing officer shall submit a written proposed decision, including proposed finding as well as a copy of any material submitted by the hearing participants as part of that hearing and relied on by the hearing officer, to the Executive Officer. The hearing officer may recommend to the Executive Officer any of the following:

(A) uphold the denial, suspension, or revocation action as issued;

(B) reduce a revocation to a suspension;

(C) increase a suspension to a revocation if the registration holder's conduct so warrants; or

(D) overturn a denial, suspension, or revocation in its entirety.

(14) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:

(A) adopt the hearing officer's proposed decision;

(B) modify the hearing officer's proposed decision; or

(C) render a decision without regard to the hearing officer's proposed decision.

(b) Hearing conducted by written submission.

(1) In lieu of the hearing procedure set forth in (a) above, an applicant may request that the hearing be conducted solely by written submission.

(2) In such case the requestor must submit a written explanation of the basis for the appeal and provide supporting documents within 20 days of making the request. Subsequent to such a submission the following shall transpire:

(A) ARB staff shall submit a written response to the requestors submission and documents in support of the Executive Officer's action no later than 10 days after receipt of requestor's submission;

(B) The registration holder may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised;

(C) If the registration holder submits a rebuttal, ARB staff may submit one rebuttal statement which may include supporting information, as attachment(s), but limited to the issues previously raised; and

(D) the hearing officer shall be designated in the same manner as set forth in (a)(3) above. The hearing officer shall receive all statements and

documents and submit a proposed written decision and such other documents as described in (a)13 above to the Executive Officer no later than 30 working days after the final deadline for submission of papers. The Executive Officer's final decision shall be mailed to the holder of registration no later than 60 days after the final deadline for submission of papers.

(E) The Executive Officer shall render a final written decision within 60 working days of the last day of hearing. The Executive Officer may do any of the following:

(1) adopt the hearing officer's proposed decision;

(2) modify the hearing officer's proposed decision; or

(3) render a decision without regard to the hearing officer's proposed decision.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).

2. Amendment of subsection (b)(1) filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).

3. Amendment of subsections (a)(3) and (a)(10) and amendment of NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).

4. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 2465. Penalties.

Violation of the provisions of this article result in civil, and/or criminal penalties pursuant to the California Health and Safety Code. Each day during any portion of which a violation occurs is a separate violation.

NOTE: Authority cited: Sections 39600, 39601, 41752, 41753, 41754, 41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750, 41751, 41752, 41753, 41754 and 41755, Health and Safety Code.

HISTORY

1. New section filed 9-17-97; operative 9-17-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 38).

2. Amendment filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).

3. Amendment of section and NOTE filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).

4. Amendment filed 4-26-2007; operative 4-27-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 17).

§ 2466. Sunset Review.

NOTE: Authority cited: Sections 39600-39601, 41752-41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 39600, 39601 and 41750, Health and Safety Code.

HISTORY

1. New section filed 12-1-99; operative 12-1-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 49).

2. Repealer filed 8-2-2005; operative 9-1-2005 (Register 2005, No. 31).

Article 6. Portable Fuel Containers and Spouts

§ 2467. Applicability.

(a) Except as provided in Section 2467.3, this article applies to any person who sells, supplies, offers for sale, advertises or manufactures for sale in California portable fuel containers or spouts or both portable fuel containers and spouts for use in California.

(b) Except as provided by Section 2467.3, no person shall sell, supply, offer for sale, advertise, or manufacture for sale in California a portable fuel container or spout or both portable fuel container and spout on or after July 1, 2007 unless said portable fuel container or spout or both portable fuel container and spout is covered by an Executive Order issued pursuant to this article.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New article 6 (sections 2470–2478) and section filed 9–11–2000; operative 10–11–2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2470 to new section 2467 and amending subsection (a) filed 9–14–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment filed 1–13–2006; operative 2–12–2006 (Register 2006, No. 2).
4. New subsection (b) filed 9–11–2006; operative 10–11–2006 (Register 2006, No. 37).

§ 2467.1. Definitions.

(a) The definitions in Section 1900(b), Title 13 of the California Code of Regulations apply with the following additions:

- (1) “ASTM” means the American Society for Testing and Materials.
- (2) “Automatic closure” means a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.
- (3) “Automatically close” means a closure occurs through the activation of a device or mechanism that causes a spill-proof system or spout to close, seal, and remain completely closed when not dispensing fuel.
- (4) “Consumer” means the first person who in good faith purchases a new portable fuel container or spout or both portable fuel container and spout for purposes other than resale, including but not limited to personal, family, household, or institutional use.
- (5) “Distributor” means any person to whom a portable fuel container or spout or both portable fuel container and spout is sold or supplied for the purposes of resale or distribution in commerce. Manufacturers, retailers, and consumers are not distributors.
- (6) “Executive Officer” means the Executive Officer of the Air Resources Board, or his or her designee.
- (7) “Fuel” means all fuels subject to any provision of Title 13, California Code of Regulations, Chapter 5, Standards for Motor Vehicle Fuels, Sections 2250–2298, except for Sections 2292.5, 2292.6, and 2292.7.
- (8) “Kerosene” means any light petroleum distillate that is commonly or commercially known, sold or represented as kerosene, that is used in space heating, cook stoves, and water heaters, and is suitable for use as a light source when burned in wick-fed lamps.
- (9) “Manufacturer” means any person who imports, manufactures, assembles, packages, repackages, or re-labels a portable fuel container or spout or both portable fuel container and spout.
- (10) “Nominal Capacity” means the volume indicated by the manufacturer that represents the maximum recommended filling level.
- (11) “Outboard Engine” means a spark-ignition marine engine that, when properly mounted on a marine water-craft in the position to operate, houses the engine and drive unit external to the hull of the marine water-craft.
- (12) “Permeation” means the process by which individual fuel molecules may penetrate the walls and various assembly components of a portable fuel container directly to the outside ambient air.
- (13) “Person” has the same meaning as defined in Health and Safety Code Section 39047.
- (14) “Portable Fuel Container” means any container or vessel with a nominal capacity of ten gallons or less intended for reuse that is designed, used, sold, advertised or offered for sale for receiving, transporting, storing, and dispensing fuel or kerosene. Portable fuel containers do not include containers or vessels permanently embossed or permanently labeled, as described in 49 Code of Federal Regulations Section 172.407(a), as it existed on September 15, 2005, with language indicating said containers or vessels are solely intended for use with non-fuel or non-kerosene products.
- (15) “Product Category” means the applicable category that best describes the product with respect to its nominal capacity, material construction, fuel flow rate, and permeation rate, as applicable, as determined by the Executive Officer.
- (16) “Retailer” means any person who owns, leases, operates, controls, or supervises a retail outlet.

(17) “Retail Outlet” means any establishment at which portable fuel containers or spouts or both portable fuel containers and spouts are sold, supplied, or offered for sale.

(18) “ROG” (Reactive Organic Gas) means a reactive chemical gas, composed of hydrocarbons, that may contribute to the formation of smog. ROG is sometimes referred to as Non-Methane Organic Compounds (NMOC’s).

(19) “Spill Proof Spout” means any spout that complies with all of the performance standards specified in Section 2467.2(b) or with the certification requirement in Section 2467.2(c) and with the requirements in Section 2467.5.

(20) “Spill-Proof System” means any configuration of portable fuel container and firmly attached spout that complies with all of the performance standards in Section 2467.2(a) or with the certification requirement in Section 2467.2(c) and with the requirements in Section 2467.5.

(21) “Spout” means any device that can be firmly attached to a portable fuel container for conducting pouring through which the contents of a portable fuel container can be dispensed, not including a device that can be used to lengthen the spout to accommodate necessary applications.

(22) “Target Fuel Tank” means any receptacle that receives fuel from a portable fuel container.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass’n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass’n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9–11–2000; operative 10–11–2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2471 to new section 2467.1 and amending subsections (a)(16) and (a)(17) filed 9–14–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. New subsection (a)(6), subsection renumbering and amendment of newly designated subsections (a)(12), (a)(17) and (a)(18) filed 1–13–2006; operative 2–12–2006 (Register 2006, No. 2).
4. New subsections (a)(2)–(3), subsection relettering and amendment of newly designated subsections (a)(19)–(21) filed 9–11–2006; operative 10–11–2006 (Register 2006, No. 37).

§ 2467.2. Performance Standards and Test Procedures for Portable Fuel Containers and Spill-Proof Spouts.

(a) Except as provided in Section 2467.3, during the time period beginning 30 days after the date of filing of this subsection with the Secretary of State, and ending June 30, 2007, no person shall sell, supply, offer for sale, or manufacture for sale in California any portable fuel container or any portable fuel container and spout which, at the time of sale or manufacture, does not meet all of the following Performance Standards for Spill-Proof systems:

- (1) An automatic shut-off stops the fuel flow before the target fuel tank overflows.
- (2) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.
- (3) Has only one opening for both filling and pouring.
- (4) Does not exceed a permeation rate of 0.4 grams per gallon per day.
- (5) Warranted for a period of not less than one year against defects in materials and workmanship.

(b) Except as provided in Section 2467.3, during the time period beginning 30 days after the date of filing of this subsection with the Secretary of State, and ending June 30, 2007, no person shall sell, supply, offer for sale, or manufacture for sale in California any spout which, at the time of sale or manufacture, does not meet all of the following Performance Standards for Spill-Proof Spouts:

- (1) An automatic shut-off stops the fuel flow before the target fuel tank overflows.
- (2) Automatically closes and seals when removed from the target fuel tank and remains completely closed when not dispensing fuel.
- (3) Warranted for a period of not less than one year against defects in materials and workmanship.

(c) Except as provided in Section 2467.3, every portable fuel container, spout, or portable fuel container and spout produced on or after July 1, 2007 that is manufactured for sale, advertised for sale, sold, or offered for sale in California or that is introduced, delivered or imported into California for introduction into commerce and that is subject to any of the standards prescribed in this article and documents incorporated by reference therein, must be certified for use and sale by the manufacturer through the Air Resources Board and covered by an Executive Order issued pursuant to Section 2467.2(d).

(d) The criteria for obtaining certification, including all test procedures for determining certification and compliance with the standards applicable to portable fuel containers, spouts, or portable fuel containers and spouts produced on or after July 1, 2007 that are manufactured for sale, advertised for sale, sold, or offered for sale in California, or that are introduced, delivered or imported into California for introduction into commerce and that are subject to any of the standards prescribed in this article and documents incorporated by reference therein are set forth in "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts," adopted July 26, 2006, which is incorporated by reference herein.

(e) The Executive Officer shall coordinate compliance procedures with these Performance and Certification and Compliance Standards with:

- (1) California State Fire Marshal (SFM)
- (2) California Department of Industrial Relations, Division of Occupational Safety and Health (DOSH)

(f) Compliance with the Performance Certification or Compliance Standards in this Section does not exempt spill-proof systems or spill-proof spouts from compliance with other applicable federal and state statutes and regulations such as state fire codes, safety codes, and other safety regulations, nor will the Air Resources Board test for or determine compliance with such other statutes or regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2472 to new section 2467.2 and amending subsections (a), (b), (c) and (f) filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment of section heading and section filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.3. Exemptions.

(a) This Article does not apply to any portable fuel container or spout or both portable fuel container and spout manufactured in California for shipment, sale, and use outside of California.

(b) This article does not apply to a manufacturer or distributor who sells, supplies, or offers for sale in California a portable fuel container or spout or both portable fuel container and spout that does not comply with the Performance Standards specified in Sections 2467.2(a) or (b), or the Certification and Compliance Standards specified in Section 2467.2(d), as long as the manufacturer or distributor can demonstrate that: (1) the portable fuel container or spout or both portable fuel container and spout is intended for shipment and use outside of California; and (2) that the manufacturer or distributor has taken reasonable prudent precautions to assure that the portable fuel container or spout or both portable fuel container and spout is not distributed to California.

This subsection (b) does not apply to portable fuel containers or spouts or both portable fuel containers and spouts that are sold, supplied, or offered for sale by any person to retail outlets in California.

(c) This Article does not apply to safety cans meeting the requirements of Title 29, Code of Federal Regulations Part 1926, Subpart F (§ 1926.150 et seq.).

(d) This Article does not apply to portable fuel containers with a nominal capacity less than or equal to one quart.

(e) This Article does not apply to rapid refueling devices with nominal capacities greater than or equal to four gallons, provided such devices are designed for use in officially sanctioned off-highway motor sports such as car racing or motorcycle competitions and either create a leak-proof seal against a stock target fuel tank or are designed to operate in conjunction with a receiver permanently installed on the target fuel tank.

(f) This Article does not apply to portable fuel tanks manufactured specifically to deliver fuel through a hose attached between the portable fuel tank and the outboard engine for the purpose of operating the outboard engine.

(g) This Article does not apply to closed-system portable fuel containers that are used exclusively for fueling remote control model airplanes. NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2473 to new section 2467.3 and amending subsection (b) filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment of subsections (b), (c) and (e) and new subsection (g) filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.4. Innovative Products.

(a) The Executive Officer may exempt a portable fuel container or spout or both portable fuel container and spout from one or more of the requirements of Section 2467.2 if a manufacturer demonstrates by clear and convincing evidence that, due to the product's design, delivery system, or other factors, the use of the product will result in cumulative ROG emissions below the highest emitting representative spill-proof system or representative spill-proof spout in its product category as determined from applicable testing.

(b) For the purposes of this Section, "representative spill-proof system" or a "representative spill-proof spout" means a portable fuel container or spout or both portable fuel container and spout which, at the time of application in (c) of this Section, meets the Performance Standards specified in Sections 2467.2(a) or (b) or the Certification Requirements specified in "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts, adopted July 26, 2006," which is incorporated by reference herein.

(c) A manufacturer (applicant) must apply in writing to the Executive Officer for an innovative product exemption claimed under subsection (a). The application must include the supporting documentation that quantifies the emissions from the innovative product, including the actual physical test methods used to generate the data. In addition, the applicant must provide any information necessary to enable the Executive Officer to establish enforceable conditions for granting the exemption. All information including proprietary data submitted by a manufacturer pursuant to this section shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000-91022.

(d) Within 30 days of receipt of the exemption application the Executive Officer shall determine whether an application is complete as provided in section 60030(a), Title 17, California Code of Regulations.

(e) Within 90 days after an application has been deemed complete, the Executive Officer will determine whether, under what conditions, and to what extent, an exemption from the requirements of Sections 2467.2 will be permitted. The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision. An applicant may submit additional supporting documentation before a decision has been reached. The Executive Officer will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from use of the product will meet the emissions re-

ductions specified in subsection (a), and that such emissions reductions can be enforced.

(f) In granting an innovative product exemption for a portable fuel container or spout or both portable fuel container and spout, the Executive Officer shall specify the test methods for determining conformance to the conditions established. The test methods may include criteria for reproducibility, accuracy, and sampling and laboratory procedures.

(g) For any portable fuel container or spout or both portable fuel container and spout for which an innovative product exemption has been granted pursuant to this section, the manufacturer shall notify the Executive Officer in writing at least 30 days before the manufacturer changes a product's design, delivery system, or other factors that may effect the ROG emissions during recommended usage. The manufacturer must also notify the Executive Officer within 30 days after the manufacturer learns of any information that would alter the emissions estimates submitted to the Executive Officer in support of the exemption application.

(h) If the Performance Standards specified in Section 2467.2 are amended for a product category, all innovative product exemptions granted for products in the product category, except as provided in this subsection (i), have no force and effect as of the effective date of the amended Performance Standards.

(i) If the Executive Officer believes that a portable fuel container or spout or both portable fuel container and spout for which an exemption has been granted no longer meets the criteria for an innovative product specified in subsection (a), the Executive Officer may hold a public hearing in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1.25, to determine if the exemption should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2474 to new section 2467.4 and amending subsections (a), (b), (e) and (h) filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment of subsections (b) and (i) filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.5. Administrative Requirements.

(a) Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with Section 2467.2(a) must clearly display on each spill-proof system:

- (1) the phrase "Spill-Proof System";
- (2) a date of manufacture or representative date; and
- (3) a representative code identifying the portable fuel container or portable fuel container and spout as subject to and complying with Section 2467.2(a).

(b) Each manufacturer of a spout subject to and complying with Section 2467.2(b) must clearly display on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (1) the phrase "Spill-Proof Spout";
- (2) a date of manufacture or representative date; and
- (3) a representative code identifying the spout as subject to and complying with Section 2467.2(b).

(c) Each manufacturer of a portable fuel container or portable fuel container and spout subject to and complying with Section 2467.2(c) must clearly display on each spill-proof system:

- (1) the phrase "Spill-Proof System";
- (2) a date of manufacture or representative date; and
- (3) a representative code identifying the Executive Order Number issued by the Air Resources Board for the portable fuel container or portable fuel container and spout.

(d) Each manufacturer of a spout subject to and complying with Section 2467.2(c) must clearly display on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout or a label affixed thereto:

- (1) the phrase "Spill-Proof Spout";
- (2) a date of manufacture or representative date; and
- (3) a representative code identifying the Executive Order Number issued by the Air Resources Board for the spout.

(e) Each manufacturer subject to subsection (a), (b), (c) or (d) must file an explanation of both the date code and representative code with the Executive Officer no later than the later of three months after the effective date of this article or within three months of production, and within three months after any change in coding.

(f) Each manufacturer of a spout subject to subsection (b) or (d) must clearly display the make, model number, and size of only those portable fuel container(s) the spout is designed to accommodate and can demonstrate compliance with Section 2467.2(a) or 2467.2(c) on the accompanying package, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label affixed thereto.

(g) Manufacturers of portable fuel containers or portable fuel containers and spouts not subject to or not in compliance with Section 2467.2 may not display the phrase "Spill-Proof System" or "Spill-Proof Spout" on the portable fuel container or spout, respectively, on any sticker or label affixed thereto, or on any accompanying package.

(h) Each manufacturer of a portable fuel container or spout or both portable fuel container and spout subject to and complying with Section 2467.2 that due to its design or other features cannot be used to refuel one or more on-road motor vehicles must clearly display the phrase "Not Intended For Refueling On-Road Motor Vehicles" in type of 34 point or greater on each:

- (1) spill-proof system or label affixed thereto, and on the accompanying package, if any; and
- (2) package accompanying a spill-proof spout sold separately from a spill-proof system, or for spill-proof spouts sold without packaging, on either the spill-proof spout, or a label affixed thereto.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2475 to new section 2467.5 and amending section filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. New subsections (c)-(d)(3), subsection relettering, repealer of former subsection (d) and amendment of newly designated subsections (e)-(f) filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.6. Variances.

(a) Any person or manufacturer who cannot comply with the requirements set forth in Section 2467.2, due to extraordinary reasons beyond the person's reasonable control, may apply in writing to the Executive Officer for a variance. The variance application must set forth:

- (1) the specific grounds upon which the variance is sought;
- (2) the proposed date(s) by which compliance with the provisions of Section 2467.2 will be achieved; and
- (3) a compliance report reasonably detailing the method(s) by which compliance will be achieved.

(b) Upon receiving a complete variance application containing the information required in subsection (a), the Executive Officer shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in Section 2467.2 is necessary and will be permitted. A hearing will be initiated no later than 75 days after receipt of a complete variance application. Notice of the time and place of the hearing must be sent to the applicant by certified mail not less than 30 days before to the hearing. Notice of the hearing must also be submitted for publication in the California Regulatory Notice Register and

sent to every person who requests such a notice, not less than 30 days before the hearing. The notice must state that the parties may, but not need to be, represented by counsel at the hearing. At least 30 days before the hearing, the variance application must be made available to the public for inspection. Interested members of the public must be allowed a reasonable opportunity to testify at the hearing and their testimony must be considered.

(c) No variance may be granted unless all of the following findings are made:

(1) that, due to reasons beyond the reasonable control of the applicant, required compliance with Section 2467.2 would result in extraordinary economic hardship;

(2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the variance; and

(3) that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.

(d) Any variance order shall specify a final compliance date by which the requirements of Section 2467.2 will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(e) A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

(f) Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from requirements of Section 2467.2 after holding a public hearing in accordance with the provisions of subsection (b).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).

2. Change without regulatory effect renumbering newly adopted section 2476 to new section 2467.6 and amending section filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment of subsection (b) filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.7. Performance Standard Test Procedures.

(a) Testing to determine compliance with Section 2467.2(b) of this article shall be performed by using the following test procedures:

(1) "Test Method 510, Automatic Shut-Off Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted July 6, 2000, (section numbers corrected September 13, 2000), as amended July 26, 2006, which is incorporated by reference herein.

(2) "Test Method 511, Automatic Closure Test Procedure For Spill-Proof Systems And Spill-Proof Spouts," adopted July 6, 2000, (section numbers corrected September 13, 2000), which is incorporated by reference herein.

(b) Testing to determine compliance with Section 2467.2(a) of this article shall be performed by using all test procedures in (a) above and the following test procedure:

(1) "Test Method 513, Determination Of Permeation Rate For Spill-Proof Systems," adopted July 6, 2000, (section numbers corrected September 13, 2000), which is incorporated by reference herein.

(c) Alternative methods that are shown to be accurate, precise, and appropriate may be used upon written approval of the Executive Officer.

(d) Test procedures referred to in this Article can be obtained from the California Air Resources Board, and may be available at <http://www.arb.ca.gov>.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2477 to new section 2467.7 and amending section filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Amendment of section heading and subsection (a)(1), repealer of subsection (a)(3) and amendment of subsection (b)(1) filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

[The next page is 310.3.]

§ 2467.8. Certification and Compliance Test Procedures.

(a) Testing to determine compliance with Section 2467.2(c) of this article shall be performed by using the test procedures specified in "CP-501, Certification Procedure for Portable Fuel Containers and Spill-Proof Spouts," adopted July 26, 2006, which is incorporated by reference herein.

(b) Alternative methods that are shown to be accurate, precise, and appropriate may be used upon written approval of the Executive Officer.

(c) Test procedures referred to in this Article can be obtained from the California Air Resources Board, and may be available at <http://www.arb.ca.gov>.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2000; operative 10-11-2000 (Register 2000, No. 37).
2. Change without regulatory effect renumbering newly adopted section 2478 to new section 2467.8 filed 9-14-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 37).
3. Repealer and new section heading and section filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

§ 2467.9. Enforcement.

(a) If the Executive Officer finds any manufacturer, distributor, or retailer manufacturing for sale, advertising for sale, selling, or offering for sale in the State of California a portable fuel container or spout or both portable fuel container and spout that does not comply with the requirements set forth in this article, he or she may enjoin said manufacturer, distributor, or retailer from any further manufacture, advertisement, sales, offers for sale, or distribution of such noncompliant portable fuel containers or spouts or both portable fuel containers and spouts, in the State of California pursuant to Section 43017 of the Health and Safety Code. The Executive Officer may also assess penalties to the extent permissible under Part 5, Division 26 of the Health and Safety Code and/or revoke any Executive Order(s) issued for the noncompliant portable fuel container, spout or both portable fuel container and spout.

(b) Before seeking remedial action against any manufacturer, distributor, or retailer the Executive Officer will consider any information provided by the manufacturer, distributor, or retailer.

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. v. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

HISTORY

1. New section filed 9-11-2006; operative 10-11-2006 (Register 2006, No. 37).

Article 7. Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, Equipment

§ 2470. Applicability.

This article shall apply to all aftermarket parts which are sold, offered for sale, or advertised for sale for use on off-road vehicles, engines, or equipment which are subject to California or federal emission standards.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code; and Sections 27156, 38390, 38391 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013 and 43018, Health and Safety Code.

HISTORY

1. New article 7 (sections 2470-2476) and section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2471. Definitions.

(a) The definitions in Section 1900(b), Chapter 3, Title 13 of the California Code of Regulations shall apply with the following additions:

(1) "All-Terrain Vehicle (ATV)" means any motorized off-highway vehicle 50 inches (1270 mm) or less in overall width, designed to travel on four low pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator and no passengers. The vehicle is designed to carry not more than 350 pounds (160 kg) payload, excluding the operator, and is powered by an internal combustion engine. Width shall be exclusive of accessories and optional equipment. A golf cart is not, for purposes of this regulation, to be classified as an all-terrain vehicle.

(2) "Alternate Fuel" means any fuel that will reduce non-methane hydrocarbons (on a reactivity-adjusted basis), NOx, CO, and the potential risk associated with toxic air contaminants as compared to gasoline or diesel fuel and would not result in increased deterioration of the engine. Alternate fuels include, but are not limited to, methanol, ethanol, liquefied petroleum gas, compressed natural gas, and electricity.

(3) "Alternative fuel" refers to liquefied petroleum gas, natural gas, alcohol, and alcohol/gasoline fuels.

(4) "Alternative fuel conversion system" means a package of fuel, ignition, emission control, and engine components that are modified, removed, or added during the process of modifying a vehicle/engine/equipment to operate on an alternative fuel and to perform at an emission rate lower than or equal to the rate to which the engine family was originally certified.

(5) "Alternative fuel conversion system manufacturer" refers to a person who manufactures or assembles an alternative fuel conversion system for sale in California, requests, and is granted the Executive Order certifying the conversion system.

(6) "Confirmatory testing" means an ARB directed follow-up emissions test and inspection of the test engine or test vehicle that had been used by the manufacturer to obtain test data for submittal with the certification application. The emissions tests can be conducted at ARB or contracted out facilities or at the manufacturer's facility.

(7) "Conventional fuel" means gasoline or diesel fuel.

(8) "Diesel Cycle Engine" means a type of engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The primary means of controlling power output in a diesel cycle engine is by limiting the amount of fuel that is injected into the combustion chambers of the engine. A diesel cycle engine may be petroleum-fueled (i.e. diesel-fueled) or alternate-fueled.

(9) "Driveability" of an off-road vehicle or off-road equipment means the smooth delivery of power, as demanded by the driver or operator. Typical causes of driveability degradation are rough idling, misfiring, surging, hesitation, or insufficient power. Conversion from conventional fuels to alternative fuels may entail losses of volumetric efficiency, resulting in some power loss. Such power loss is not considered to be driveability degradation.

(10) "Dual fuel" refers to a conversion system which utilizes both an alternative fuel and a conventional fuel without further hardware change-over required.

(11) "Emission Control System" includes any component, group of components, or engine modification that controls or causes the reduction of substances emitted from an engine.

(12) "Engine Family" is a subclass of a basic engine based on similar emission characteristics. The engine family is the grouping of engines that is used for the purposes of certification.

(13) "Executive Officer" means the Executive Officer of the Air Resources Board or his or her authorized representative.

(14) "Exhaust Emissions" means substances emitted into the atmosphere from any opening downstream from the exhaust port of an off-road vehicle, engine, or equipment.

(15) "Fuel System" means the combination of any of the following components: fuel tank, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, evaporative controls and all fuel system vents.

(16) "Go-Kart" means any four wheeled, open framed vehicle equipped with an internal combustion engine. These vehicles are gener-

ally found at amusement parks and rented to patrons on a "pay-by-play" basis. These vehicles are generally designed for a single rider and run on a confined track. A go-kart that is not used exclusively in competition/racing events in a closed course is not a competition/racing vehicle for purposes of these regulations.

(17) "Golf Cart" means a vehicle used to convey equipment and no more than two persons, including the driver, to play the game of golf in an area designated as a golf course. Golf carts are designed to have an unladen weight of less than 1,300 pounds and carry not more than 100 pounds, excluding passengers, accessories and optional equipment. A golf cart is not used for grounds keeping or maintenance purposes.

(18) "Heavy-Duty Off-Road Diesel Cycle Engines" or "Engines" are identified as: diesel or alternate fuel powered diesel cycle internal combustion engines 175 horsepower and greater, operated on or in any device by which any person or property may be propelled, moved or drawn upon a highway, but are primarily used off a highway. The engines are designed for powering construction, farm, mining, forestry and industrial implements and equipment. They are designed to be used in, but are not limited to use in, the following applications: agricultural tractors, backhoes, excavators, dozers, log skidders, trenchers, motor graders, portable generators and compressors and other miscellaneous applications. Specifically excluded from this category are: (1) engines operated on or in any device used exclusively upon stationary rails or tracks; (2) engines used to propel marine vessels; (3) internal combustion engines attached to a foundation at a location; (4) transportable engines subject to District permitting rules which have been operated at a location for a period of one year or more on January 1, 1997; and (5) stationary or transportable gas turbines for power generation.

(19) "Inboard Engine" means a four-stroke spark-ignition marine engine not used in a personal watercraft that is designed such that the propeller shaft penetrates the hull of the marine watercraft while the engine and the remainder of the drive unit is internal to the hull of the marine watercraft.

(20) "Installer" means a person who installs alternative fuel conversion systems on off-road vehicles/engines/equipment.

(21) "Marine watercraft" means every description of boat, ship or other artificial contrivance used, or capable of being operated on water.

(22) "Model year" means the manufacturer's annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.

(23) "Off-Highway Recreational Vehicle Engines" or "Engines" are identified as: two-stroke or four-stroke, air-cooled, liquid-cooled, gasoline, diesel, or alternate fuel powered engines or electric motors that are designed for powering off-road recreational vehicles and engines included in, but not limited to use in, the following: off-road motorcycles, all-terrain vehicles, and golf carts. All engines and equipment that fall

within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(24) "Off-Road Aftermarket Parts Manufacturer" means any person engaged in the manufacturing of add-on or modified parts, as defined in Section 1900(b), (1) and (10), Chapter 3, Title 13, California Code of Regulations, for off-road vehicles, engines or equipment subject to California or federal emission standards.

(25) "Off-Road Engine" means any internal combustion engine or motor designed for powering off-road vehicles or off-road equipment. All engines that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(26) "Off-Road Large Spark-ignition Engines" or "LSI Engines" means any engine that produces a gross horsepower 25 and greater horsepower or is designed (e.g., through fueling, engine calibrations, valve timing, engine speed modifications, etc.) to produce 25 and greater horsepower. If an engine family has models at or above 25 horsepower and models below 25 horsepower, only the models at or above 25 horsepower would be considered LSI engines. The engine's operating characteristics are significantly similar to the theoretical Otto combustion cycle with the engine's primary means of controlling power output being to limit the amount of air that is throttled into the combustion chamber of the engine. LSI engines or alternate fuel powered LSI internal combustion engines are designed for powering, but not limited to powering, fork-lift trucks, sweepers, generators, and industrial equipment and other miscellaneous applications. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically excluded from this category.

Specifically excluded from this category are: 1) engines operated on or in any device used exclusively upon stationary rails or tracks; 2) engines used to propel marine vessels; 3) internal combustion engines attached to a foundation at a location for at least 12 months; 4) off-road recreational vehicles and snowmobiles; and 5) stationary or transportable gas turbines for power generation.

(27) "Off-Road Motorcycle" means any two or three-wheeled vehicle equipped with an internal combustion engine and weighing less than 1,499 pounds. An off-road motorcycle is primarily designed for use off highways. These vehicles are mainly used for recreational riding on dirt trails but are not limited to this purpose.

(28) "Off-Road Vehicle" or "Off-Road Equipment" means any non-stationary device, powered by an internal combustion engine or motor,

used primarily off the highways to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power, and used in, but not limited to, the following applications: Marine Vessels, Construction/Farm Equipment, Locomotives, Small Off-Road Engines, Off-Road Motorcycles, and Off-Highway Recreational Vehicles.

(29) "Otto Cycle Engine" means a type of engine with operating characteristics significantly similar to the theoretical Otto combustion cycle. The primary means of controlling power output in an Otto cycle engine is by limiting the amount of air and fuel which can enter the combustion chambers of the engine. As an example, gasoline-fueled engines are Otto cycle engines.

(30) "Outboard engine" means a spark-ignition marine engine that, when properly mounted on a marine watercraft in the position to operate, houses the engine and drive unit external to the hull of the marine watercraft.

(31) "Personal watercraft engine" means a spark-ignition marine engine that does not meet the definition of outboard engine, inboard engine or sterndrive engine, except that the Executive Officer may in his or her discretion classify a personal watercraft engine as an inboard or sterndrive engine if it is comparable in technology and emissions to an inboard or sterndrive engine.

(32) "Scheduled Maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or systems required by the manufacturer which is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(33) "Small off-road engine" means any engine that produces a gross horsepower less than 25 horsepower, or is designed (e.g., through fuel feed, valve timing, etc.) to produce less than 25 horsepower, that is not used to propel a licensed on-road motor vehicle, an off-road motorcycle, an all-terrain vehicle, a marine vessel, a snowmobile, a model airplane, a model car, or a model boat. If an engine family has models below 25 horsepower and models at or above 25 horsepower, only the models under 25 horsepower would be considered small off-road engines. Uses for small off-road engines include, but are not limited to, applications such as lawn mowers, weed trimmers, chain saws, golf carts, specialty vehicles, generators and pumps. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(34) "Spark-ignition marine engine" means any engine used to propel a marine watercraft, and which utilizes the spark-ignition combustion cycle.

(35) "Specialty Vehicles" means any vehicle powered by an internal combustion engine having not less than 3 wheels in contact with the ground, having an unladen weight generally less than 2,000 pounds, which is typically operated between 10 and 35 miles per hour. The recommended bed payload for specialty vehicles is usually up to 2,000 pounds. Specialty vehicles are mainly used off of highways and residential streets. Applications of such vehicles include, but are not limited to, carrying passengers, hauling light loads, grounds keeping and maintenance, resort or hotel areas, airports, etc.

(36) "Sterndrive engine" means a four-stroke spark-ignition marine engine not used in a personal watercraft that is designed such that the drive unit is external to the hull of the marine watercraft, while the engine is internal to the hull of the marine watercraft.

(37) "Test engine" means the engine or group of engines that a manufacturer uses during certification, production line and in-use testing to determine compliance with emission standards.

(38) "Ultimate Purchaser" means the first person who in good faith purchases a replacement, add-on, or modified part for purposes other than resale.

(39) "Warrantable Condition" means any condition of an engine that requires the manufacturer to take corrective action pursuant to applicable defects warranty provisions.

(40) "Warranted Part" means any emissions-related part installed on an engine by the equipment or engine manufacturer, or installed in a warranty repair, which is listed on the warranty parts list.

(41) "Warranty period" means the period of time, either in years or hours of operation, that the engine or part is covered by the warranty provisions.

(42) "Warranty station" means a service facility authorized by the equipment or engine manufacturer to perform warranty repairs. This includes all manufacturer distribution centers that are franchised to service the subject equipment or engines.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013 and 43018, Health and Safety Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2472. Air Pollution Control and Modification Devices.

(a) No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-road vehicle, engine, or equipment pollution control device or system which alters or modifies the original design or performance of any such pollution control device or system.

(b) No person shall operate or maintain in a condition of readiness for operation any off-road vehicle, engine, or equipment which is required to be equipped with a pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or with any other certified off-road vehicle, engine, or equipment pollution control device required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with an off-road vehicle, engine, or equipment pollution control device pursuant to the Clean Air Act (42 U.S.C.1857 et seq.) and the standards and regulations promulgated thereunder, unless it is equipped with the required off-road vehicle, engine, or equipment pollution control device which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device.

(c) This section shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board to do either of the following:

(1) Not to reduce the effectiveness of any required off-road vehicle, engine, or equipment pollution control device.

(2) To result in emissions from any such modified or altered off-road vehicle, engine, or equipment which are at levels which comply with existing state or federal standards for that model-year of the vehicle, engine or equipment being modified or converted.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code; and Sections 27156, 38390, 38391 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2473. Replacement Parts.

(a) Any replacement part subject to the provisions of this article shall be presumed to be in compliance with this article unless the executive officer makes a finding to the contrary pursuant to Section 2475(a).

(b) The manufacturer of any replacement part subject to the provisions of this article shall maintain sufficient records, such as performance specifications, test data, or other information, to substantiate that such a replacement part is in compliance with this article. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the year of manufacture of the replacement part. The manufacturer may determine the format for maintaining such records (including, but not limited to, electronic or computer readable files, backup tapes, or magnetic

media), provided the format allows the records to be readily retrieved and displayed to the executive officer.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 39500, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2474. Add-On Parts and Modified Parts.

(a) As used in this section, the terms "advertise" and "advertisement" include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.

(b) (1) Except for publishers as provided in subsection 3, no person or company doing business solely in California or advertising only in California shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required off-road vehicle, engine, or equipment pollution control device or system unless such part, apparatus, or mechanism has been exempted from Vehicle Code (VC) Sections 27156, 38391 or California Code of Regulations (CCR), Title 13, Section 2472, and the limitations of the exemption, if any, are contained within the advertisement in type size to give reasonable notice of such limitations.

(2) Except for publishers as provided in subsection 3, no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required off-road vehicle, engine, or equipment pollution control device or system and is not exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472, unless each advertisement contains a legally adequate disclaimer in type size adequate to give reasonable notice of any limitation on the sale or use of the device, apparatus, or mechanism.

(3) No publisher, after receipt of notice from the state board or after otherwise being placed on notice that the advertised part is subject to and has not been exempted from the provisions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472, shall make or disseminate or cause to be made or disseminated before the public in this state any advertisement for add-on or modified parts subject to the provisions of this article, which have not been exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472, unless such advertisement clearly and accurately states the legal conditions, if any, on sale and use of the parts in California.

(4) The staff of the state board shall provide, upon request, model language which satisfies these requirements.

(c) No person shall advertise, offer for sale, or install a part as an off-road vehicle, engine, or equipment pollution control device or as an exempted device, when in fact such part is not an off-road vehicle, engine, or equipment pollution control device or is not approved or exempted by the state board.

(d) No person shall advertise, offer for sale, sell, or install an add-on or modified part as a replacement part.

(e) The executive officer may exempt add-on and modified parts based on an evaluation conducted in accordance with the "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories," adopted July 14, 2000, which is hereby incorporated by reference herein.

(f) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle, engine, or equipment model and work performed if applicable. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the date of sale or installation.

(g) A violation of any of the prohibitions set forth in this section shall be grounds for the executive officer to invoke the provisions of section 2476.

(h) (1) The executive officer shall exempt new aftermarket non-original equipment catalytic converters for off-road vehicles, engines, and equipment from the prohibitions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472 based on an evaluation conducted in accordance with the "California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment," adopted October 1, 1999, which is hereby incorporated by reference herein.

(2) No person shall install, sell, offer for sale or advertise any new non-original equipment aftermarket catalytic converter for off-road vehicles, engines, and equipment in California that has not been exempted pursuant to the procedures as provided in this subsection.

(3) For the purposes of this regulation, a new non-original equipment aftermarket catalytic converter for off-road vehicles, engines, and equipment is a catalytic converter which is constructed of all new materials and is not a replacement part as defined in Title 13, CCR, Section 1900, or which includes any new material or construction which is not equivalent to the materials or construction of the original equipment converter for off-road vehicles, engines, and equipment.

(i) (1) No person shall install, sell, offer for sale or advertise any used catalytic converter for off-road vehicles, engines, or equipment in California unless such catalytic converter has been exempted pursuant to the "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories," adopted July 14, 2000, which is hereby incorporated by reference herein.

(2) No person shall install, sell, offer for sale or advertise any recycled or salvaged used catalytic converter for off-road vehicles, engines, and equipment in California unless such converters have been exempted from the prohibitions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472 pursuant to the procedures provided in this subsection.

(3) For the purposes of this regulation, a "used catalytic converter" for off-road vehicles, engines, and equipment is a catalytic converter which is not a new aftermarket non-original equipment catalytic converter for off-road vehicles, engines, and equipment as defined in subsection (h)(3), or a replacement part as defined in Title 13, CCR, Section 1900.

(j) (1) The executive officer shall exempt alternative fuel conversion systems for off-road vehicles, engines, and equipment from the prohibitions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472 based on an evaluation conducted in accordance with the "California Certification and Installation Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternative Fuels," adopted October 1, 1999, which is hereby incorporated by reference herein.

(2) No person shall install any alternative fuel conversion system for off-road vehicles, engines, and equipment in California unless the alternative fuel conversion system has been exempted and installed in accordance with the procedures and requirements pursuant to the "California Certification and Installation Procedures for Systems Designed to Convert Off-Road Vehicles, Engines, and Equipment to Use Alternative Fuels," adopted October 1, 1999, which is hereby incorporated by reference herein.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2475. Surveillance.

(a) Replacement parts. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit any records relating to such part which are maintained pursuant to section 2473(b) above. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If, after a review of all records submitted by the manufacturer and of the results of any tests conducted by the state board's staff, the executive officer finds that such

part is not in fact a replacement part, the executive officer may invoke section 2476. Replacement parts evaluated pursuant to this section shall be compared with the specifications contained in the applicable off-road vehicle, engine or equipment manufacturer's application for certification.

(b) Add-on parts and modified parts. The executive officer may order, for cause, the manufacturer of any add-on part or modified part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. In-use performance will also be evaluated. If, after a review of the results of any tests or evaluations conducted by the state board's staff and of any information submitted by the manufacturer, the executive officer finds that an add-on part or a modified part does not conform to the "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories," adopted October 1, 1999, which is hereby incorporated by reference herein, the executive officer may invoke Section 2476.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

§ 2476. Enforcement Action.

(a) When this section is invoked pursuant to other sections of this article, the executive officer may issue a cease and desist order and may require the person to submit a plan for correcting any deficiencies found by the state board. The executive officer may order any of the actions contained in the plan, and/or may declare a part to be not in compliance with VC Sections 27156, 38391 or CCR, Title 13, Section 2472 unless he/she finds the plan adequate to correct the deficiencies found by the state board. The plan may be required to include such corrective actions as the cessation of sale of non-complying parts, the recall of any non-complying parts already sold, and corrective advertising to correct misleading information regarding the emission control capabilities of the device and to ensure compliance with California's laws. The executive officer may also seek fines for violations of VC Sections 27156, 38391 or CCR, Title 13, Section 2472, or other laws or regulations, as applicable.

(b) When this section is invoked by the executive officer on either his/her own initiative or in response to complaints received, an investigation may be made by the executive officer or his/her representative to gather evidence regarding continuing violations of this article by any person engaged in the business of advertising, offering for sale, selling, or installing an add-on or modified part.

(c) Any person against whom enforcement action (other than the filing of an action in court) is initiated pursuant to this section may request a public hearing to review the enforcement action.

(d) Nothing in this article shall prohibit the executive officer from taking any other action provided for by law, including the prosecution of an action in court.

NOTE: Authority cited: Sections 39515, 39516, 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code; and Sections 27156, 38391 and 38395, Vehicle Code.

HISTORY

1. New section filed 8-29-2000; operative 9-28-2000 (Register 2000, No. 35).

Article 8. Off-Road Airborne Toxic Control Measures

§ 2477. Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets, and Facilities Where TRUs Operate.

(a) Purpose. Diesel particulate matter (PM) was identified in 1998 as a toxic air contaminant. This regulation implements provisions of the

Diesel Risk Reduction Plan, adopted by the Air Resources Board in October, 2000, as mandated by the Health and Safety Code Sections 39650-39675, to reduce emissions of substances that have been determined to be toxic air contaminants. Specifically, this regulation will use a phased approach to reduce the diesel PM emissions from in-use transport refrigeration units (TRUs) and TRU generator (gen) set equipment used to power electrically driven refrigerated shipping containers and trailers that are operated in California.

(b) Applicability.

(1) Except as provided in subsection (c), this regulation applies to owners and operators of diesel-fueled TRUs and TRU gen sets (see definition of operator and owner in subsection (d) that operate in the state of California. This specifically includes:

(A) Operators and owners of California-based TRUs and TRU gen sets that are installed on trucks, or trailers, shipping containers, or railcars; and

(B) Operators and owners of non-California-based TRUs and TRU gen sets that are installed on trucks, trailers, shipping containers, or trailers.

(2) This regulation applies to facilities located in California with 20 or more loading dock doors serving refrigerated areas where perishable goods are loaded or unloaded for distribution on trucks, trailers, shipping containers, or rail cars that are equipped with TRUs and TRU gen sets and that are owned, leased, or contracted for by the facility, its parent company, affiliate, or subsidiary that are under facility control (see definition).

(3) To the extent not already covered under subsections (b)(1) and (b)(2), above, subsection (g) of this regulation shall apply to any person engaged in this State in the business of selling to an ultimate purchaser, or renting or leasing new or used TRUs or TRU gen sets, including, but not limited to, manufacturers, distributors, and dealers.

(4) Severability. If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulations is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

(c) Exemptions. This regulation does not apply to military tactical support equipment.

(d) Definitions. For purposes of this regulation, the following definitions apply:

(1) "Affiliate or Affiliation" refers to a relationship of direct or indirect control or shared interests between the subject business and another business.

(2) "Alternative Fuel" means natural gas, propane, ethanol, methanol, or advanced technologies that do not rely on diesel fuel, except as a pilot ignition source at an average ratio of less than 1 part diesel fuel to 10 parts total fuel on an energy equivalent basis. Alternative fuels also means any of these fuels used in combination with each other or in combination with other non-diesel fuels. Alternative-fueled engines shall not have the capability of idling or operating solely on diesel fuel at any time.

(3) "Alternative-Fueled Engine" means an engine that is fueled with a fuel meeting the definition of alternative fuel.

(4) "Alternative Diesel Fuel" means any fuel used in diesel engines that is not commonly or commercially known, sold or represented as diesel fuel No. 1-D or No. 2-D, pursuant to the specification for Diesel Fuel Oils D975-81, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g. recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer Tropsch fuels, and emulsions of water in diesel fuel. Natural gas is not an alternative diesel fuel. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:

(A) The additive is supplied to the vehicle or engine fuel by an on-board dosing mechanism, or

(B) The additive is directly mixed into the base fuel inside the fuel tank of the vehicle or engine, or

(C) The additive and base fuel are not mixed until vehicle or engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.

(5) "ARB" means the California Air Resources Board.

(6) "B100 Biodiesel Fuel" means 100% biodiesel fuel derived from vegetable oil or animal fat and complying with ASTM D 6751-02 and commonly or commercially known, sold, or represented as "neat" biodiesel or B100. B100 biodiesel fuel is an alternative diesel fuel.

(7) "B100 Biodiesel-Fueled" (compression-ignition engine) means a compression-ignition engine that is fueled by B100 biodiesel fuel.

(8) "Business" means an entity organized for profit including, but not limited to, an individual, sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, joint venture, association or cooperative; or solely for purposes of the Prompt Payment Act (Government Code 927 et seq.), a duly authorized nonprofit corporation.

(9) "California-Based TRUs and TRU Gen Sets" means TRUs and TRU gen sets equipped on trucks, trailers, shipping containers, or railcars that a reasonable person would find to be regularly assigned to terminals within California.

(10) "CARB Diesel Fuel" means any diesel fuel that is commonly or commercially known, sold or represented as diesel fuel No. 1-D or No. 2-D, pursuant to the specification for Diesel Fuel Oils D975-81 and meets the specifications defined in 13 CCR 2281, 13 CCR 2282, and 13 CCR 2284.

(11) "Carbon Monoxide (CO)" means a colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.

(12) "Carrier" means any person, party, or entity who undertakes the transport of goods from one point to another.

(13) "Certification" means the obtaining of an Executive Order for a new offroad compression-ignition engine family that complies with the off-road compression-ignition emission standards and requirements specified in the California Code of Regulations, Title 13, Section 2423. A "certified engine" is an engine that belongs to an engine family that has received a certification Executive Order.

(14) "Certification Data" means the ARB Executive Order number and related exhaust emission data for each test cycle mode used to certify the engine family and obtain the certification level shown in the certification Executive Order. Such data includes modal exhaust emissions data for nitrogen oxides, nonmethane hydrocarbons, carbon monoxide, and particulate matter includes, as a minimum, torque, engine speed, weight factor, power, mass emission rate (grams per hour), and certification test fuel.

(15) "Compression Ignition (CI) Engine" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by controlling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(16) "Consignee" (see receiver).

(17) "Consignor" (see shipper).

(18) "Cryogenic Temperature Control System" means a heating and cooling system that uses a cryogen, such as liquid carbon dioxide or liquid nitrogen that is routed through an evaporator coil that cools air blown over the coil. The cryogenic system uses a vapor motor to drive a fan and alternator, and a propane-fired heater superheats the carbon dioxide for heating and defrosting. Electrically driven fans may be used instead of a vapor motor and heating and defrost needs may be met by using electric heaters and/or vehicle engine coolant.

(19) "Deterioration Factor (DF)" means a factor that is applied to the certification emission test data to represent emissions at the end of the useful life of the engine. Separate DFs apply to each measured pollutant, except that a combined NMHC+NOx DF applies to engines that do not use aftertreatment devices. Decreasing emissions over time would not be allowed to offset increasing emissions of the other pollutant in this combined DF.

(20) "Diesel Fuel" means any fuel that is commonly or commercially known, sold, or represented as diesel fuel, including any mixture of primarily liquid hydrocarbons — organic compounds consisting exclusively of the elements carbon and hydrogen — that is sold or represented as suitable for use in an internal combustion, compression-ignition engine.

(21) "Diesel-Fueled" means fueled by diesel fuel or CARB diesel fuel in whole or in part, except as allowed for a pilot ignition source under the definition for "alternative fuel".

(22) "Diesel Oxidation Catalyst (DOC)" means the use of a catalyst to promote the oxidation processes in diesel exhaust. Usually refers to an emission control device that includes a flow-through substrate where the surfaces that contact the exhaust flow have been catalyzed to reduce emissions of the organic fraction of diesel particulates, gas-phase hydrocarbons, and carbon monoxide.

(23) "Diesel Particulate Filter (DPF)" means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate. Periodically the collected particles are either physically removed or oxidized (burned off) in a process called regeneration.

(24) "Diesel Particulate Matter" means the particles found in the exhaust of diesel-fueled CI engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(25) "Dual-Fuel Engine" means an engine designed to operate on a combination of alternative fuel, such as compressed natural gas (CNG) or liquefied petroleum gas (LPG), and conventional fuel, such as diesel or gasoline. These engines have two separate fuel systems, which either inject both fuels simultaneously into the engine combustion chamber or fumigate the gaseous fuel with the intake air and inject the liquid fuel into the combustion chamber.

(26) "Emergency" means any of the following times:

(A) A failure or loss of normal power service that is not part of an "interruptible service contract" (see definition in subsection (d));

(B) A failure of a facility's internal power distribution system, provided the failure is beyond the reasonable control of the operator;

(C) When an affected facility is placed under an involuntary "rotating outage" (see definition in subsection (d)).

(27) "Emission Control Strategy" means any device, system, or strategy employed with a diesel-fueled CI engine that is intended to reduce emissions. Examples of emission control strategies include, but are not limited to, particulate filters, diesel oxidation catalysts, selective catalytic reduction systems, alternative fuels, fuel additives used in combination with particulate filters, alternative diesel fuels, and combinations of the above.

(28) "Emissions Rate" means the weight of a pollutant emitted per unit of time (e.g., grams per second).

(29) "Executive Officer" means the Executive Officer of the California Air Resources Board or his or her delegate.

(30) "Facility" means any facility where TRU-equipped trucks, trailers, shipping containers or railcars are loaded or unloaded with perishable goods. This includes, but is not limited to, grocery distribution centers, food service distribution centers, cold storage warehouses, and intermodal facilities. Each business entity at a commercial development is a separate facility for the purposes of this regulation, provided the businesses are "independently owned and operated" (see definition in subsection (d)).

(31) "Facility Control (of TRUs or TRU Gen Sets)" means the TRUs or TRU gen sets located at the facility are owned or leased by the facility, its parent company, affiliate, or a subsidiary, or under contract for the purpose of providing carrier service to the facility, and the TRUs' or TRU gen sets' arrival, departure, loading, unloading, shipping and/or receiving of cargo is determined by the facility, parent company, affiliate, or subsidiary (e.g. scheduled receiving, dispatched shipments).

(32) "Fischer-Tropsch Diesel Fuel" See "ultra-low-aromatic synthetic diesel fuel".

(33) "Fuel Additive" means any substance designed to be added to fuel or fuel systems or other engine-related engine systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine.

(34) "Generator Set (gen set)" means a CI engine coupled to a generator used as a source of electricity.

(35) "Hybrid Cryogenic Temperature Control System" means a temperature control system that uses a cryogenic temperature control system in conjunction with a conventional TRU.

(36) "Independently Owned and Operated" means a business concern that independently manages and controls the day-to-day operations of its own business through its ownership and management, without undue influence by an outside entity or person that may have an ownership and/or financial interest in the management responsibilities of the applicant business or small business.

(37) "Intermodal Facility" means a facility involved in the movement of goods in one and the same loading unit or vehicle which uses successively several modes of transport without handling of the goods themselves in changing modes. Such a facility is typically involved in loading and unloading refrigerated shipping containers and trailers to and from railcars, trucks, and ocean-going ships.

(38) "Interruptible Service Contract" means any arrangement in which a nonresidential electrical customer agrees to reduce or consider reducing its electrical consumption during periods of peak demand or at the request of the System Operator in exchange for compensation, or assurances not to be blacked out or other similar non-monetary assurances.

(39) "In Use TRU, TRU gen set, or engine" means a TRU, TRU gen set, or engine that is not a "new" TRU, TRU gen set, or engine.

(40) "Low Emission TRU (LETRU or L)" means a TRU or TRU gen set that meets the performance standards described under paragraph (e)(1)(A)1. or (e)(1)(A)2.

(41) "Manufacturer" means a business as defined in Government Code § 14837(c).

(42) "Military tactical support equipment (TSE)" means equipment that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(43) "Model Year (MY)" means diesel-fueled engine manufacturer's annual production period, which includes January 1st of a calendar year, or if the manufacturer has no annual production period, the calendar year.

(44) "New TRU, TRU Gen Set, or Engine" means any TRU, TRU gen set, or engine that has never been subject to a retail sale or lease to an "ultimate purchaser" (see definition in subsection (d)).

(45) "Nitrogen Oxide (NO_x)" means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen. Nitrogen oxides are typically created during combustion processes and are major contributors to smog formation and acid deposition.

(46) "Non-California-Based TRUs and TRU Gen Sets" means TRUs and TRU gen sets that are equipped on or used in trucks, trailers, shipping containers, or railcars that a reasonable person would find to be regularly assigned to terminals outside of California and operate in California from time to time for the purpose of transporting perishable goods into or out of the state.

(47) "Non-methane Hydrocarbons (NMHC)" means the sum of all hydrocarbon air pollutants except methane. NMHCs are precursors to ozone formation.

(48) "Operate" means to start, cause to function, program the temperature controller, select an operating program or otherwise control, fuel, monitor to assure proper operation, or keep in operation.

(49) "Operator" means any person, party or entity that operates a TRU or TRU gen set for the purposes of transporting perishable goods, exclud-

ing an employee driver and third party maintenance and repair service, and including but not limited to:

(A) Manufacturer, producer, supplier, carrier, shipper, consignee, consignee, receiver, distribution center, or warehouse of perishable goods;

(B) An individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation;

(C) Any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(50) "Owner" means any person that legally holds the title (or its equivalent) showing ownership of a TRU or TRU gen set, excluding a bank or other financial lending institution, and including but not limited to:

(A) Manufacturer, producer, supplier, carrier, shipper, consignee, consignee, receiver, distribution center, warehouse;

(B) An individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation;

(C) Any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(51) "Owner/Operator" means a requirement applies to the owner and/or operator of a TRU or TRU gen set, as determined by agreement or contract between the parties if the two are separate business entities.

(52) "Parent Company" means a company that has a controlling interest in another company, usually through ownership of more than one-half the voting stock.

(53) "Particulate Matter (PM)" means the particles found in the exhaust of CI engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(54) "Rated Brake Horsepower" means the power delivered, according to the statement of the engine manufacturer, at the rated speed.

(55) "Real Emission Reductions" means that an action is taken that results in reductions in the PM emission rate of an in-use engine (e.g. a VDECS is installed that reduced the PM emissions rate by more than 50%).

(56) "Receiver" means the person, party, or entity that receives shipped goods, cargo, or commodities.

(57) "Refrigerated Trailer" means a trailer van, railcar, or shipping container equipped with a TRU or TRU gen set. Pursuant to Health and Safety Code section 39618, refrigerated trailers are mobile sources and shall be regulated by the ARB on a statewide basis.

(58) "Rotating Outage" means a controlled involuntary curtailment of electrical power service to consumers as ordered by the system operator — see definition in subsection (d).

(59) "Shipper" means the person, party, or entity who usually owns or supplies the commodities shipped by a carrier.

(60) "System Operator" means one of the several organizations that control energy in California. System operators include, but are not limited to, the California Independent System Operator, the Los Angeles Department of Water and Power, the Imperial Irrigation District, the Sacramento Municipal Utility District.

(61) "Terminal" means any place where a TRU or TRU gen set equipped truck, trailer, shipping container, railcar or TRU gen set is regularly garaged, maintained, operated, or dispatched from, including a dispatch office, cross-dock facility, maintenance shop, business, or private residence.

(62) "Tier 4 Nonroad/Offroad Emission Standards" means the emission standards and associated procedures promulgated by U.S. Environmental Protection Agency in "Control of Emissions of Air Pollution from

Nonroad Diesel Engines and Fuel; Final Rule" (Vol. 69, No. 124 Fed.Reg. pp. 38957–39273 (June 29, 2004).

(63) "Transport Refrigeration Unit (TRU)" means refrigeration systems powered by integral internal combustion engines designed to control the environment of temperature sensitive products that are transported in trucks and refrigerated trailers. TRUs may be capable of both cooling and heating.

(64) "TRU Generator Set (TRU gen set)" means a generator set that is designed and used to provide electric power to electrically driven refrigeration units of any kind. This includes, but is not limited to gen sets that provide electricity to electrically powered refrigeration systems for semi-trailer vans and shipping containers.

(65) "Ultimate Purchaser" means with respect to a new TRU, TRU gen set, or engine, the first person who in good faith purchases a new TRU, TRU gen set, or engine for purposes other than resale.

(66) "Ultra-Low-Aromatic Synthetic Diesel Fuel" means fuel produced from natural gas, coal, or biomass by the Fischer-Tropsch gas-to-liquid chemical conversion process, or similar process that meets the following properties:

Table 1

Property	ASTM	Value
Sulfur Content (ppmw)	D5453-93	<1
Total Aromatic Content (wt %)	D5186-96	<1.5%
Polynuclear Aromatic Content (wt %)	D5186-96	<0.5%
Natural Cetane Number	D613-84	>74

(67) "Ultra-Low Emission TRU (ULETRU or U)" means a TRU or TRU gen set that meets the performance standards described under subparagraph (e)(1)(A)1. and (e)(1)(A)2. or that uses an "alternative technology" in accordance with subparagraph (e)(1)(A)3.

(68) "Verification Classification Level" means the classification assigned to a Diesel Emission Control Strategy by the Executive Officer as defined in the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emission from Diesel Engines (13 CCR Sections 2700 – 2710)*. PM reductions correspond as follows: Level 1: ≥ 25%; Level 2: ≥ 50%; Level 3: ≥ 85% or 0.01 g/hp-hr.

(69) "Verified Diesel Emission Control Strategy" (VDECS) means an emission control strategy designed primarily for the reduction of diesel particulate matter emissions that has been verified per the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (13 CCR Sections 2700 – 2710)*. Examples of diesel retrofit systems that may be verified include, but are not limited to, diesel particulate filters, diesel oxidation catalysts, fuel additives (e.g. fuel-borne catalysts), alternative fuels (e.g. dual fuel), alternative diesel fuels, and combinations of the above.

(e) Requirements.

(1) In-Use Operation:

(A) In-Use Performance Standards: In accordance with the schedule set forth below in paragraph (e)(1)(B), no owner/operator shall operate a TRU or TRU gen set in California unless it meets the in-use emission category performance standards set forth below.

1. In-Use performance standard categories for TRU and TRU gen set engines with rated brake horsepower less than 25 horsepower (<25 hp) are shown in Table 2, along with the engine certification standards or the level of Verified Diesel Emission Control Strategy (VDECS) (see definition) that is necessary to qualify for each category.

Table 2

<25 HP TRU and TRU Gen Set In-Use PM Performance Standards

In-Use Emission Category	Engine Certification (g/hp-hr)	Level of VDECS Equipped with
Low Emission TRU (LETRU or L)	0.30 ¹	Level 2
Ultra-Low Emission TRU (ULETRU or U)	NA ²	Level 3

a. Compliance can be achieved by:

I. Using a certified engine meeting the applicable nonroad/offroad emissions standards for all regulated pollutants and the in-use PM performance standard. Only engines for which certification data and deterioration factors have been provided to ARB shall be considered when determining compliance. The Executive Officer will consider such submittals, publish, and make available a list of qualifying engines.

II. Equipping the engine with the required Level of VDECS.

2. In-Use performance standard categories for TRU and TRU gen set engines with rated brake horsepower greater than or equal to 25 horsepower (≥25 hp) are shown in Table 3, along with the engine certification standards or the level of VDECS that is necessary to qualify for each category.

Table 3

≥25 HP TRU and TRU Gen Set In-Use PM Performance Standards

In-Use Emission Category	Engine Certification (g/hp-hr)	Level of VDECS Equipped with
Low Emission TRU (LETRU or L)	0.22 ³	Level 2
Ultra-Low Emission TRU (ULETRU or U)	0.02 ⁴	Level 3

a. Compliance can be achieved by:

I. Using a certified engine meeting the applicable nonroad/offroad emissions standards for all regulated pollutants and the in-use PM performance standard. Only engines for which certification data and deterioration factors have been provided to ARB shall be considered when determining compliance. The Executive Officer will consider such submittals, publish, and make available a list of qualifying engines.

II. Equipping the engine with the required Level of VDECS.

3. As an alternative to meeting the ULETRU in-use performance standards in subsections (e)(1)(A)1. and 2., an owner/operator may operate a TRU or TRU gen set in California meeting one of the *Alternative Technology* options listed below. Alternative Technologies qualify to meet the ULETRU in-use performance standard only if the TRU or TRU gen set is operated under the conditions included in the description listed below.

a. Electric standby, provided that the TRU is not operated under diesel engine power while at a facility, except during an emergency.

b. Cryogenic temperature control systems or hybrid cryogenic temperature control systems, provided that the TRU does not operate under diesel engine power while at a facility, except during an emergency.

c. Alternative-fueled engines (see definition in subsection (d)). If the engine is a CI engine, a VDECS is required.

NOTE: If the engine is not a compression ignition diesel fueled engine, this regulation would not apply, but the engine may have to meet other emission standards (e.g. large spark-ignited engine standards if >25 hp).

d. Fuel exclusively with an alternative diesel fuel (see definition in subsection (d)) that has been verified as a VDECS, provided it is used in accordance with the requirements of subsection (e)(2)(A) and the alternative diesel fuel contains no conventional diesel or CARB diesel fuel.

e. Power by fuel cells. If a reformer is used with diesel fuel as the source of hydrocarbons, then emissions must be evaluated and verified through the *Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (13 CCR sections 2700 – 2710)*.

f. Equip with any other system approved by the Executive Officer to not emit diesel PM or increase public health risk while at a facility.

(B) In-Use Compliance Dates.

1. No owner/operator shall operate a 2001 and older model year (MY) TRU or TRU gen set engine in California unless it meets the in-use performance criteria set forth in paragraph (e)(1)(A) for

a. LETRU on or before December 31, 2008, and

b. ULETRU on or before December 31, 2015, as shown in Tables 4 and 5.

2. No owner/operator shall operate a 2002 MY TRU or TRU gen set engine in California unless it meets the in-use performance criteria set forth in paragraph (e)(1)(A) for

a. LETRU on or before December 31, 2009, and

b. ULETRU on or before December 31, 2016, as shown in Tables 4 and 5.

3. No owner/operator shall operate a 2003 MY and subsequent MY TRU or TRU gen set engine in California unless it meets the in-use per-

formance criteria set forth in paragraph (e)(1)(A) for ULETRU on or before December 31st of the seventh year past the unit's model year, as shown in Tables 4 and 5.

Table 4. <25 HP TRU and TRU Gen Set Engines
In-Use Compliance Dates

MY	In-Use Compliance Year ⁵													
	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	'19	'20
'01 & Older		L	L	L	L	L	L	L	U	U	U	U	U	U
'02			L	L	L	L	L	L	L	U	U	U	U	U
'03 ⁶				U	U	U	U	U	U	U	U	U	U	U
'04					U	U	U	U	U	U	U	U	U	U
'05						U	U	U	U	U	U	U	U	U
'06							U	U	U	U	U	U	U	U
'07								U	U	U	U	U	U	U
'08									U	U	U	U	U	U
'09										U	U	U	U	U
'10											U	U	U	U
'11												U	U	U
'12													U	U
'13														U

Table 5. ≥25 HP TRU and TRU Gen Set Engines
In-Use Compliance Dates

MY	In-Use Compliance Year ⁷													
	'07	'08	'09	'10	'11	'12	'13	'14	'15	'16	'17	'18	'19	'20
'01 & Older		L	L	L	L	L	L	L	U	U	U	U	U	U
'02			L	L	L	L	L	L	L	U	U	U	U	U
'03 ⁸				U	U	U	U	U	U	U	U	U	U	U
'04					U	U	U	U	U	U	U	U	U	U
'05						U	U	U	U	U	U	U	U	U
'06							U	U	U	U	U	U	U	U
'07								U	U	U	U	U	U	U
'08									U	U	U	U	U	U
'09										U	U	U	U	U
'10											U	U	U	U
'11												U	U	U
'12													U	U
'13														

(C) Replacements Due to Failures.

1. If a VDECS fails within its warranty period, the owner/operator of the TRU or TRU gen set must replace it with the same VDECS or a higher verification classification level, if available.

2. If a VDECS fails outside its warranty period and a higher verification classification level VDECS is available, then the owner/operator of the TRU or TRU gen set shall upgrade to the highest level VDECS re-

quired under paragraphs (e)(1)(A)1. and (e)(1)(A)2. that is determined to be cost-effective by the Executive Officer.

(D) In-Use Recordkeeping and Reporting. In-use recordkeeping and reporting shall be completed by the operator in accordance with the requirements of subsection (f)(1).

(E) ARB Identification Numbering Requirements. Identification numbers will be issued to help expedite the inspection procedure and prevent shipping delays.

1. California-based TRUs and TRU gen sets:

a. On or before January 31, 2009, owner/operators of all California-based TRUs and TRU gen sets subject to this regulation shall apply for an ARB identification number for all California-based TRUs or TRU gen sets operated by the operator by submitting an application that includes the information listed below.

I. Operator name, address, and contact information for the responsible official (e.g. phone number, email address, fax number).

II. Owner name, address, and contact information (if other than operator).

III. TRU or TRU gen set make, model, model year, and serial number.

IV. TRU engine make, model, model year, and serial number.

V. Terminal or terminals that the TRU-equipped truck or trailer is assigned to, with address and contact information.

VI. Other associated identification numbers, which may include (as applicable):

i. Vehicle Identification Number (VIN) of the TRU-equipped truck or trailer.

ii. Vehicle license number of the TRU-equipped truck or trailer.

iii. Railcar recording mark and car number.

iv. Shipping container number (for TRU-equipped shipping containers only).

v. Company equipment number (if any).

VII. Compliance status with paragraph (e)(1)(A) requirements. If compliance not as-yet required, mark N/A.

i. Date when compliance was achieved.

ii. What performance standard was met (e.g. LETRU or ULETRU).

iii. How compliance was achieved (e.g. new compliant TRU, TRU engine replacement, or description of VDECS that was used).

iv. Identify who did the installation work (if applicable).

b. Applications shall be submitted by one of the following methods:

I. Mail or deliver a physical report to ARB at the address listed immediately below:

CALIFORNIA AIR RESOURCES BOARD
STATIONARY SOURCE DIVISION (TRU)
P.O. BOX 2815
SACRAMENTO, CA 95812

II. Electronically submit through ARB's web site. The web address will be identified in an advisory.

c. TRUs and TRU gen sets added to an operator's TRU operations after January 31, 2009 shall be brought into compliance with subsection (e)(1)(E). An application shall be submitted to ARB within 30 days of the unit entering the operator's control:

I. Requesting an ARB I.D. number for a new TRU or TRU gen set that was not previously numbered, or

II. Requesting a change in owner or operator (or other pertinent application information) for used equipment that already has an ARB I.D. number.

d. Failure to apply or submittal of false information is a violation of state law subject to civil penalty.

e. On or before February 1, 2009, the Executive Officer shall begin issuing identification numbers to TRU and TRU gen set operators for each unit based in California for which a complete application has been filed. The number will include a 2-digit prefix for model year (e.g. 2001 model year would have a prefix 01); a 6-digit serial number; a check-digit, and a letter indicating compliance status with in-use performance standards (either "L" or "U"). In the event that an operator applies for an early compliance certificate in accordance with subsection (e)(1)(F), ARB will also issue a certificate which acknowledges early compliance per (e)(1)(F)3.

f. Within 30 days of receipt of the ARB-issued identification number, owner/operators shall permanently affix or paint the identification number on the TRU or TRU gen set chassis housing in clear view according to the following specification:

I. The ARB identification number shall be preceded by the letters "ARB".

II. Letters and numbers shall contrast sharply in color with the color of the background surface on which the letters are placed.

III. The location of the I.D. number shall be as follows:

i. Truck and trailer TRUs — both sides of TRU chassis housing.

ii. Rail car and shipping container TRUs — both sides of the TRU.

iii. TRU gen sets — both sides of gen set housing.

IV. Letters and numbers shall be readily legible during daylight hours, from a distance of 50 feet (15.24 meters) while unit is stationary.

V. Marking shall be kept maintained in a manner that retains the legibility required by the subparagraph immediately above.

2. Non-California-based TRUs and TRU Gen Sets:

a. Operators of non-California-based TRUs and TRU gen sets may voluntarily apply for ARB identification numbers for TRUs that are based outside of California but operate within California during the normal course of business. Non-California-based operators may voluntarily submit the same application information listed above in subparagraph (e)(1)(E)1.a., above, using the same methods of submittal listed in subparagraph (e)(1)(E)1.b., above. Upon application approval, ARB would issue identification numbers to the operator in accordance with subparagraph (e)(1)(E)1.e., above. The non-California-based operator would then permanently affix or paint the identification number on the TRU or TRU gen set chassis in clear view, in accordance with (e)(1)(E)1.f., above.

(F) Early Compliance with LETRU In-Use Performance Standards.

1. For 2002 and older MY TRU and TRU gen set engines, operators or owners that meet the LETRU in-use performance standard earlier than required in paragraph (e)(1)(B) may apply to the Executive Officer for a delay in the ULETRU in-use performance standard. Except as provided below, early compliance would be achieved through any of the options available in paragraph (e)(1)(A).

a. This delay would not be available to the operator or owner if the engine manufacturer of the replacement engine is using the early compliance with engine emissions standards in U.S. EPA's Averaging, Banking, and Trading Program (or California's equivalent program).

b. Early compliance is conditioned upon real emission reductions (refer to definition in sub section (d)) occurring earlier than the applicable compliance deadline.

c. This delay may not be available to the operator or owner if public funds were used for early compliance. The applicant shall disclose whether public funds were used for any portion of early compliance and what program the funding came from.

2. Early LETRU compliance with real emission reductions would allow specific units to delay compliance with ULETRU in-use performance standards by up to three years, according to the rounding conventions and examples listed below.

a. Each year of early compliance with the LETRU in-use performance standards would be rewarded with 1 year delay in the ULETRU in-use performance standard.

I. One full year early compliance qualifies for one full year delay in meeting ULETRU compliance.

II. Two full years early compliance qualifies for two full years delay in meeting ULETRU compliance.

III. Three full years early compliance qualifies for three full years delay in meeting ULETRU compliance.

b. A partial year of early LETRU compliance would be rounded to the nearest full year for the delayed ULETRU requirements.

I. Early LETRU compliance of 183 days or more in a calendar year would count toward a one year ULETRU delay.

II. Early LETRU compliance of 182 days or less in a calendar year would not count toward a ULETRU delay.

3. Upon receipt of an application to delay ULETRU compliance, the Executive Officer shall determine if the application demonstrates early compliance with LETRU in-use performance standards in accordance

with subsection (e)(1)(F)1., and if the application is approved, shall delay the in-use ULETRU compliance date for specific TRUs and TRU gen sets operating in California in accordance with subparagraph (e)(1)(F)2.

4. Upon approval of the application, ARB shall issue a certificate and ARB identification number in accordance with subsection (e)(1)(E)1.e. which acknowledges early compliance with LETRU requirements and discloses the number of years delay granted, and resulting ULETRU compliance date.

5. The operator shall maintain a legible copy of the certificate in a water-tight sleeve mounted inside the TRU or TRU gen set chassis housing. The operator shall paint the identification number in clear view in accordance with subsection (e)(1)(E)1.f. on the specific TRU or TRU gen set that was granted the compliance extension.

(2) Fuel Requirements.

(A) Operators Choosing to Use Alternative Diesel Fuels. Operators choosing to use alternative diesel fuels in compression ignition TRU and TRU gen set engines to meet the requirements of subsection (e)(1) shall:

1. Maintain records in accordance with subsection (f)(1)(B) of this regulation.

2. Use only fuel that is a VDECS alternative diesel fuel that contains no conventional diesel or CARB diesel fuel in TRUs or TRU gen sets operated in California.

3. Permanently affix a label in clear view near the fill spout that identifies the proper fuel that is required to be in compliance.

4. In the event that the operator decides to revert to using conventional diesel or CARB diesel fuel, the operator shall comply with the requirements of subsection (e)(1) within 10 days of discontinuation of alternative diesel fuel use. Within 10 days of discontinuation, the operator shall notify the Executive Officer in writing of this change in fuel use and shall include an update to any ARB I.D. number application or annual report submitted to comply with subsections (e)(1)(E), (e)(1)(F), or (f)(1).

(B) Operators that Retrofit TRUs or TRU Gen Sets with a VDECS. Operators that retrofit TRUs or TRU gen sets with a VDECS that requires certain fuel properties to be met in order to achieve the required PM reduction or PM emissions shall only fuel the subject TRU or TRU gen set with fuel that meets these specifications when operating in the state of California. In addition, operators that choose a VDECS that requires certain fuel properties to be met in order to prevent damage to the VDECS or an increase in toxic air contaminants, other harmful compounds, or in the nature of the emitted PM shall only fuel the subject TRU or TRU gen set with fuel that meets these specifications.

(f) Monitoring, Recordkeeping, and Reporting Requirements.

(1) TRU and TRU Gen Set Operator Recordkeeping and Reporting.

(A) Operator Reporting.

1. All operators subject to this regulation shall submit an Operator Report to ARB by January 31, 2009 that shall include the following information:

a. Operator name, address, and contact information for the responsible official (phone number, email address, fax number).

b. List of all terminals owned or leased by the operator located within California, with address, phone number, and terminal contact name.

c. TRU and TRU gen set inventory information for each TRU and TRU gen set based in California that is owned or leased by the operator:

I. TRU or gen set make, model, model year, and serial number.

II. TRU owner, and if other than operator, owner name, address, and contact.

III. Engine make, model, model year, and serial number.

IV. Terminal(s) that the TRU is assigned to.

V. ARB TRU or TRU gen set identification number, if already issued.

If the ARB identification number has not been issued or there has been a change in the other identification numbers listed below since the prior annual report, then provide the following identification numbers (as applicable):

i. Vehicle Identification Number.

ii. Vehicle license number.

iii. Railcar recording mark and car number.

iv. Shipping container number (for TRU-equipped shipping containers only).

v. Company equipment number.

VI. Compliance status with paragraph (e)(1)(A) requirements.

2. The Operator Report shall be updated within 30 days when changes to any of the above operator information occur.

a. Operator Reports shall be submitted by one of the following methods:

I. Mail or deliver a physical report to ARB at the address listed immediately below:

CALIFORNIA AIR RESOURCES BOARD
STATIONARY SOURCE DIVISION (TRU)
P.O. BOX 2815
SACRAMENTO, CA 95812

II. Electronically submit through ARB's web site. The web address will be identified in an advisory.

3. Failure to report or submittal of false information is a violation of state law subject to civil penalty.

(B) Alternative Diesel Fuel Use and Fuel Additive Recordkeeping and Reporting.

1. Operators that choose a compliance pathway that involves the use of alternative diesel fuel in accordance with subparagraph (e)(1)(A)3.d. (e.g. B100 biodiesel fuel or ultra-low-aromatic synthetic diesel fuel) and/or a VDECS that includes the use of a fuel additive (e.g. fuel-borne catalyst) shall maintain records that document exclusive use of the chosen fuel or additive for each affected CI engine and hours of operation. Appropriate records would be copies of receipts or invoices of appropriate fuel and/or fuel additive and daily operating hour logs.

2. Records shall be kept available for a minimum of three (3) years and shall be compiled and made available to the ARB upon request.

3. Failure to keep records or submittal of false information is a violation of state law subject to civil penalty.

(2) Facility Monitoring, Recordkeeping, and Reporting.

(A) Facility Reporting. All facilities subject to this subsection shall submit a Facility Report to ARB by January 31, 2006, containing the following information, as of December 31, 2005:

1. Contact information for the facility's responsible official.

2. Provide all North American Industrial Classification System codes (NAICS) applicable to the facility.

3. The number of loading dock doors serving refrigerated storage space.

4. The number of square feet of refrigerated storage space.

5. The number of TRUs or TRU gen sets under facility control by model year and horsepower category.

6. The number of refrigerated trucks, trailers, shipping containers, or railcars leased or rented.

7. The total annual TRU engine operating hours for all TRUs or TRU gen sets under facility control during 2005 (e.g. total TRU engine operating time for both on-road and off-road operations).

8. The average weekly number of inbound refrigerated trucks, trailers, shipping containers, and railcars delivering goods to the facility during 2005, calculated by dividing the annual total inbound refrigerated loads by 52.

9. The average weekly number of outbound refrigerated trucks, trailers, shipping containers and railcars delivering goods from the facility during 2005, calculated by dividing the annual total outbound refrigerated loads by 52.

10. The average total number of hours per week that outbound TRU or TRU gen set engines operate while at the facility during 2005. Average TRU or TRU gen set engine operating time at facility for outbound refrigerated loads may be used if the result is representative of the outbound TRU or TRU gen set operations at facilities, as determined by the Executive Officer. Average values would be determined for outbound loads based on recordkeeping, conducted in accordance with subparagraph (f)(2)(B)2., and applied to the total annual number of refrigerated outbound loads, and then weekly averages calculated as follows: Average

TRU or TRU gen set engine operating time per outbound refrigerated load multiplied by the total annual number of outbound loads, divided by 52 weeks equals the average total number of hours per week that outbound TRU or TRU gen set engines operate while at the facility.

11. The average total number of hours per week that inbound TRU or TRU gen set engines operate while at the facility during 2005. Average TRU or TRU gen set engine operating time at facility for inbound refrigerated loads may be used if the result is representative of the inbound TRU or TRU gen set operations at facilities, as determined by the Executive Officer. Average values would be determined for inbound loads based on recordkeeping, conducted in accordance with subparagraph (f)(2)(B)2., and applied to the total annual number of refrigerated inbound loads, and then weekly averages calculated as follows: Average TRU or TRU gen set engine operating time per inbound refrigerated load multiplied by the total annual number of inbound loads, divided by 52 weeks equals the average total number of hours per week that inbound TRU or TRU gen set engines operate while at the facility.

12. The number of refrigerated trailers (as defined) that are used at the facility for cold storage, the total annual number of hours of TRU engine operation associated with these refrigerated trailers, and the total annual number of hours of operation using electric standby associated with these refrigerated trailers.

(B) Recordkeeping.

1. Recordkeeping that substantiates the information reported in the Facility Report shall be maintained and shall be compiled and made available to State inspectors upon request for a minimum of three (3) years.

2. The Executive Officer may approve alternative recordkeeping and calculation procedures for determining the average weekly hours of TRU engine operation at a facility for inbound and outbound refrigerated loads, provided the Executive Officer finds that the alternative procedures meet the intent of subparagraph (f)(2).

(C) Facility Report Submittals. Facility Reports shall be submitted by one of the following methods:

1. Mail or deliver a physical report to ARB at the address listed immediately below:

CALIFORNIA AIR RESOURCES BOARD
STATIONARY SOURCE DIVISION (TRU)
P.O. BOX 2815
SACRAMENTO, CA 95812

2. Electronically submit through ARB's web site. The web address will be identified in an advisory.

(D) Failure to report or submittal of false information. Failure to report or submittal of false information is a violation of state law subject to civil penalty.

(g) Prohibitions.

(1) No person who is engaged in this State in the business of selling to an ultimate purchaser, or renting or leasing new or used TRUs or TRU gen sets, including, but not limited to, manufacturers, distributors, and dealers, shall intentionally or negligently import, deliver, purchase, receive, or otherwise acquire a new or used TRU or TRU gen set engine that does not meet the performance requirements or alternatives set forth in section (e)(1) above.

(2) No person who is engaged in this State in the business of selling to an ultimate purchaser new or used TRU or TRU gen set engines, including, but not limited to, manufacturers, distributors, and dealers, shall sell, or offer to sell, to an ultimate purchaser who is a resident of this State or a person that could reasonably be expected to do business in this State a new or used TRU or TRU gen set engine that does not meet the performance requirements or alternatives set forth in section (e)(1) above.

(3) No person who is engaged in this State in the business of renting or leasing new or used TRU or TRU gen set engines, including, but not limited to, manufacturers, distributors, and dealers, shall lease, offer to lease, rent, or offer to rent, in this state any new or used TRU or TRU gen set engine that does not meet the performance requirements or alternatives set forth in section (e)(1) above.

(4) Operators of affected facilities and operators of affected TRUs and TRU gen sets are prohibited from taking action to divert affected TRUs

to alternative staging areas in order to circumvent the requirements of this section.

(h) Penalties.

(1) All persons, as defined in section 19 of the Health and Safety Code, found to be in violation of title 13, CCR, section 2477 may be cited and subject to the penalty provisions set forth in Health and Safety Code sections 39674, 39675, 42400 et seq., 42402 et seq., and 42410.

¹ The Engine Certification value for the Low Emission TRU category corresponds to the "Interim" Tier 4 Nonroad/Offroad Emission Standards that are to go into effect in 2008.

² Not Applicable — ARB and U.S. EPA will perform a technical review in 2007 to evaluate DOC or filter-based standard for <25 hp category new engines in 2013. If a more stringent "long term" level for new tier 4 (as identified in the Tier 4 Nonroad/Offroad Emission Standards) engines is adopted by U.S. EPA for this horsepower category, the Board will consider adopting an engine certification in-use performance standard for ULETRU for <25 hp TRUs and TRU gen sets.

³ The Engine Certification value for Low Emission TRU category corresponds to the "Interim" Tier 4 Nonroad/Offroad Emission Standards that are to go into effect in 2008.

⁴ The Engine Certification value for the Ultra-Low Emission TRU category corresponds to the "Long Term" Tier 4 Nonroad/Offroad Emission Standards that will go into effect in 2012 or 2013.

⁵ Compliance date is December 31st of the compliance year shown. "MY" means model year. Black shaded areas are years with no requirements since in-use compliance year precedes model year. Dark shaded areas without letter codes have no requirements, pending in-use compliance date. "L" means must meet LETRU in-use performance standards. "U" means must meet ULETRU in-use performance standards.

⁶ TRUs and TRU gen sets with MY 2003 engines and subsequent MY engines shall be required to comply with ULETRU requirements by the end of the seventh year after the model year. The exception to this is ≥25 hp 2013 and subsequent model years, since these model years would meet ULETRU in-use performance standards as new engines.

⁷ Compliance date is December 31st of the compliance year shown. "MY" means model year. Black shaded areas are years with no requirements since in-use compliance year precedes model year. Dark shaded areas without letter codes have no requirements, pending in-use compliance date. "L" means must meet LETRU in-use performance standards. "U" means must meet ULETRU in-use performance standards.

⁸ TRUs and TRU gen sets with MY 2003 engines and subsequent MY engines shall be required to comply with ULETRU requirements by the end of the seventh year after the model year. The exception to this is ≥25 hp 2013 and subsequent model years, since these model years would meet ULETRU in-use performance standards as new engines.

NOTE: Authority cited: Sections 39600, 39601, 39618, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 43013 and 43018, Health and Safety Code. Reference: Sections 39618, 39650, 39658, 39659, 39666, 39667, 39674, 39675, 42400 et seq., 42402 et seq., 42410, 40717.9, 43013 and 43018, Health and Safety Code.

HISTORY

1. New article 8 (section 2477) and section filed 11-10-2004; operative 12-10-2004 (Register 2004, No. 46).

§ 2479. Regulation for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards.

(a) Purpose

The purpose of this regulation is to reduce diesel particulate matter (PM) and criteria pollutant emissions from compression ignition (CI) mobile cargo handling equipment that operate at ports and intermodal rail yards in the state of California.

(b) Applicability

Except as provided in subsection (c), the regulation would apply to any person who conducts business in California who sells, offers for sale, leases, rents, purchases, owns or operates any CI mobile cargo handling equipment that operates at any California port or intermodal rail yard.

(c) Exemptions

(1) The requirements of this section do not apply to mobile cargo handling equipment that do not operate at a port or intermodal rail yard;

(2) The requirements of this section do not apply to portable CI engines;

(3) The requirements of subsections (e), (f), (g), (h), and (i) do not apply to mobile cargo handling equipment that are not used to handle cargo at any time but are used for transporting personnel or fuel delivery. Examples include, but are not limited to, fuel delivery trucks operating sole-

ly at the terminal to deliver fuel to terminal equipment and vans and buses used to transport personnel; and

(4) The requirements of this section do not apply to military tactical support cargo handling equipment.

(d) Definitions

For purposes of this section, the definitions of Health and Safety Code section 39010 through 39060 shall apply except to extent that such definitions may be modified by the following definitions that apply specifically to this regulation:

(1) "Alternative Diesel Fuel" means any fuel used in a CI engine that is not commonly or commercially known, sold, or represented by the supplier as diesel fuel No. 1-D or No. 2-D, pursuant to the specifications in ASTM D975-81, "Standard Specification for Diesel Fuel Oils," as modified in May 1982, which is incorporated herein by reference, or an alternative fuel, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g., recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel that does not meet the definition of CARB diesel fuel; Fischer-Tropsch fuels; emulsions of water in diesel fuel; and fuels with a fuel additive, unless:

(A) the additive is supplied to the engine fuel by an on-board dosing mechanism, or

(B) the additive is directly mixed into the base fuel inside the fuel tank of the engine, or

(C) the additive and base fuel are not mixed until engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine.

(2) "Alternative Fuel" means natural gas, propane, ethanol, methanol, gasoline (when used in hybrid electric mobile cargo handling equipment only), hydrogen, electricity, fuel cells, or advanced technologies that do not rely on diesel fuel. "Alternative fuel" also means any of these fuels used in combination with each other or in combination with other non-diesel fuel.

(3) "Basic Container Handling Equipment" means mobile cargo handling equipment, other than yard trucks, bulk cargo handling equipment, and RTG cranes, used to handle cargo containers. Basic Container Handling Equipment includes but is not limited to top handlers, side handlers, reach stackers, straddle carriers, and forklifts.

(4) "Bulk Cargo Handling Equipment" means mobile cargo handling equipment, other than yard trucks, basic container handling equipment, and RTG cranes, generally used to move non-containerized cargo, including but not limited to dozers, excavators, loaders, tractors, mobile cranes (excluding rubber-tired gantry cranes), aerial lifts, and sweepers.

(5) "California Air Resources Board (CARB) Diesel Fuel" means any diesel fuel that meets the specifications of vehicular diesel fuel, as defined in title 13 CCR, sections 2281, 2282, and 2284.

(6) "Carbon Monoxide (CO)" is a colorless, odorless gas resulting from the incomplete combustion of hydrocarbon fuels.

(7) "Cargo Handling Equipment" means any off-road, self-propelled vehicle or equipment used at a port or intermodal rail yard to lift or move container, bulk, or liquid cargo carried by ship, train, or another vehicle, or used to perform maintenance and repair activities that are routinely scheduled or that are due to predictable process upsets. Equipment includes, but is not limited to, mobile cranes, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, sweepers, aerial lifts, excavators, and dozers.

(8) "Certified Off-road Diesel Engine" means an engine certified to California off-road engine emission standards under title 13 CCR, section 2423.

(9) "Certified On-road Diesel Engine" means an engine certified to California on-road diesel engine emission standards under title 13 CCR, section 1956.8.

(10) "Compression Ignition (CI) Engine" means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The regulation of power by control-

ling fuel supply in lieu of a throttle is indicative of a compression ignition engine.

(11) "Contiguous Properties" means two or more parcels of land with a common boundary or separated solely by a public roadway or other public right-of-way.

(12) "Diesel Fuel" means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons (HC) — organic compounds consisting exclusively of the elements carbon and hydrogen — that is sold or represented by the supplier as suitable for use in an internal combustion, compression-ignition engine.

(13) "Diesel-Fueled" means a CI engine fueled by diesel fuel, CARB diesel fuel, or jet fuel, in whole or part.

(14) "Diesel Oxidation Catalyst (DOC)" means a catalyst promoting oxidation processes in diesel exhaust, and usually designed to reduce emissions of the organic fraction of diesel particulates, gas-phase HC, and CO.

(15) "Diesel Particulate Filter (DPF)" means an emission control technology that reduces PM emissions by trapping the particles in a flow filter substrate and periodically removes the collected particles by either physical action or by oxidizing (burning off) the particles in a process called regeneration.

(16) "Diesel Particulate Matter (Diesel PM)" means the particles found in the exhaust of diesel-fueled CI engines. Diesel PM may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(17) "Dozer" means an off-road tractor, either tracked or wheeled, equipped with a blade.

(18) "Emission Control Strategy" means any device, system, or strategy employed with a diesel engine that is intended to reduce emissions, including, but not limited to, diesel oxidation catalysts, selective catalytic reduction systems, fuel additives, diesel particulate filters, alternative diesel fuels, water emulsified fuels, and any combination of the above.

(19) "Excavator" means an off-road vehicle consisting of a backhoe and cab mounted on a pivot atop an undercarriage with tracks or wheels.

(20) "Executive Officer" means the Executive Officer of the California Air Resources Board or his/her designee.

(21) "Fleet" means the total number of mobile cargo handling equipment vehicles owned, rented, or leased by an owner or operator at a specific terminal or intermodal yard location.

(22) "Forklift" means an off-road industrial truck used to hoist and transport materials by means of steel fork(s) under the load.

(23) "Fuel Additive" means any substance designed to be added to fuel or fuel systems or other engine-related engine systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the engine; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of the engine.

(24) "Heavy-duty Pilot Ignition Engine" means an engine designed to operate using an alternative fuel, except that diesel fuel is used for pilot ignition at an average ratio of no more than one part diesel fuel to ten parts total fuel on any energy equivalent basis. An engine that can operate or idle solely on diesel fuel at any time does not meet this definition.

(25) "Hydrocarbon (HC)" means the sum of all hydrocarbon air pollutants.

(26) "In-Use" means a CI engine that is not a "new" CI engine.

(27) "Intermodal Rail Yard" means any transportation facility primarily dedicated to the business of rail and/or intermodal rail operations where cargo is transferred to or from a train and any other form of conveyance, such as train to ship, ship to train, train to truck, or truck to train.

(28) "Lease" means a contract by which one conveys cargo handling equipment for a specified term and for a specified rent.

(29) "Level" means one of three categories of Air Resources Board-verified diesel emission control strategies as set forth in title 13, CCR,

section 2701 et seq: Level 1 means the strategy reduces engine diesel particulate matter emissions by between 25 and 49 percent, Level 2 means the strategy reduces engine diesel particulate matter emissions by between 50 and 84 percent, and Level 3 means the strategy reduces engine diesel particulate matter emissions by 85 percent or greater, or reduces engine emissions to less than or equal to 0.01 grams diesel PM per brake horsepower-hour.

(30) "Loader" means any type of off-road tractor with either tracks or rubber tires that uses a bucket on the end of movable arms to lift and move material; can be also referred to as a front-end loader, front loader, skid steer loader, backhoe, rubber-tired loader, or wheeled loader.

(31) "Military Tactical Support Cargo Handling Equipment" means cargo handling equipment that meets military specifications, owned by the U.S. Department of Defense and/or the U.S. military services, and used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

(32) "Minimum Use Requirement" means an agreement, as part of state or local incentive funding programs or written agreement between mobile cargo handling equipment owners or operators and the Ports of Long Beach, Los Angeles, or Oakland, to use an emission control device on mobile cargo handling equipment for a specified minimum number of years and/or hours.

(33) "Mobile Crane" means the propulsion engine of a crane other than a rubber-tired gantry crane.

(34) "Model Year" means the CI engine manufacturer's annual production period, which includes January 1st of a calendar year, or if the manufacturer has no annual production period, the calendar year.

(35) "Newly Purchased, Leased, or Rented Cargo Handling Equipment" means mobile cargo handling equipment, or a diesel-fueled CI engine installed in mobile cargo handling equipment, that is newly purchased, rented, or leased by an owner or operator on or after January 1, 2007, and is operated at a port or intermodal rail yard in the state of California after January 1, 2007.

(36) "Nitrogen Oxides (NOx)" means compounds of nitric oxide (NO), nitrogen dioxide (NO₂), and other oxides of nitrogen, which are typically created during combustion processes and are major contributors to smog formation and acid deposition.

(37) "Non-Methane Hydrocarbons (NMHC)" means the sum of all HC air pollutants except methane.

(38) "Non-Yard Truck Mobile Cargo Handling Equipment" means all mobile cargo handling equipment other than yard trucks.

(39) "Ocean-going Vessel" means a commercial, government, or military vessel meeting any one of the following criteria:

(A) a vessel with a "registry" (foreign trade) endorsement on its United States Coast Guard certificate of documentation, or a vessel that is registered under the flag of a country other than the United States;

(B) a vessel greater than or equal to 400 feet in length overall (LOA) as defined in 50 CFR § 679.2, as adopted June 19, 1996;

(C) a vessel greater than or equal to 10,000 gross tons (GT ITC) per the convention measurement (international system) as defined in 46 CFR 69.51-.61, as adopted September 12, 1989; or

(D) a vessel propelled by a marine compression ignition engine with a per-cylinder displacement of greater than or equal to 30 liters.

(40) "Off-Road Engine" means an engine used in an off-road vehicle, or piece of equipment, including a certified on-road diesel engine.

(41) "Off-Road Vehicle or Equipment" means any non-stationary device, including registered motor vehicles, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or transport persons or property.

(42) "Owner or Operator" means any person subject to the requirements of this section, including but not limited to:

(A) an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation including but not limited to, a government corporation; and

(B) any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the fed-

eral government or any department or agency thereof to the extent permitted by law.

(43) "Particulate Matter (PM)" means the particles found in the exhaust of CI engines, which may agglomerate and adsorb other species to form structures of complex physical and chemical properties.

(44) "Port" means a place, which typically consists of different terminals, where cargo is loaded onto and unloaded from ocean-going vessels primarily. A port includes military terminals that operate cargo handling equipment when located as part of, or on contiguous properties with, non-military terminals.

(45) "Portable CI Engine" means a compression ignition (CI) engine designed and capable of being carried or moved from one location to another. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. Portable engines are not self-propelled.

(46) "Purchased" means the date shown on the front of the cashed check, the date of the financial transaction, or the date on the engine purchasing agreement, whichever is earliest.

(47) "Railcar Mover" means an off-road vehicle fitted with rail couplers and capable of traveling on both roads and rail tracks.

(48) "Reach Stacker" means an off-road truck-like cargo container handler that uses an overhead telescopic boom that can reach across two or more stacks of cargo containers and lift the containers from the top.

(49) "Registered Motor Vehicle" means a yard truck or other cargo handling vehicle that is registered as a motor vehicle under Vehicle Code section 4000, et seq.

(50) "Rent" means payment for the use of mobile cargo handling equipment for a specified term.

(51) "Retirement" or "Retire" means an engine or vehicle that will be taken out of service by an owner or operator and will not be operated at a port or intermodal rail yard in the State of California. The engine may be sold outside of California or scrapped.

(52) "Rubber-tired Gantry Crane or RTG Crane" means an off-road overhead cargo container crane with the lifting mechanism mounted on a cross-beam supported on vertical legs which run on rubber tires.

(53) "Side Handler or Side Pick" means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing either two top corners on the longest side of a container, both arms of one side of a container, or both top and bottom sides of a container.

(54) "Sweeper" means an off-road vehicle with attached brushes underneath that sweep the ground and pick up dirt and debris.

(55) "Terminal" means a facility, including one owned or operated by the Department of Defense or the U.S. military services, that operates cargo handling equipment at a port or intermodal rail yard.

(56) "Tier 4 Off-road Emission Standards" means the emission standards promulgated by the United States Environmental Protection Agency in "Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule" (Vol. 69, No. 124 Fed. Reg. pp. 38957-39273, June 29, 2004) which harmonize with the final amended emission standards for newly manufactured off-road engines approved by the Air Resources Board on December 12, 2004.

(57) "Top Handler or Top Pick" means an off-road truck-like cargo container handler that uses an overhead telescopic boom to lift empty or loaded cargo containers by grabbing the top of the containers.

(58) "Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines (Verification Procedure)" means the Air Resources Board (ARB) regulatory procedure codified in title 13, CCR, sections 2700-2710, which is incorporated herein by reference, that engine manufacturers, sellers, owners, or operators may use to verify the reductions of diesel PM and/or NOx from in-use diesel engines using a particular emission control strategy.

(59) "Verified Diesel Emission Control Strategy (VDECS)" means an emission control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the "Verification Pro-

cedure for In-Use Strategies to Control Emissions from Diesel Engines” in title 13, California Code of Regulations, commencing with section 2700.

(60) “Yard truck” means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as utility tractor rig (UTR), yard tractor, yard goat, yard hostler, yard hustler, or prime mover.

(e) Requirements

(1) Newly Purchased, Leased, or Rented Equipment Performance Standards:

(A) Yard Trucks:

1. Except as provided in subsection (c), on or after January 1, 2007, no owner or operator shall operate any newly purchased, leased, or rented yard trucks unless they are equipped with the following types of engines:

a. Yard trucks that are registered as motor vehicles shall be equipped with engines that meet the on-road emission standards as specified in title 13, California Code of Regulations, section 1956.8, for the model year in which the yard trucks and engines were newly purchased, leased, or rented.

b. Yard trucks that are *not* registered as motor vehicles shall be equipped with engines:

i. that are certified to the on-road emission standards set forth in title 13, CCR, section 1956.8; for the model year in which the yard trucks and engines were newly purchased, leased, or rented; or

ii. that have been certified to meet the final Tier 4 off-road emission standards for the rated horsepower.

(B) Non-Yard Truck Cargo Handling Equipment:

1. Except as provided in subsection (c), on or after January 1, 2007, no owner or operator shall operate any newly purchased, leased, or rented non-yard truck vehicles or equipment unless they meet the following:

a. Non-yard truck mobile cargo handling equipment that are registered as motor vehicles shall be equipped with engines that meet the on-road emission standards as specified in title 13, California Code of Regulations, section 1956.8, for the model year in which the non-yard truck mobile cargo handling equipment and engines were newly purchased, leased, or rented.

b. Non-yard truck mobile cargo handling equipment that are *not* registered as motor vehicles shall be equipped with engines:

i. that have been certified to meet the on-road emission standards as specified in title 13, California Code of Regulations, section 1956.8 for the model year in which the non-yard truck mobile cargo handling equipment and engines were newly purchased, leased, or rented; or

ii. that have been certified to meet the Tier 4 off-road emission standards for the model year and rated horsepower of the newly purchased, leased, or rented non-yard truck mobile cargo handling equipment engines; or

c. if (b) above is not available for the specific application and equipment type, the non-yard truck mobile cargo handling equipment shall be equipped with engines that have been certified to meet the highest avail-

able level off-road diesel engine emission standards as specified in title 13, California Code of Regulations, section 2423 for the rated horsepower and model year in which the equipment were newly purchased, leased, or rented, provided the owner or operator must install the highest level VDECS available within one year after the purchase, lease, or rental of the equipment, or within 6 months of when a VDECS becomes available, if that occurs after one year after the purchase, lease, or rental.

(2) In-Use Performance Standards for Yard Trucks

(A) In accordance with the schedule set forth below in paragraph (e)(2)(B), no owner or operator shall operate an in-use yard truck at a port or intermodal rail yard unless the engine meets the performance standards set forth below:

1. is certified to 2007 or later on-road emission standards for the model year of the year purchased as specified in title 13, California Code of Regulations, section 1956.8; or

2. is certified to final Tier 4 off-road emission standards for the rated horsepower; or

3. is equipped with a VDECS that results in emissions less than or equal to the diesel PM and NOx emission standards for a certified final Tier 4 off-road diesel engine of the same horsepower rating.

(B) Compliance Schedules for In-Use Yard Trucks

1. All owners or operators of three or fewer yard trucks shall comply with subsection (e)(2) according to the schedule in Table 1:

Table 1: Compliance Schedule for In-Use Yard Truck Fleets of Three or Less

Off-road without VDECS Installed by December 31, 2006		Off-road with VDECS Installed by December 31, 2006	
Model Year	Compliance Deadline	Model Year	Compliance Deadline
Pre-2003	Dec. 31, 2007	Pre-2003	Dec. 31, 2008
2003	Dec. 31, 2010	2003	Dec. 31, 2011
2004	Dec. 31, 2011	2004	Dec. 31, 2012
2005	Dec. 31, 2012	2005	Dec. 31, 2013
2006	Dec. 31, 2013	2006	Dec. 31, 2014

On-road without VDECS Installed by December 31, 2006		On-road with VDECS Installed by December 31, 2006	
Model Year	Compliance Deadline	Model Year	Compliance Deadline
Pre-2000	Dec. 31, 2007	Pre-2000	Dec. 31, 2008
2000	Dec. 31, 2008	2000	Dec. 31, 2009
2001	Dec. 31, 2009	2001	Dec. 31, 2010
2002	Dec. 31, 2010	2002	Dec. 31, 2011
2003	Dec. 31, 2011	2003	Dec. 31, 2012
2004	Dec. 31, 2012	2004	Dec. 31, 2013
2005	Dec. 31, 2013	2005	Dec. 31, 2014
2006	Dec. 31, 2014	2006	Dec. 31, 2015

2. All owners or operators of four or more yard trucks shall comply with subsection (e)(2) according to the schedule in Table 2:

Table 2: Compliance Schedule for In-Use Yard Truck Fleets of Four or More**Off-road without VDECS Installed by December 31, 2006**

<i>Model Year</i>	<i>% of Model Year</i>	<i>Compliance Deadline</i>
Pre-2003	Greater of 3 or 50% 100%	Dec. 31, 2007 Dec. 31, 2008
2003	Greater of 3 or 25% 50% 100%	Dec. 31, 2010 Dec. 31, 2011 Dec. 31, 2012
2004	Greater of 3 or 25% 50% 100%	Dec. 31, 2011 Dec. 31, 2012 Dec. 31, 2013
2005	Greater of 3 or 25% 50% 100%	Dec. 31, 2012 Dec. 31, 2013 Dec. 31, 2014
2006	Greater of 3 or 25% 50% 100%	Dec. 31, 2013 Dec. 31, 2014 Dec. 31, 2015

Off-road with VDECS Installed by December 31, 2006

<i>Model Year</i>	<i>% of Model Year</i>	<i>Compliance Deadline</i>
Pre-2003	Greater of 3 or 50% 100%	Dec. 31, 2008 Dec. 31, 2009
2003	Greater of 3 or 25% 50% 100%	Dec. 31, 2011 Dec. 31, 2012 Dec. 31, 2013
2004	Greater of 3 or 25% 50% 100%	Dec. 31, 2012 Dec. 31, 2013 Dec. 31, 2014
2005	Greater of 3 or 25% 50% 100%	Dec. 31, 2013 Dec. 31, 2014 Dec. 31, 2015
2006	Greater of 3 or 25% 50% 100%	Dec. 31, 2014 Dec. 31, 2015 Dec. 31, 2016

On-road without VDECS Installed by December 31, 2006

<i>Model Year</i>	<i>% of Model Year</i>	<i>Compliance Deadline</i>
Pre-2000	Greater of 3 or 25% 50% 100%	Dec. 31, 2007 Dec. 31, 2008 Dec. 31, 2009
2000	Greater of 3 or 25% 50% 100%	Dec. 31, 2008 Dec. 31, 2009 Dec. 31, 2010
2001	Greater of 3 or 25% 50% 100%	Dec. 31, 2009 Dec. 31, 2010 Dec. 31, 2011
2002	Greater of 3 or 25% 50% 100%	Dec. 31, 2010 Dec. 31, 2011 Dec. 31, 2012
2003	Greater of 3 or 25% 50% 100%	Dec. 31, 2011 Dec. 31, 2012 Dec. 31, 2013
2004	Greater of 3 or 25% 50% 100%	Dec. 31, 2012 Dec. 31, 2013 Dec. 31, 2014
2005	Greater of 3 or 25% 50% 100%	Dec. 31, 2013 Dec. 31, 2014 Dec. 31, 2015
2006	Greater of 3 or 25% 50% 100%	Dec. 31, 2014 Dec. 31, 2015 Dec. 31, 2016

On-road with VDECS Installed by December 31, 2006

<i>Model Year</i>	<i>% of Model Year</i>	<i>Compliance Deadline</i>
Pre-2000	Greater of 3 or 25% 50% 100%	Dec. 31, 2008 Dec. 31, 2009 Dec. 31, 2010
2000	Greater of 3 or 25% 50% 100%	Dec. 31, 2009 Dec. 31, 2010 Dec. 31, 2011
2001	Greater of 3 or 25% 50% 100%	Dec. 31, 2010 Dec. 31, 2011 Dec. 31, 2012
2002	Greater of 3 or 25% 50% 100%	Dec. 31, 2011 Dec. 31, 2012 Dec. 31, 2013
2003	Greater of 3 or 25% 50% 100%	Dec. 31, 2012 Dec. 31, 2013 Dec. 31, 2014
2004	Greater of 3 or 25% 50% 100%	Dec. 31, 2013 Dec. 31, 2014 Dec. 31, 2015
2005	Greater of 3 or 25% 50% 100%	Dec. 31, 2014 Dec. 31, 2015 Dec. 31, 2016
2006	Greater of 3 or 25% 50% 100%	Dec. 31, 2015 Dec. 31, 2016 Dec. 31, 2017

a. for each compliance deadline, the percentage of yard trucks (25 percent, 50 percent, or 100 percent) that must meet the requirements of subsection (e)(2) is determined based on the total population of yard trucks for a specific model year or model year group (i.e., pre-2000 or pre-2003, depending upon whether the equipment is characterized as on- or off-road) that exist in the owner's or operator's yard truck fleet as of January 1 of the first compliance deadline year for that model year or model year group; and

b. if the number of yard trucks is not a whole number, conventional rounding practices apply (i.e., if less 0.5, round down; if 0.5 or greater, round up).

(3) In-Use Performance Standards for Non-Yard Truck Mobile Cargo Handling Equipment

(A) In accordance with the schedule set forth in subsection (e)(3)(C), no owner or operator shall operate non-yard truck mobile cargo handling equipment unless they meet all of the following:

1. Use one of the Compliance Options for each vehicle or equipment in the active fleet as specified in paragraph (e)(3)(B) per the compliance schedule listed in Table 3 in subsection (e)(3)(C); and

2. Adherence to any special circumstances that may apply when a diesel emission control strategy is used as a Compliance Option as specified in subsection (g); and

3. Maintenance of all records as specified in subsection (i); and

4. Continuous Compliance. An owner or operator is required to keep all mobile cargo handling equipment operating in California in compliance with the requirements of this regulation at all times.

(B) Compliance Option. Each owner or operator shall use one of the following Compliance Options on each engine or vehicle in his fleet as required by the implementation schedule listed in Table 3 in subsection (e)(3)(C):

1. Basic Container Handling Equipment:

a. An engine or power system, including a diesel, alternative fuel, or heavy-duty pilot ignition engine, certified to either the 2007 or later model year on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or the Tier 4 off-road emission standards for the rated horsepower and model year of the year manufactured; or

b. An engine or power system certified to the on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or certified to the Tier 2 or Tier 3 off-road diesel engine standard for the rated horsepower and model year of the year manufactured, and used in conjunction with the highest level VDECS that is verified for a specific engine family and model year. If the highest level VDECS used is Level 1, the engine or power system must meet the certified Tier 4 off-road emission standards, or be equipped with a Level 3 VDECS by December 31, 2015; or

c. An engine or power system either certified to the Tier 1 off-road diesel engine standard, as specified in title 13, CCR, section 2423, or manufactured prior to implementation of the Tier 1 off-road diesel engine standard, both of which must be used in conjunction with the highest level VDECS that is verified for the specific engine family and model year. If the highest level VDECS used is Level 1 or Level 2, the engine or power system must meet the certified Tier 4 off-road emission standards or be equipped with a Level 3 VDECS by December 31, 2015.

2. Bulk Cargo Handling Equipment:

a. An engine or power system, including a diesel, alternative fuel, or heavy-duty pilot ignition engine, certified to either the 2007 or later model year on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or the Tier 4 off-road emission standards for the rated horsepower and model year of the year manufactured; or

b. An engine or power system certified to the on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or certified to the Tier 2 or Tier 3 off-road diesel engine standard for the rated horsepower and model year of the year manufactured, and used in conjunction with the highest level VDECS that is verified for a specific engine family and model year. If the highest level VDECS used is Level 1, the engine or power system must meet the certified Tier 4 off-

road emission standards, or be equipped with a Level 3 VDECS by December 31, 2015; or

c. An engine or power system either certified to the Tier 1 off-road diesel engine standard, as specified in title 13, CCR, section 2423, or manufactured prior to implementation of the Tier 1 off-road diesel engine standard, both of which must be used in conjunction with the highest level VDECS that is verified for the specific engine family and model year. If the highest level VDECS used is Level 1, the engine or power system must meet the certified Tier 4 off-road emission standards or be equipped with a Level 3 VDECS by December 31, 2015.

3. Rubber-Tired Gantry Cranes:

a. An engine or power system, including a diesel, alternative fuel, or heavy-duty pilot ignition engine, certified to either the 2007 or later model year on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or the Tier 4 off-road emission standards for the rated horsepower and model year of the year manufactured; or

b. An engine or power system certified to the on-road emission standards for the year manufactured as specified in title 13, CCR, section 1956.8, or certified to the Tier 2 or Tier 3 off-road diesel engine standard for the rated horsepower and model year of the year manufactured, and used in conjunction with the highest level VDECS that is verified for a specific engine family and model year; or

c. An engine or power system either certified to the Tier 1 off-road diesel engine standard, as specified in title 13, CCR, section 2423, or manufactured prior to implementation of the Tier 1 off-road diesel engine standard, both of which must be used in conjunction with the highest level VDECS that is verified for the specific engine family and model year. If the highest level VDECS used is Level 1 or Level 2, the engine or power system must meet the certified Tier 4 off-road emission standards or be equipped with a Level 3 VDECS by the latter of model year plus 12 years or December 31, 2015.

(C) Compliance Schedule for Non-Yard Truck Mobile Cargo Handling Equipment

1. All owners or operators of non-yard truck mobile cargo handling equipment shall comply with subsection (e)(3) according to the schedule in Table 3:

Table 3: Compliance Option Compliance Schedule for Non-Yard Truck In-Use Mobile Cargo Handling Equipment

Engine Model Years	Non-Yard Truck Fleets of 3 or Fewer	Compliance Date ¹ Non-Yard Truck Fleets of 4 or More			
		First 3 or 25% (whichever is greater)	50%	75%	100%
pre-1988	2007	2007	2008	2009	2010
1988-1995	2008	2008	2009	2010	2011
1996-2002	2009	2009	2010	2011	2012
2003-2006	2010	2010	2011	2012	2013

¹ Compliance date refers to December 31st of the year indicated.

a. for each compliance deadline, the percentage of non-yard truck equipment (25 percent, 50 percent, or 100 percent) that must meet the requirements of subsection (e)(3) is determined based on the total population of non-yard truck equipment for a specific model year group (i.e., pre-1988) that exist in the owner's or operator's non-yard truck fleet as of January 1 of the first compliance deadline year for that model year group; and

b. if the number of non-yard truck equipment is not a whole number, conventional rounding practices apply (i.e., if less 0.5, round down; if 0.5 or greater, round up).

(4) Fuel Requirements

(A) Except as provided for in subsection (c), on or after January 1, 2007, no owner or operator of cargo handling equipment shall fuel the equipment with any fuel unless the fuel is one of the following:

1. CARB Diesel Fuel; or

2. An alternative diesel fuel that meets the requirements of the Verification Procedure; or

3. An alternative fuel; or

4. CARB Diesel Fuel used with fuel additives that meets the requirements of the Verification Procedure; or

5. Any combination of (e)(4)(A)1. through (e)(4)(A)4. above.

(B) Owners or operators choosing to use alternative diesel fuels in mobile cargo handling equipment to meet the requirements of subsections (e)(2) and (e)(3) shall:

1. Maintain records in accordance with subsection (i); and

2. Use only fuel that is a VDECS alternative diesel fuel in mobile cargo handling equipment at ports or intermodal rail yards in California; and

3. Permanently affix a label in clear view near the fill spout that identifies the proper fuel that is required to be in compliance; and

4. In the event that the owner or operator decides to revert to using CARB diesel fuel, the operator shall comply with the requirements of subsections (e)(2) and (e)(3) within 10 days of discontinuation of alternative diesel fuel use. Within 10 days of discontinuation, the owner or operator shall notify the Executive Officer in writing of this change in fuel use and shall include an update to any annual report submitted to comply with subsections (j).

(C) Owners or operators that retrofit mobile cargo handling equipment with a VDECS that requires certain fuel properties to be met in order to achieve the required PM reduction or PM emissions shall only fuel the subject mobile cargo handling equipment with fuel that meets these specifications. In addition, owners or operators that choose a VDECS that requires certain fuel properties to be met in order to prevent damage to the VDECS or an increase in toxic air contaminants, other harmful compounds, or in the nature of the emitted PM, shall only fuel the subject mobile cargo handling equipment with fuel that meets these specifications.

(f) Compliance Extensions

An owner or operator may be granted an extension to a compliance deadline specified in subsection (e) for one of the following reasons. If a compliance extension is granted by the Executive Officer, the owner or operator shall be deemed to be in compliance as specified by the Executive Officer's authorization. Unless specifically stated, compliance extensions may not be combined or used consecutively, and only one compliance extension type may be granted per engine or vehicle.

(1) Compliance Extension for an Engine Near Retirement. If an owner or operator has applied a Compliance Option to its fleet pursuant to the schedule set forth in Table 3 of subsection (e), and the next engine subject to the Compliance Options is scheduled to be retired from the active fleet within one year of the applicable compliance deadline, the owner or operator does not need to apply a Compliance Option to that engine for up to one year, provided the owner or operator maintains appropriate records and documentation, as specified in subparagraph (i)(1)(F), regarding the assigned retirement date and the engine is retired on or before the assigned date. If upon inspection, ARB finds the aforementioned conditions to have not been met, the engine would be in noncompliance from the date that compliance would otherwise have been required under the schedule set forth in Table 3 of subsection (e).

(2) Compliance Extension Based on No Verified Diesel Emission Control Strategy for Non-Yard Truck Mobile Cargo Handling Equipment. If the Executive Officer has not verified a diesel emission control strategy or one is not commercially available for a particular engine and equipment combination, an annual extension in compliance, up to a maximum of two years, may be granted by the Executive Officer. The Executive Officer shall grant the extension upon determining that the following circumstances have been met:

(A) The owner or operator has applied to the Executive Officer for a compliance extension for an engine six months prior to each compliance deadline specified in subsection (e)(3)(C) and provided sufficient documentation to meet the conditions set forth below. The owner or operator may, six-months prior to the expiration of the extension, apply for an additional one-year extension. In such a case, the owner or operator shall once again be required to show to the Executive Officer's satisfaction that the conditions set forth below have been met:

1. Establish that it has applied a Compliance Option specified in subsection (e)(3) to all applicable engines in its fleet for which a Compliance Option is feasible pursuant to the schedule set forth in Table 3 of subsection (e),

2. Identify each engine for which an extension is requested by engine serial number; engine manufacturer, model year, family, and series; and type of mobile cargo handling equipment, for which a specific diesel emission control strategy would jeopardize the original engine warranty and a statement from the engine manufacturer or authorized dealer stating the original engine warranty would be jeopardized; or

3. Identify each engine and equipment or vehicle combination for which an extension is requested by engine serial number; engine manufacturer, model year, family, and series; and type of mobile cargo

handling equipment, for which no diesel emission control strategy is commercially available and a list of manufacturers that have been contacted with their responses to a request to purchase, and

4. Describe the reason(s) for the request for a compliance extension for each engine or engine and equipment or vehicle combination.

(3) Use of Experimental Diesel Particulate Matter Emission Control Strategies for Non-Yard Truck Mobile Cargo Handling Equipment. An annual compliance extension may be granted by the Executive Officer for the use of an experimental, or non-verified, diesel PM emission control strategy if a VDECS is not available or if the owner or operator can demonstrate that an existing VDECS is not feasible for their equipment or application. The owner or operator shall keep documentation of this use in records as specified in paragraph (i)(1)(G). Each mobile cargo handling equipment engine will be considered to be in compliance for the duration of the experiment, until the extension expires. The owner or operator must bring the mobile cargo handling equipment into compliance prior to the end of the annual compliance extension. The Executive Officer may grant the extension upon determining that the owner or operator has met the conditions specified below:

(A) The engine owner or operator has applied to the Executive Officer for a compliance extension six months prior to each compliance deadline, including annually if the owner or operator wishes to continue with the experimental controls. The application must include emissions data demonstrating the experimental control achieves at least a Level 1 diesel PM emission reduction through:

1. off-road engine certification test data for the cargo handling equipment engine;

2. engine manufacturer test data;

3. emissions test data from a similar engine;

4. emissions test data used in meeting the requirements of the Verification Procedure for the emission control strategy implemented; or

5. emissions testing conducted under the following conditions:

a. baseline testing may be conducted with the emission control strategy in place, provided the test sample is taken upstream of the emission control strategy;

b. control strategy testing shall be performed on the cargo handling equipment engine with full implementation of the emission control strategy;

c. the percent change from baseline shall be calculated as the baseline emissions minus control strategy emissions, with the difference being divided by the baseline emissions and the result expressed as a percentage;

d. the same test method shall be used for determining both baseline emissions and control strategy emissions; and

e. diesel PM, NO_x, CO, HC, NMHC, and CO₂ testing shall be done in accordance with one of the following methods:

i. International Organization for Standardization (ISO) 8178 Test procedures: ISO 8178-1: 1996(E) ("ISO 8178 Part 1"); ISO 8178-2: 1996(E) ("ISO 8178 Part 2"); and ISO 8178-4: 1996(E) ("ISO 8178 Part 4"), which are incorporated herein by reference; or

ii. Title 13, California Code of Regulations, section 2423, "Exhaust Emission Standards and Test Procedures — Off-Road Compression Ignition Engines," which is incorporated herein by reference.

(B) The application for extension must include the following: explanation demonstrating that the highest level VDECS are not feasible for the specific equipment or application (if applicable), identification of each engine (serial number, engine manufacturer, model year, family, and series), description of the emission control system to be demonstrated, emissions data required in (A) above, the contact information for the emission control system supplier, and a letter of intent from the supplier that they intend to apply for verification of the experimental system;

(C) The owner or operator must bring the mobile cargo handling equipment into compliance prior to the end of the compliance extension period;

(D) If VDECS are available, or become available during the extension period, and are determined to be feasible for the specific engine and equipment type, the owner or operator must demonstrate that the exper-

imental control achieves equivalent to or better than a Level I VDECS; and

(E) No experimental diesel particulate matter emission control strategy may be used on mobile cargo handling equipment after December 31, 2015.

(4) Compliance Extension for Equipment Manufacturer Delays. An owner or operator who has purchased new equipment in order to comply with subsection (e), including an owner or operator who has been granted a compliance extension per subsections (f)(2), (f)(3), or (f)(5), will be considered to be in compliance if the new equipment has not been received due to manufacturing delays, as long as the following conditions are met:

(A) The equipment was purchased, or the owner or operator and seller had entered into contractual agreement for the purchase, at least six months prior to the required compliance date as specified in subsection (e); and

(B) Proof of purchase, such as a purchase order or signed contract for the sale, including engine specifications for each applicable equipment, must be maintained by the owner or operator and provided to an agent or employee of ARB upon request.

(5) Compliance Extension for Yard Trucks Having VDECS with Minimum Use Requirements. If VDECS were installed on a yard truck prior to December 31, 2005, and the minimum use requirements of the VDECS, as established under a public funding program, is later than the compliance date as specified in subsection (e)(2)(B), an exemption from compliance may be extended to three years beyond the installation date of the VDECS if the following conditions are demonstrated by the owner or operator:

(A) The VDECS was installed using funding from a public agency; and

(B) The funding program stipulated minimum use requirements that would expire after the required compliance date as specified in subsection (e)(2)(B).

(g) Diesel Emission Control Strategy Special Circumstances

An owner or operator shall maintain the original level of the elected Compliance Option for each engine once that engine is required to be in compliance, and is not required to upgrade to a higher level of Compliance Option, except under specified special circumstances, as follows:

(1) In the event of a failure or damage of a diesel emission control strategy, the following conditions apply:

(A) Failure or Damage during the Warranty Period. If a diesel emission control strategy fails or is damaged within its warranty period and the diesel emission control strategy manufacturer or authorized dealer determines it cannot be repaired, the owner or operator shall replace the diesel emission control strategy with either the same level diesel emission control strategy or another approved Compliance Option as defined in subsection (e)(3) within 90 days of diesel emission control strategy failure.

(B) Failure or Damage Outside of Warranty Period. If a diesel emission control strategy fails or is damaged outside of its warranty period, and it cannot be repaired, the owner or operator shall apply a Compliance Option within 90 days, as defined in subsection (e)(3).

(h) Alternative Compliance Plan for Non-Yard Truck Cargo Handling Equipment

(1) Requirements

(A) The purpose of this subsection is to allow any person ("person" or "applicant") subject to this regulation the option of complying with the requirements of this subsection (h) in lieu of the requirements of subsection (e)(3). Under this subsection (h), alternative emission control strategies (AECS) can be implemented as an alternative compliance plan (ACP), provided they result in no greater emissions, expressed in pounds, of diesel PM and NOx from the non-yard truck cargo handling equipment, over the applicable calendar year, relative to the emissions that would have occurred under subsection (e)(3).

(B) An applicant wishing to participate in an ACP may include one or more non-yard truck cargo handling equipment in the ACP, but the ap-

plicant shall only include equipment that the person owns or operates under their direct control at the same port or intermodal rail yard.

(C) No cargo handling equipment shall be included in more than one ACP.

(D) AECS may include, but are not limited to:

1. equipment engine modifications,
2. exhaust treatment control,
3. engine repower,
4. equipment replacement, and
5. use of alternative fuels or fuel additives.

(E) The ACP application demonstrating compliance with this subsection shall contain, at a minimum, the following information:

1. the company name, address, and contact information;
2. the equipment subject to the ACP, including equipment and engine make, model, and serial numbers, and other information that uniquely identify the equipment;
3. documentation, calculations, emissions test data, or other information that establishes the diesel PM and NOx reductions, expressed in pounds, from non-yard truck cargo handling equipment will be equivalent to or greater than the emission reductions that would have been achieved upon compliance with subsection (e)(3);
4. the proposed recordkeeping, reporting, monitoring, and testing procedures that the applicant plans to use to demonstrate continued compliance with the ACP.

(F) Emission reduction calculations demonstrating equivalence with the requirements of subsection (e)(3) shall only include diesel PM and NOx emissions from non-yard truck cargo handling equipment that operate at the California port or intermodal rail yard to which the ACP applies.

(G) Any owner or operator subject to an approved ACP shall maintain operating records in a manner and form as specified by the Executive Officer in the approved ACP. Required records may include, but are not limited to, information on hours of operation, fuel usage, maintenance procedures, and emissions test results. Such records and reports shall be retained for a period of not less than three (3) years and shall be submitted to the Executive Officer in the manner specified in the approved ACP and upon request by the Executive Officer.

(H) Emission reductions included in an ACP shall not include reductions that are otherwise required by any local, State, or federal rule, regulation, or statute, or that are achieved or estimated from equipment not located at the specific port or intermodal rail yard to which the ACP applies.

(I) No person may operate any non-yard truck cargo handling equipment under an ACP unless the applicant has first been notified in writing by the Executive Officer that the ACP application has been approved. Prior to such approval, applicants shall comply with the provisions of this section, including the requirements in subsection (e)(3).

(2) Application Process

(A) Applications for an ACP shall be submitted in writing to the Executive Officer for evaluation.

(B) The Executive Officer shall establish an Internet site ("ACP Internet site") in which all documents pertaining to an ACP application will be made available for public review. The Executive Officer shall also provide a copy of all such documents to any person upon request ("interested party(ies)"). The Executive Officer shall provide two separate public comment periods during the ACP application process, as specified in this subsection (h)(2).

(C) Completeness Determination

Within 15 days after receiving an ACP application(s), the Executive Officer shall notify the applicant whether the application is deemed sufficiently complete to proceed with further evaluation. If the application is deemed incomplete, the notification shall identify the application's deficiencies. The Executive Officer shall have an additional 15-day period for reviewing each set of documents or information submitted in response to an incompleteness determination. Nothing in this subsection prohibits the Executive Officer from requesting additional information

from the applicant, during any part of the ACP application process, which the Executive Officer determines is necessary to evaluate the application.

(D) Notice of Completeness and 30-Day First Public Comment Period

After an ACP application has been deemed complete, the Executive Officer shall provide a 30-day public comment period to receive comments on any element of the ACP application and whether the Executive Officer should approve or disapprove the ACP application based on the contents and merits of the application. The Executive Officer shall notify all interested parties of the following:

1. the applicant(s);
2. the start and end dates for the 30-day first comment period; and
3. the address of the ACP Internet site where the application is posted.

The Executive Officer shall also make this notification available for public review on the ACP Internet site.

(E) Proposed Action and 15-Day Second Public Comment Period

Within 30 days after the first public comment period ends, the Executive Officer shall notify the applicant and all interested parties of ARB's proposed approval or disapproval. This notification shall propose to approve the application as submitted, disapprove the application, or approve the ACP application with modifications as deemed necessary by the Executive Officer. The notification shall identify the start and end dates for the 15-day second public comment period. During the second public comment period, any person may comment on the Executive Officer's proposed approval or disapproval of the ACP application and any element of the application. The Executive Officer shall also make this notification available for public review on the ACP Internet site.

(F) Final Action

Within 15 days after the second public comment period ends, the Executive Officer shall take final action to either approve or deny an ACP application and shall notify the applicant accordingly. If the application is denied or modified, the Executive Officer shall state the reasons for the denial or modification in the notification. The notification to the applicant and approved ACP, if applicable, shall be made available to the public on the ACP Internet site. In addition, the Executive Officer shall consider and address all comments received during the first and second public comment periods, and provide responses to each comment on the ACP Internet site.

(G) Notification to the Executive Officer of Changes to an Approved ACP

The applicant shall notify the Executive Officer in writing within 30 days upon learning of any information that would alter the emissions estimates submitted during any part of the ACP application process. If the Executive Officer has reason to believe that an approved ACP has been granted to a person that no longer meets the criteria for an ACP, the Executive Officer may, pursuant to subsection (h)(3) below, modify or revoke the ACP as necessary to assure that the applicant and subject non-yard truck cargo handling equipment will meet the emission reduction requirements in this section.

(3) Revocation or Modification of Approved ACPs

With 30-days notice to the ACP holder, the Executive Officer may revoke or modify, as needed, an approved ACP if there have been multiple violations of the ACP provisions or the requirements of the approved ACP; or if the Executive Officer has reason to believe that an approved ACP has been granted that no longer meets the criteria or requirements for an ACP or the applicant can no longer comply with the requirements of the approved ACP in its current form.

Public notification of a revocation or modification of an approved ACP shall be made available on the ACP Internet site.

(i) Recordkeeping Requirements

Beginning December 31, 2006, an owner or operator of mobile cargo handling equipment shall maintain the following records or copies of records at port and intermodal rail yard facilities where applicable. The owner or operator shall provide the following records for inspection to an agent or employee of ARB upon request, including copies of these records at the department's expense, for all mobile cargo handling equipment subject to compliance with the regulation:

(1) Records Kept at Terminal. The owner or operator shall keep the following records accessible either in hard copy format or computer records at the terminal where the mobile cargo handling equipment normally resides:

(A) Owner or Operator Contact Information

1. Company name
2. Contact name, phone number, address, e-mail address
3. Address of equipment

(B) Equipment and Engine Information

1. Make of equipment and engine
2. Model of equipment and engine
3. Engine family (if applicable)
4. Engine serial number
5. Year of manufacture of equipment and engine (if unable to determine, approximate age)
6. Rated brake horsepower
7. Control equipment (if applicable)
 - a. Type of diesel emission control strategy
 - b. Serial number of installed diesel emission control strategy
 - c. Manufacturer of installed diesel emission control strategy
 - d. Model of installed diesel emission control strategy
 - e. Installation date of installed diesel emission control strategy
 - f. Level of control (1, 2, or 3); if using a Level 1 or 2, include the reason for the choice

g. Documentation for Minimum Use Requirement Compliance Extension pursuant to paragraph (f)(5)

(C) Records of maintenance for each installed diesel emission control strategy

(D) Fuel(s) Used

1. CARB Diesel
2. Alternative diesel fuel (specify)
3. Alternative fuel (specify)
4. Combination (dual fuel) (specify)
5. Other (specify)

(E) Operation Information

1. Describe general use of engine
2. Typical load (percent of maximum bhp rating)
3. Typical annual hours of operation
4. If seasonal, months of year operated and typical hours per month operated

(F) For each engine for which an owner or operator is claiming an exemption pursuant to paragraph (f)(1), the retirement date correlated to the information in paragraph (i)(1) above

(G) For each engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(3), the records of the test plan, including start and end dates of the experiment; diesel particulate matter emission control strategy manufacturer name and contact information (representative, address, and phone number); name and type of experimental diesel particulate matter emission control strategy; and targeted data to be generated by experiment, correlated to the information in paragraph (i)(1) above

(H) For each engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(4), the purchase order or signed contract between the owner or operator and seller of the new equipment that has been purchased in order to comply with subsection (e)

(I) A statement of compliance, prepared beginning January 1, 2007, and renewed each January 1 thereafter until January 1, 2016, certifying that the owner's or operator's engines are in compliance as required, including the following:

1. "The mobile cargo handling equipment at terminal (insert terminal name and name of port or intermodal rail yard) are in compliance with title 13, California Code of Regulations, section 2479;" and
2. The owner's or operator's name, business address, business telephone; and
3. The signature of the owner or operator or its agent and date signed.

(2) Records Kept in Mobile Cargo Handling Equipment. For each mobile cargo handling equipment, the owner or operator shall keep the following information affixed to the driver's side door jamb, or another readily accessible location known by the owner or operator of each mobile cargo handling equipment, in the form of a legible and durable label or in an alternative form approved by the Executive Officer or designee that is immediately accessible at the time of inspection by the enforcement agency:

(A) For each installed diesel emission control strategy, label information as specified in title 13, CCR, section 2706(g), and the installation date; or

(B) For each mobile cargo handling equipment that has installed a certified on-road or off-road engine in order to comply with subsection (e), the engine make, model, and installation date; or

(C) Engine model year and planned compliance date; or

(D) Engine model year and retirement date for an engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(1); or

(E) Engine model year and beginning and end date for which an owner or operator is claiming an extension pursuant to paragraph (f)(2); or

(F) Engine model year and beginning and ending date of the test plan for an engine for which an owner or operator is claiming an extension pursuant to paragraph (f)(3); or

(G) Engine model year and date of purchase of replacement engine or equipment for which an owner or operator is claiming an extension pursuant to paragraph (f)(4); or

(H) Engine model year, date of installation of VDECS, and supporting documentation for public funding program, for the engine and equipment for which an owner or operator is claiming an extension pursuant to paragraph (f)(5).

(3) Each owner or operator shall maintain these records for each mobile cargo handling equipment until it is sold outside of the State of California or is no longer used at a port or intermodal rail yard in the State of California. If ownership is transferred, the seller shall convey the records to the buyer.

(j) Reporting Requirements

(1) Compliance Plan. By January 31, 2007, each owner or operator of in-use mobile cargo handling equipment subject to the requirements of subsection (e) shall provide the following information to the Executive Officer:

(A) Information listed in paragraph (i)(1), and

(B) An identification of the planned control strategy (Compliance Plan) for each mobile cargo handling equipment listed in paragraph (i)(1) that, when implemented, will result in compliance with subsection (e). If applicable, the information should include the Executive Order number issued by the Executive Officer for a VDECS that has been approved by the Executive Officer through the Verification Procedure. The Compliance Plan is not binding and can be changed by the owner or operator prior to the required compliance date(s).

(2) Demonstration of Compliance. By no later than the earliest applicable compliance date specified in subsections (e)(2)(B) or (e)(3)(C), for each in-use cargo handling equipment subject to the requirements of subsection (e), the owner or operator shall provide the following information to the Executive Officer:

(A) Information listed in (i)(1), and

(B) An identification of the control strategy implemented for each mobile cargo handling equipment in accordance with the requirements of subsection (e) for purposes of demonstrating compliance.

(3) Annual Reporting. Each terminal owner or operator shall submit an annual report to the Executive Officer by January 31, 2007, and by each January 31 annually, through 2016 as described below:

(A) Company name;

(B) Contact name, phone number, address, e-mail address;

(C) Address of equipment, including name of port or intermodal rail yard where equipment is operated;

(D) The population, as of January 1 of that year, of equipment in each yard truck model year group and each non-yard truck model year group; and

(E) A signed affidavit stating the completeness and accuracy of the annual report.

(4) Reporting for Off-Road Equipment that Does Not Handle Cargo at any Time. Each terminal owner or operator to whom subsection (c)(3) applies, shall submit a report to the Executive Officer by January 31, 2007, as described below:

(A) Owner or Operator Contact Information

1. Company name

2. Contact name, phone number, address, e-mail address

3. Address of equipment

(B) Equipment and Engine Information

1. Make of equipment and engine

2. Model of equipment and engine

3. Engine family (if applicable)

4. Engine serial number

5. Year of manufacture of equipment and engine (if unable to determine, approximate age)

6. Rated brake horsepower

7. Control equipment (if applicable)

a. Type of diesel emission control strategy

b. Serial number of installed diesel emission control strategy

c. Manufacturer of installed diesel emission control strategy

d. Model of installed diesel emission control strategy

e. Installation date of installed diesel emission control strategy

f. Level of control (1, 2, or 3)

(C) Fuel(s) Used

1. CARB Diesel

2. Alternative diesel fuel (specify)

3. Alternative fuel (specify)

4. Combination (dual fuel) (specify)

5. Other (specify)

(D) Operation Information

1. Describe general use of engine

2. Typical load (percent of maximum bhp rating)

3. Typical annual hours of operation

4. If seasonal, months of year operated and typical hours per month operated

(k) Right of Entry

An agent or employee of the Air Resources Board has the right of entry to port and intermodal rail yard cargo handling facilities for the purpose of inspecting on-road and off-road cargo handling equipment and their records to determine compliance to these regulations.

(l) Prohibitions

No person who is engaged in this State in the business of selling to an ultimate purchaser, or renting or leasing new or used mobile cargo handling equipment, including, but not limited to, manufacturers, distributors, and dealers, shall sell, offer for sell, import, deliver, purchase, receive, or otherwise acquire a new or used mobile cargo handling equipment for the purpose of selling, renting, or leasing in California, that does not meet the performance requirements of this regulation.

(m) Severability

If any subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of this regulation is, for any reason, held invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of the regulation.

(n) Submittal of Documents

(A) All documents required under this regulation to be submitted to the Executive Officer shall be submitted as follows:

CALIFORNIA AIR RESOURCES BOARD
STATIONARY SOURCE DIVISION, CARGO HANDLING EQUIPMENT
P.O. BOX 2815
SACRAMENTO, CALIFORNIA 95812-2815

(B) An alternative method, including electronic submittals, may be approved by the Executive Officer.

NOTE: Authority cited: Sections 39600, 39601, 39618, 39658, 39659, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.6, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 42410, 43013 and 43018, Health and Safety Code. Reference: Sections 39618, 39650, 39658, 39659, 39667, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.6, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 42410, 43013 and 43018, Health and Safety Code.

HISTORY

1. New section filed 12-1-2006; operative 12-1-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).

Chapter 10. Mobile Source Operational Controls

Article 1. Motor Vehicles

§ 2480. Airborne Toxic Control Measure to Limit School Bus Idling and Idling at Schools.

(a) Purpose. This airborne toxic control measure seeks to reduce public exposure, especially school age children's exposure, to diesel exhaust particulate matter and other toxic air contaminants by limiting unnecessary idling of specified vehicular sources.

(b) Applicability. Except as provided in subsection (d), this section applies to the operation of every school bus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, and other commercial motor vehicle as defined in subsection (h).

(c) Idling Control Measure.

(1) A driver of a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle:

(A) must turn off the bus or vehicle engine upon stopping at a school or within 100 feet of a school, and must not turn the bus or vehicle engine on more than 30 seconds before beginning to depart from a school or from within 100 feet of a school; and

(B) must not cause or allow a bus or vehicle to idle at any location greater than 100 feet from a school for:

- (i) more than five consecutive minutes; or
- (ii) a period or periods aggregating more than five minutes in any one hour.

(2) A driver of a transit bus or of a commercial motor vehicle not identified in (c)(1):

(A) must turn off the bus or vehicle engine upon stopping at a school and must not turn the bus or vehicle engine on more than 30 seconds before beginning to depart from a school; and

(B) must not cause or allow a bus or vehicle to idle at any location within 100 feet of, but not at, a school for:

- (i) more than five consecutive minutes; or
- (ii) a period or periods aggregating more than five minutes in any one hour.

(3) A motor carrier of a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle must ensure that:

(A) the bus or vehicle driver, upon employment and at least once per year thereafter, is informed of the requirements in (c)(1), and of the consequences, under this section and the motor carrier's terms of employment, of not complying with those requirements;

(B) all complaints of non-compliance with, and enforcement actions related to, the requirements of (c)(1) are reviewed and remedial action is taken as necessary; and

(C) records of (3)(A) and (B) are kept for at least three years and made available or accessible to enforcement personnel as defined in subsection (g) within three business days of their request.

(4) A motor carrier of a transit bus or of a commercial motor vehicle not identified in (c)(1) must ensure that:

(A) the bus or vehicle driver, upon employment and at least once per year thereafter, is informed of the requirements in (c)(2), and of the consequences, under this section and the motor carrier's terms of employment, of not complying with those requirements;

(B) all complaints of non-compliance with, and enforcement actions related to, the requirements of (c)(2) are reviewed and remedial action is taken as necessary; and

(C) records of (4)(A) and (B) are kept for at least three years and made available or accessible to enforcement personnel as defined in subsection (g) within three business days of their request.

(d) Exemptions

This section does not apply for the period or periods during which:

(1) idling is necessary while stopped:

(A) for an official traffic control device;

(B) for an official traffic control signal;

(C) for traffic conditions over which the driver has no control, including, but not limited to: stopped in a line of traffic; or

(D) at the direction of a peace officer;

(2) idling is necessary to ascertain that the school bus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, or other commercial motor vehicle is in safe operating condition and equipped as required by all provisions of law, and all equipment is in good working order, either as part of the driver's daily vehicle inspection, or as otherwise needed;

(3) idling is necessary for testing, servicing, repairing, or diagnostic purposes;

(4) idling is necessary, for a period not to exceed three to five minutes (as per the recommendation of the manufacturer), to cool down a turbo-charged diesel engine before turning the engine off;

(5) idling is necessary to accomplish work for which the vehicle was designed, other than transporting passengers, for example:

(A) collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government;

(B) controlling cargo temperature; or

(C) operating a lift, crane, pump, drill, hoist, mixer, or other auxiliary equipment other than a heater or air conditioner;

(6) idling is necessary to operate:

(A) a lift or other piece of equipment designed to ensure safe loading, unloading, or transport of persons with one or more disabilities; or

(B) a heater or an air conditioner of a bus or vehicle that has, or will have, one or more children with exceptional needs aboard;

(7) idling is necessary to operate defrosters, heaters, air conditioners, or other equipment to ensure the safety or health of the driver or passengers, or as otherwise required by federal or State motor carrier safety regulations; or

(8) idling is necessary solely to recharge a battery or other energy storage unit of a hybrid electric bus or vehicle.

(e) Relationship to Other Law

Nothing in this section allows idling in excess of other applicable law, including, but not limited to:

(1) Title 13 California Code of Regulations Section 1226;

(2) Vehicle Code Section 22515; or

(3) any local ordinance or requirement as stringent as, or more stringent than, this section.

(f) Penalties

(1) For each violation of subsection (c)(1), a driver of a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties to the maximum extent provided by law.

(2) For each violation of subsection (c)(2), a driver of a transit bus or other commercial motor vehicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties to the maximum extent provided by law.

(3) For each violation of subsection (c)(3), a motor carrier of a school bus, school pupil activity bus, youth bus, or general public paratransit vehicle

hicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties to the maximum extent provided by law.

(4) For each violation of subsection (c)(4), a motor carrier of a transit bus or other commercial motor vehicle is subject to a minimum civil penalty of 100 dollars and to criminal penalties to the maximum extent provided by law.

(g) Enforcement. This section may be enforced by the Air Resources Board, peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives, and air pollution control or air quality management districts.

(h) Definitions.

The following terms are defined for the purposes of this section:

(1) Children With Exceptional Needs. "Children with exceptional needs" means children meeting eligibility criteria described in Education Code Section 56026.

(2) Commercial Motor Vehicle. "Commercial Motor Vehicle" means any vehicle or combination of vehicles defined in Vehicle Code Section 15210(b) and any other motor truck with a gross vehicle weight rating of 10,001 pounds or more, with the following exceptions:

(A) a zero emission vehicle; or

(B) a pickup truck defined in Vehicle Code Section 471.

(3) Driver. "Driver" means any person who drives or is in actual physical control of a vehicle.

(4) General Public Paratransit Vehicle. "General public paratransit vehicle" means any motor vehicle defined in Vehicle Code Section 336, other than a zero emission general public paratransit vehicle, that is transporting school pupils at or below the 12th grade level to or from public or private schools or public or private school activities.

(5) Gross Vehicle Weight Rating. "Gross vehicle weight rating" means the weight specified by the manufacturer as the loaded weight of a single vehicle.

(6) Hybrid Electric Bus or Vehicle. "Hybrid electric bus or vehicle" means any school bus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, or other commercial motor vehicle equipped with at least the following two sources of motive energy on board:

(A) an electric drive motor that must be used to partially or fully drive the bus or vehicle wheels; and

(B) one of the following:

(i) an internal combustion engine;

(ii) a turbine; or

(iii) a fuel cell.

(7) Idling. "Idling" means the engine is running while the bus or vehicle is stationary.

(8) Motor Carrier. "Motor carrier" means the registered owner, lessee, licensee, school district superintendent, or bailee of any school bus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, or other commercial motor vehicle who operates or directs the operation of any such bus or vehicle on either a for-hire or not-for-hire basis.

(9) Motor Truck. "Motor truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(10) Official Traffic Control Device. "Official traffic control device" means any sign, signal, marking or device, consistent with Section 21400 of the Vehicle Code, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic, but does not include islands, curbs, traffic barriers, speed humps, speed bumps, or other roadway design features.

(11) Official Traffic Control Signal. "Official traffic control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and proceed and which is erected by authority of a public body or official having jurisdiction.

(12) School. "School" means any public or private school used for the purposes of education and instruction of more than 12 school pupils at or below the 12th grade level, but does not include any private school in which education and instruction is primarily conducted in private homes. The term includes any building or structure, playground, athletic field, or other area of school property. The term excludes unimproved school property.

(13) School Bus. "School bus" means any school bus defined in Vehicle Code Section 545, except a zero emission school bus.

(14) School Pupil Activity Bus. "School pupil activity bus" means any bus defined in Section 546 of the Vehicle Code, except a zero emission school pupil activity bus.

(15) Transit Bus. "Transit bus" means any bus defined in Vehicle Code Section 642, except a zero emission transit bus.

(16) Youth Bus. "Youth bus" means any bus defined in Vehicle Code Section 680, except a zero emission youth bus.

(17) Zero Emission School Bus, Transit Bus, School Pupil Activity Bus, Youth Bus, General Public Paratransit Vehicle, or Other Commercial Motor Vehicle. A "zero emission school bus, transit bus, school pupil activity bus, youth bus, general public paratransit vehicle, or other commercial motor vehicle" means any bus or vehicle certified to zero-emission standards.

NOTE: Authority cited: Sections 39600, 39601, 39658, 39667 and 39674, Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975) [14 Cal.3d.411]. Reference: Sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675 and 42403.5, Health and Safety Code; and Section 27153, Vehicle Code.

HISTORY

1. New chapter 10, article 1 (section 2480) and section filed 6-16-2003; operative 7-16-2003 (Register 2003, No. 25).

§ 2485. Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.

(a) Purpose. The purpose of this airborne toxic control measure is to reduce public exposure to diesel particulate matter and other air contaminants by limiting the idling of diesel-fueled commercial motor vehicles.

(b) Applicability. This section applies to diesel-fueled commercial motor vehicles that operate in the State of California with gross vehicular weight ratings of greater than 10,000 pounds that are or must be licensed for operation on highways. This specifically includes:

(1) California-based vehicles; and

(2) Non-California-based vehicles.

(c) Requirements.

(1) Idling Restriction. On or after February 1, 2005, the driver of any vehicle subject to this section shall comply with the following requirements, except as noted in subsection (d) below:

(A) the driver shall not idle the vehicle's primary diesel engine for greater than 5.0 minutes at any location.

(B) the driver shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 100 feet of a restricted area.

(2) Use of Alternative Technologies.

(A) On or after January 1, 2008, the driver shall not operate an internal combustion APS on any vehicle equipped with a 2007 and subsequent model year primary diesel engine unless the vehicle is:

1. equipped with an APS meeting the emissions performance requirements found in subsection (c)(3)(A), below; and

2. the vehicle is equipped with a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(B) On or after January 1, 2008, the driver shall not operate a fuel-fired heater on any vehicle equipped with a 2007 and subsequent model year

primary diesel engine unless the fuel-fired heater meets the emissions performance requirements found in subsection (c)(3)(B), below;

(C) On or after January 1, 2008, the driver of a vehicle equipped with a 2006 or older model year primary diesel engine may use and operate in California any certified internal combustion APS with or without the additional PM control specified in subsection (c)(3)(A)1. or any other certified alternative idling reduction technology.

(3) Compliance Requirements. As an alternative to idling the primary engine, diesel engines/vehicles may, as an option, be equipped with alternative technologies, as listed and defined below in (A), (B), and (C) of this subsection. If so equipped, these technologies are subject to the following requirements:

(A) Internal Combustion APS.

1. In order to operate in California, an APS utilizing an internal combustion engine must comply with applicable California off-road and/or federal non-road emission standards and test procedures for its fuel type and power category. In addition, diesel-fueled APSs installed on vehicles equipped with primary engines certified to the 2007 and subsequent model year heavy-duty diesel engine standards, pursuant to section 1956.8(a)(2)(A) of title 13, CCR, shall either,

- a. be equipped with a verified Level 3 in-use strategy for particulate matter control (see title 13, CCR, sections 2700 to 2710), or
- b. have its exhaust routed directly into the vehicle's exhaust pipe, upstream of the diesel particulate matter aftertreatment device.

2. With advance Executive Officer approval, a certifying/verifying APS manufacturer may petition for an alternate compliance strategy other than described in (A)1. a. or b. in this subsection above. However, this provision is limited to manufacturers that can demonstrate, to the satisfaction of the Executive Officer, that their alternative strategy is equivalent (or "cleaner"), from an emissions standpoint, compared to the requirement described in (A)1.a. or b. in this subsection above. As an example, strategies that can use the available electric power infrastructure, instead of solely operating a diesel-fueled APS for engine and/or cab heating and cooling, may be able to use such a strategy to demonstrate compliance with these requirements.

(B) Fuel-Fired Heaters. Fuel-fired heaters must comply with the applicable California emission standards and test procedures as specified in the Low Emission Vehicle program requirements found in title 13, CCR, subsections 1961(a)(15) and (d), or in Part I.E.1.13 of the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," as incorporated by reference in title 13, CCR, section 1961(d). However, the specified requirement that limits fuel-fired heaters from being operated above 40°F does not apply.

(C) Other Idle Reduction Technologies. Other technologies that will reduce idling emissions may also be used, including the use of batteries, fuel cells, power inverter/chargers for on-shore electrical power, on-shore electric power infrastructure also known as truck stop electrification, and other technologies that produce minimal or no emissions. With the exception of battery and fuel cell powered APSs, power inverter/chargers, and electric power infrastructure, the use of other technologies are subject to advance Executive Officer approval and must be at least as effective in reducing idling emissions as the technologies described in subsections (c)(3)(A), above, or the NOx idling emission standard specified in title 13, CCR, section 1956.8(a)(6)(C). The Executive Officer shall use good engineering judgment and test data to determine if an idle reduction technology provides idling emission controls equivalent to the standards specified in subsection (c)(3)(A) above, or in title 13, CCR, section 1956.8(a)(6)(C).

(D) Labeling Requirements. 2007 and subsequent model year commercial diesel vehicles equipped with an internal combustion APS meeting the requirements specified in subsection (c)(3)(A) shall have a label affixed to the hood of the vehicle to allow operation of the APS in California. The labels shall meet the requirements specified in section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for

2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(d) Exceptions.

(1) Except when a vehicle is located within 100 feet of a restricted area, subsection (c)(1)(A) does not apply, if the vehicle is equipped with

(A) a primary diesel engine meeting the optional NOx idling emission standard pursuant to title 13, CCR, section 1956.8(a)(6)(C); and

(B) a label meeting the requirements pursuant to section 35.B.4 of the "California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles," as incorporated by reference in title 13, CCR, section 1956.8(b).

(2) Subsection (c)(1) does not apply for the period or periods during which

(A) a bus is idling for

1. up to 10.0 minutes prior to passenger boarding, or
2. when passengers are onboard;

(B) prior to January 1, 2008, idling of the primary diesel-engine is necessary to power a heater, air conditioner, or any ancillary equipment during sleeping or resting in a sleeper berth. This provision does not apply when operating within 100 feet of a restricted area;

(C) idling when the vehicle must remain motionless due to traffic conditions, an official traffic control device, or an official traffic control signal over which the driver has no control, or at the direction of a peace officer, or operating a diesel-fueled APS or other device at the direction of a peace officer;

(D) idling when the vehicle is queuing that at all times is beyond 100 feet from any restricted area;

(E) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when forced to remain motionless due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no control;

(F) idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such engine idling is mandatory for such verification;

(G) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices is mandatory for testing, servicing, repairing, or diagnostic purposes, including regeneration or maintenance of the exhaust emission control device during engine idling when the dashboard indicator light, if so equipped, is illuminated indicating that regeneration or maintenance is in progress;

(H) idling when positioning or providing a power source for equipment or operations, other than transporting passengers or propulsion, which involve a power take off or equivalent mechanism and is powered by the primary engine for:

1. controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer (such as a ready mix concrete truck), or other auxiliary equipment;

2. providing mechanical extension to perform work functions for which the vehicle was designed and where substitute alternate means to idling are not reasonably available; or

3. collection of solid waste or recyclable material by an entity authorized by contract, license, or permit by a school or local government;

(I) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices when operating defrosters, heaters, air conditioners, or other equipment solely to prevent a safety or health emergency;

(J) idling of the primary diesel engine, operating a diesel-fueled APS, or operating other devices by authorized emergency vehicles while in the course of providing services for which the vehicle is designed;

(K) idling of military tactical vehicles during periods of training, testing, and deployment; and

(L) idling when operating equipment such as a wheelchair or people assist lift as prescribed by the Americans with Disabilities Act.

(e) Relationship to Other Law.

Nothing in this section allows idling in violation of other applicable law, including, but not limited to:

- (1) California Vehicle Code Section 22515;
- (2) Title 13, Section 2480, California Code of Regulations;
- (3) California Health and Safety Code Section 40720; or
- (4) any applicable ordinance, rule, or requirement as stringent as, or more stringent than, this section.

(f) Enforcement. This section may be enforced by the Air Resources Board; peace officers as defined in California Penal Code, title 3, chapter 4.5, Sections 830 et seq. and their respective law enforcement agencies' authorized representatives; and air pollution control or air quality management districts.

(g) Penalties. For violations of subsection (c)(1), (c)(2) or (c)(3), the driver of a subject vehicle is subject to a minimum civil penalty of 300 dollars and to criminal penalties as specified in the Health and Safety Code and the Vehicle Code.

(h) Definitions.

The following definitions apply to this section:

(1) "Authorized emergency vehicle" is as defined in Vehicle Code Section 165.

(2) "Auxiliary power system" or "APS" means any device that is permanently dedicated to the vehicle on which it is installed and provides electrical, mechanical, or thermal energy to the primary diesel engine, truck cab and/or sleeper berth, bus's passenger compartment or any other commercial vehicle's cab, as an alternative to idling the primary diesel engine.

(3) "Bus" means any vehicle defined in Title 13, California Code of Regulations, Section 2480, subsections (h) (13)–(16), inclusive or as defined in the Vehicle Code Section 233.

(4) "Commercial Motor Vehicle" means any vehicle or combination of vehicles defined in Vehicle Code Section 15210(b) and any other motor truck or bus with a gross vehicle weight rating of 10,001 pounds or more, except the following:

- (A) a zero emission vehicle; or
 - (B) a pickup truck as defined in Vehicle Code Section 471.
- (5) "Driver" is as defined in Vehicle Code Section 305.

(6) "Fuel-fired heater" means a fuel burning device that creates heat for the purpose of (1) warming the cab or sleeper berth compartment of a vehicle or (2) warming the engine oil and/or coolant for easy start-up of the vehicle's engine but does not contribute to the propulsion of the vehicle.

(7) "Gross vehicle weight rating" is as defined in Vehicle Code Section 350.

(8) "Highway" is as defined in Vehicle Code Section 360.

(9) "Idling" means the vehicle engine is running at any location while the vehicle is stationary.

(10) "Motor truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

(11) "Official traffic control device" is as defined in Vehicle Code Section 440.

(12) "Official traffic control signal" is as defined in Vehicle Code Section 445.

(13) "Owner" is as defined in Vehicle Code Section 460.

(14) "Primary diesel engine" means the diesel-fueled engine used for vehicle propulsion.

(15) "Queuing" means (A) through (C)

- (A) the intermittent starting and stopping of a vehicle;
- (B) while the driver, in the normal course of doing business, is waiting to perform work or a service; and
- (C) when shutting the vehicle engine off would impede the progress of the queue and is not practicable.

(D) Queuing does not include the time a driver may wait motionless in line in anticipation of the start of a workday or opening of a location where work or a service will be performed.

(16) "Restricted area" means any real property zoned for individual or multifamily housing units that has one or more of such units on it.

(17) "Safety or health emergency" means:

- (A) a sudden, urgent, or usually unforeseen, occurrence; or
- (B) a foreseeable occurrence relative to a medical or physiological condition.

(18) "Sleeper berth" is as defined in Title 13, California Code of Regulations, Section 1265.

(19) "Vehicle" is as defined in the Vehicle Code Section 670.

NOTE: Authority cited: Sections 39600, 39601, 39614(b)(6)(A), 39658, 39667, 43000.5(d), 43013(b), 43013(h), 43018(b) and 43018(c), Health and Safety Code; and *Western Oil & Gas Assn. v. Orange County Air Pollution Control Dist.* (1975), 14 Cal.3d.411. Reference: Sections 39002, 39003, 39027, 39500, 39600, 39650, 39655, 39656, 39657, 39658, 39659, 39662, 39665, 39674, 39675, 42400, 42400.1, 42400.2, 42400.3, 42402, 42402.1, 42402.2, 42402.3, 42403.5, 42410, 43013, 43018 and 43704, Health and Safety Code; Sections 305, 336, 350, 440, 445, 545, 546, 642, 680, 21400, 22452, 22515, 27153, 40001 and 40001(b)(5), Vehicle Code; and Sections 1201, 1900, 1962 and 2480, Title 13, California Code of Regulations.

HISTORY

1. New section filed 1–27–2005; operative 2–1–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 4).
2. Amendment filed 10–16–2006; operative 11–15–2006 (Register 2006, No. 42).
3. Change without regulatory effect amending subsection (g) and NOTE filed 3–4–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 10).

Chapter 12. Halogenated Refrigerants

§ 2500. Phase-Out of CFC Refrigerants in New Motor Vehicle Air Conditioning Systems for Model Years 1993 and Subsequent.

(a) Applicability

This section is applicable to all new 1993 and subsequent model year motor vehicles which are sold, supplied, or offered for sale in California on or after January 1, 1993, and which are either (1) certified pursuant to article 2 (commencing with section 1950) or article 7 (commencing with section 2047) of Chapter 1, Division 3, Title 13, California Code of Regulations; or (2) federally certified vehicles which are sold in California pursuant to Health and Safety Code Section 43102; or (3) heavy-duty diesel-powered motor vehicles, with the exception of such vehicles which are classified as "off-road vehicles" as defined in section 2421(a)(19) of Chapter 11, Division 3, Title 13, California Code of Regulations.

(b) Definitions

The definitions of this section supplement and are governed by the definitions set forth in Chapter 2 (commencing with section 39010), Part 1, Division 26 of the Health and Safety Code. The following definitions shall also govern the provisions of this section:

(1) "Authorized dealership" means any dealership to which a manufacturer supplies new motor vehicles for the purpose of reselling such vehicles to the ultimate purchaser.

(2) "Authorized supplier" means any person supplying, to a manufacturer's authorized dealership, air conditioning systems which may be installed in a new motor vehicle under warranty from the manufacturer.

(3) "Calendar quarter" means any of those three-month periods of time which start on the first days of January, April, July, and October.

(4) "CFC refrigerants" means any of the compounds commonly known as Chlorofluorocarbon-11 (CFC-11 or trichlorofluoromethane) or Chlorofluorocarbon-12 (CFC-12 or dichlorodifluoromethane).

(5) "Dealership" shall have the same meaning as the term "dealer", as defined in section 285 of the Vehicle Code.

(6) "Executive Officer" means the Executive Officer of the Air Resources Board, or his or her delegate.

(7) "Factory-installed" means installed at a manufacturer's motor vehicle production facility or port-of-entry facility.

(8) "Incomplete vehicle" means any vehicle which does not have the primary load carrying device or container attached by the original manufacturer.

(9) "Manufacturer" means any person engaged in the production of new motor vehicles from raw materials or new basic components, in order to sell such vehicles for money or other thing of value. Except as noted below, for a vehicle which is produced by one manufacturer and sold to a dealership or the ultimate purchaser by another manufacturer, the manufacturer for whom the requirements of this section are applicable shall be the manufacturer who sells, supplies, or offers the vehicle for sale to the dealership or the ultimate purchaser.

For incomplete vehicles only, the manufacturer for whom the requirements of this section are applicable shall be the initial manufacturer who predetermines the type of air conditioning system, if the air conditioning system that is ultimately installed is the same as the predetermined system. If the air conditioning system that is ultimately installed is not the same as the predetermined system, the manufacturer for whom the requirements of this section are applicable shall be the manufacturer who ultimately installs the air conditioning system. For the purposes of this section, "predetermine" means to either (1) manufacture or physically configure the vehicle in such a way, or (2) partially install the compressor, condenser, or other air conditioning components in such a way, that the specific configuration or installation is compatible with an air conditioning system that uses only one particular type of refrigerant.

(10) "Motor vehicle," as used in this section 2500, means those categories of motor vehicles that are specified in subsection (a).

(11) "Port-of-entry facility" means a facility at which a manufacturer's vehicles first arrive in the United States, and at which vehicles originally produced without vehicle air-conditioning systems may have such systems installed.

(12) "Small-volume manufacturer" means any manufacturer which sells less than 3000 new motor vehicles in California during the applicable model-year.

(13) "Vehicle air-conditioner" means any mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle. "Vehicle air-conditioning system" has the same meaning as "vehicle air-conditioner."

(c) Percentage of Air-Conditioner-Equipped New Motor Vehicles Which May Use CFC Refrigerants for Vehicle Air Conditioning.

(1) Unless an applicable exemption has been granted pursuant to subsection (e), each manufacturer's percentage of air-conditioner equipped new motor vehicles that are sold, supplied, or offered for sale in California, and use or contain any CFC refrigerant for air-conditioning, shall not exceed the following percentages for the specified model years during the specified time periods:

<i>Model Year</i>	<i>Time Period</i>	<i>Maximum Vehicle Percentage</i>
1993 and 1994	January 1, 1993– December 31, 1993	90*
1994 and 1995	January 1, 1994– December 31, 1994	75*
1995	September 1, 1994– December 31, 1994	10

*These requirements shall not apply to small volume manufacturers.

Compliance with the "maximum vehicle percentage" requirements shall be determined as set forth in subsections (d)(3) and (d)(4).

(2) Effective January 1, 1995, no person shall sell, supply, or offer for sale in California any new 1995 or later model-year motor vehicle using any CFC refrigerant for vehicle air conditioning.

(3) Unless an applicable exemption has been granted pursuant to subsection (e), any person who fails to meet the requirements of subsections (c)(1) or (c)(2) shall be subject to the civil penalties specified in Health and Safety Code section 44474. For the purposes of Health and Safety Code section 44474:

(A) Any cause of action against a manufacturer under subsection (c) shall be deemed to accrue on the date(s) when the records required pursuant to subsection (d)(4) are submitted by a manufacturer to the Executive Officer, and

(B) A separate "incident" of violation shall be deemed to have occurred: 1. for each new motor vehicle which is sold, supplied, or offered for sale in California in excess of the allowable percentages specified in subsection (c)(1); or 2. for each new motor vehicle which is sold, supplied, or offered for sale in violation of subsection (c)(2); or 3. for each day in which a manufacturer fails to submit any required report by the time deadlines specified in subsection (d).

(d) Reporting Requirements and Compliance Determination

(1) No later than 30 days prior to the start of each calendar year, each manufacturer shall submit to the Executive Officer a good faith statement describing whether, during the following calendar year, compliance with the phase-out percentages specified in subsection (c)(1) will be achieved, or whether an exemption will be applied for.

(2) Commencing with the calendar quarter which begins on January 1, 1993, each manufacturer shall submit to the Executive Officer a quarterly report within 45 days of the end of each calendar quarter. Each quarterly report shall list the number and the model year of all air-

[The next page is 311.]

conditioned—equipped new motor vehicles produced and delivered for sale in California by the manufacturer during the immediately preceding quarterly period, and the number and percentages of these vehicles using factory—installed CFC and non—CFC vehicle air—conditioning systems. For 1995 model—year vehicles only, the quarterly report for the period October—December 1994 shall also include the above information for the period September—December 1994.

(3) Commencing with the 1993 calendar year, each manufacturer shall submit to the Executive Officer an annual report within 45 days of the end of each calendar year. Each annual report shall list the number and model year of all air—conditioner—equipped new motor vehicles produced and delivered for sale in California by the manufacturer during the immediately preceding calendar year. Each annual report shall also include the number and percentage of these vehicles using factory—installed CFC air—conditioning systems (F_a) and factory—installed non—CFC air—conditioning systems (F_b). Each report shall also include the percentage of the manufacturer's total production of new motor vehicles produced and delivered for sale in California with factory—installed vehicle air—conditioning systems during the immediately preceding calendar year (CY_1), and during each of the calendar years prior to the immediately preceding calendar year (CY_2 , CY_3 , and CY_4).

Provided that the quantity CY_1 is greater than or equal to 0.95 times the average of CY_2 , CY_3 , and CY_4 , then (A) compliance with the “maximum vehicle percentage” requirements of subsection (c)(1) for each model year during the applicable time period shall be determined by comparison of F_a with the applicable “maximum vehicle percentage” requirements, and (B) the manufacturer shall not be subject to the provisions set forth in subsection (d)(4).

(4) If the quantity CY_1 is less than 0.95 times the average of CY_2 , CY_3 , and CY_4 , the manufacturer shall supplement the information contained in the annual report within 60 days of submitting the report to the Executive Officer. The supplemental information shall detail the number and model year of new motor vehicles sold to the ultimate purchaser: (A) without air—conditioning, (B) with non—CFC manufacturer—warranted vehicle air—conditioner systems installed by the manufacturer's authorized dealerships, and (C) with CFC manufacturer—warranted vehicle air—conditioner systems installed by the manufacturer's authorized dealerships. The supplemental information shall then be used to determine the “actual percentage” of a manufacturer's air—conditioned—equipped new motor vehicles, sold during the applicable time periods, that use or contain CFC refrigerants. Compliance with the “maximum vehicle percentage” requirements of subsection (c)(1) shall be based on a comparison of this “actual percentage” with the applicable “maximum vehicle percentage” requirement.

(5) The reporting requirements of this subsection (d) shall cease to apply for any manufacturer that has submitted an annual report demonstrating that no new motor vehicles equipped with CFC—refrigerant air—conditioning systems were produced and delivered for sale by the manufacturer in California.

(6) Notwithstanding the provisions of subsections (d)(1) and (d)(2), small volume manufacturers shall not be required to (A) submit any quarterly reports for the time period from January 1, 1993, to August 31, 1994, or (B) submit annual reports for the 1993 or 1994 calendar years.

(e) Exemptions

(1) Any manufacturer who cannot comply with the requirements set forth in subsection (c) may apply in writing to the Executive Officer for an exemption. The exemption application form shall set forth:

(A) the specific grounds upon which the exemption is sought;

(B) the proposed date(s) by which compliance with the provisions of subsection (c) will be achieved; and

(C) a plan reasonably detailing the method(s) by which compliance will be achieved.

(2) Within 90 days of receipt of an exemption application containing the information required in subsection (e)(1), the Executive Officer shall determine whether, under what conditions, and to what extent, an exemp-

tion from the requirements of subsection (c) is necessary and will be permitted.

(3) No exemption shall be granted unless all of the following findings are made:

(A) that, because alternatives to CFC refrigerants are not yet available or in sufficient supply, or because a manufacturer requires additional time to redesign and produce vehicle air conditioning systems, requiring compliance with subsection (c) would result in a severe economic hardship;

(B) that the compliance plan proposed by the manufacturer can reasonably be implemented and will achieve compliance as expeditiously as possible.

(4) The exemption order shall specify a final compliance date by which the requirements of subsection (c) will be achieved. Any exemption order may contain a condition which specifies increments of progress necessary to assure timely compliance, and such other conditions as the Executive Officer finds necessary to carry out the purposes of Health and Safety Code sections 44470–44474. No exemption shall allow an extension of more than two years for any of the time deadlines specified in subsection (c).

(5) An exemption shall cease to be effective upon failure of the party to whom the exemption was granted to substantially comply with any condition specified in the exemption order.

(6) The Executive Officer may review, and for good cause, modify or revoke an exemption as is necessary to assure that the purposes of Health and Safety Code Sections 44470–44474 are met. The Executive Office shall not revoke or modify an exemption without first affording the manufacturer an opportunity for a hearing in accordance with the procedures specified in Title 17, California Code of Regulations, Division 3, Chapter 1, Subchapter 1, Article 4 (commencing with section 60040), to determine if the exemption should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601 and 44473, Health and Safety Code. Reference: Sections 39002, 39003 and 44470–44474, Health and Safety Code; and Section 338(k), Code of Civil Procedure.

HISTORY

1. New chapter 12 and section filed 6–3–93; operative 7–5–93 (Register 93, No. 23).

Chapter 13. Voluntary Accelerated Vehicle Retirement Enterprises

Article 1. Voluntary Accelerated Light-Duty Vehicle Retirement Enterprises

§ 2600. Purpose.

(a) The provisions of this article apply to the generation of emission reduction credits through the accelerated retirement of light-duty on-road motor vehicles, including passenger cars and light-duty trucks.

(b) Within five years from the effective date of adoption or date of implementation, whichever comes later, the Air Resources Board, in consultation with the Secretary for Environmental Protection, shall review the provisions of this chapter to determine whether it should be retained, revised or repealed.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100 and 44101, Health and Safety Code.

HISTORY

1. New chapter 13, article 1 (sections 2600–2610 and appendix A) and section filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).

§ 2601. Definitions.

(a) “CO” means carbon monoxide, as emitted in vehicle exhaust.

(b) “Collector—interest vehicle” means any vehicle purchased by a collector or enthusiast primarily for its historic or esthetic value, rather than primarily as a means of transportation.

(c) "Day" means any week or weekend day including all holidays.

(d) "Dismantle" means to punch, crush, stamp, hammer, shred, or otherwise render permanently and irreversibly incapable of functioning as originally intended, any vehicle or vehicle part.

(e) "Dismantler" means the person or business, defined and licensed according to the requirements of California Vehicle Code §220, §221, §11500, et seq., and other business codes and the regulations of the Department of Motor Vehicles (DMV), who dismantles or otherwise removes from service those vehicles obtained as part of a Voluntary Accelerated Vehicle Retirement (VAVR) enterprise.

(f) "District" means a local air quality management district or air pollution control district, as defined by California Health and Safety Code, Part 3, Section 40000 et seq., that has responsibility for administering VAVR enterprises within its jurisdiction.

(g) "Drive train parts" means all parts associated with the drive train such as engine, drive mechanism, transmission, differential, axles, and brakes.

(h) "Emission reduction credit" means the amount of emission reductions from the accelerated retirement of vehicles, that can be applied to the emission reduction obligations of another source or to air quality attainment goals.

(i) "Emissions-related part" means any vehicle part which affects any regulated emissions from a vehicle that is subject to California or federal emissions standards and includes, but is not limited to, those parts specified in the "Emissions-Related Parts List," adopted by the State Board on November 4, 1977, as last amended June 1, 1990.

(j) "Enterprise operator" means a person, who conducts a voluntary accelerated vehicle retirement enterprise according to these regulations, purchases vehicles, arranges for a vehicle's permanent removal from operation, and receives any emission reduction credit generated.

(k) "Executive Officer" means the Executive Officer of the Air Resources Board (ARB).

(l) "High Emitting Vehicle" means a vehicle that is identified as one that is emitting pollution in excess of emission standards pursuant to Title 16, Division 33, Article 5.5, Section 3340.42 of the California Code of Regulations.

(m) "NOx" means oxides of nitrogen, NO and NO₂, measured as NO₂, emitted in vehicle exhaust.

(n) "PM" means particulate matter, as emitted in vehicle exhaust.

(o) "Remote sensing device (RSD)" means a device or devices that measure one or any combination of CO, NO_x, and ROG concentrations in the exhaust of an on-road vehicle through infrared, ultraviolet, or other ARB-approved technology.

(p) "ROG" means reactive organic gases, as emitted in both vehicle exhaust and evaporative emissions.

(q) "Smog Check" means the motor vehicle inspection and maintenance program established by California Health and Safety Code Section 44000, et seq.

(r) "Useful life" means the physical condition of a vehicle proposed for retirement such that the vehicle passes the functional and equipment eligibility inspections, as defined in Section 2603 of this regulation, and has passed the last scheduled Smog Check.

(s) "VAVR enterprise" means a privately owned and/or operated business by an enterprise operator.

(t) "Voluntary accelerated vehicle retirement" or "VAVR" means a program in which cash payments or other incentives are offered to a vehicle owner to voluntarily retire their older, more polluting vehicle that is operational and still has a useful life.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44081, 44090, 44100, 44101, 44102, 44103, 44105 and 44122, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. New subsections (r) and (s) filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Repealer of subsections (a)-(s) and new subsections (a)-(t) filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2602. District Responsibility.

(a) Within six (6) months of the date of adoption of these regulations, each district allowing the operation of VAVR enterprises shall implement and enforce these regulations or shall amend existing rules to comply with these regulations.

(b) Each participating district shall, with ARB oversight:

(1) Administer and audit VAVR enterprises;

(2) Administer and monitor the use of credits generated by VAVR enterprises operated under these regulations in accordance with all state, federal, and local laws, rules, and regulations;

(3) Certify or reject the accuracy and validity of any credits generated, as required; and

(4) Retain the records received according to Section 2609(b) for a period not less than the life of the related credits.

(c) Each participating district shall verify that any vehicle accepted for participation in a VAVR enterprise within sixty-one to ninety (61-90) days of its next required Smog Check inspection has not failed the Smog Check inspection during this time frame.

(d) District approval to generate emission reduction credits shall be revoked if a VAVR enterprise operator demonstrates a recurrent pattern of accepting vehicles that do not meet the eligibility requirements pursuant to Section 2603 or if a VAVR enterprise operator violates any part of Section 2609(b).

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100 and 44101, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment of subsection (d) and redesignation of former subsection (f) as subsection (e) filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2603. Vehicle Eligibility.

(a) To be eligible for generation of emission reduction credits through a VAVR enterprise, a vehicle shall meet the following criteria:

(1) It shall be voluntarily sold to the enterprise operator for a price mutually agreed between the vehicle seller and the enterprise operator;

(2) It shall be currently registered with the DMV as an operable vehicle and shall have been so registered for at least 24 months prior to the final date of sale to the VAVR enterprise to an address or addresses within the district in which the VAVR enterprise is being operated;

(A) Smog Checks must have been performed as required by the DMV in order for the vehicle to be considered registered;

(B) A vehicle may also be eligible if the owner of the vehicle placed the vehicle in planned non-operational status per Vehicle Code Section 4604, et seq., for a total of two (2) or fewer months during the continuous twenty-four (24) months registration period and occurring at least three (3) months prior to the date of sale to the VAVR enterprise operator;

(C) A vehicle may also be eligible if the registration has lapsed for less than 181 days during the previous twenty-four (24) months, pursuant to Health and Safety Code 44094, and all appropriate registration fees and late penalties have been paid to the DMV, provided that the vehicle is registered for at least ninety (90) days immediately prior to its date of sale to a VAVR enterprise operator; and

(D) Determination of an individual vehicle's registration history shall be based on:

1. Registration data for that vehicle obtained from DMV records and

2. If D.1 provides inconclusive results for an individual vehicle, then copies of the applicable vehicle registration certificates may be used;

(3) It shall be a passenger car or a light-duty truck that includes, but is not limited to, a pick-up truck, sports utility vehicle (SUV), or van up to 8,500 pounds gross vehicular weight rating;

(4) It shall not be operating under a Smog Check repair cost waiver or economic hardship extension;

(5) If a vehicle volunteered for retirement is within sixty (60) days of its next required Smog Check inspection, the vehicle shall pass the Smog

Check inspection without receiving a repair cost waiver or economic hardship extension prior to acceptance by a VAVR enterprise operator;

(6) Owners of vehicles requiring Smog Check inspections pursuant to Section 2603(a)(5) shall be required to submit documentation issued by a Bureau of Automotive Repair (BAR) licensed Smog Check technician demonstrating compliance with Section 2603(a)(5) to the person performing the functional and equipment eligibility inspection; and

(7) Vehicles that are tampered, pursuant to Section 3340.41.5 of Title 16, Division 33, Article 5.5 of the California Code of Regulations, shall not be eligible for acceptance into a VAVR program.

(b) Each vehicle shall pass a functional and equipment eligibility inspection performed by the VAVR enterprise operator or other ARB-approved inspector (inspector), conducted on-site at the VAVR enterprise location and shall include the following:

(1) The candidate vehicle must have been driven to the inspection site under its own power. If an inspector has knowledge that a vehicle was towed or pushed for any portion of the trip to the inspection site, then the inspector shall not approve the vehicle for eligibility in a VAVR program;

(2) The inspector shall inspect the vehicle to ensure it meets the following equipment eligibility requirements and shall reject the vehicle for emission reduction credit generation if the vehicle fails any of these requirements:

- (A) All doors shall be present and in place;
- (B) The hood shall be present and in place;
- (C) The dashboard shall be in place;
- (D) Windshield shall be present and in place;
- (E) The driver's seat must be present and in place;
- (F) Interior pedals shall be operational;
- (G) One bumper and all side and/or quarter panels shall be present and in place;
- (H) Vehicle driveability must not be affected by any body, steering, or suspension damage;
- (I) Exhaust system shall be present and in place;
- (J) One headlight, one taillight, and one brake light shall be present and in place;
- (K) One side window glass shall be present and in place; and
- (L) The requirements of Section 2603(a) regarding Smog Check status have been met; and

(3) The inspector shall complete the following functional eligibility inspection and shall reject the vehicle for credit generation if the vehicle fails to complete the following test: Insert key, vehicle engine shall start using keyed ignition system. In addition to the keyed ignition switch, ignition or fuel kill switch may be activated if required to start engine. The vehicle must start readily through ordinary means without the use of starting fluids or external booster batteries. The vehicle shall be driven forward for a minimum of 25 feet under its own power. The vehicle shall be driven in reverse for a minimum of 25 feet under its own power;

(4) Upon satisfactory completion of the inspection, the inspector shall issue a certificate of functional and equipment eligibility, as specified in Appendix A to this Article, "Vehicle Functional and Equipment Eligibility Inspection Form";

(5) Vehicles failing the requirements pursuant to Section 2603(b)(2) may be retested by the inspector for compliance with these requirements and issued a certificate of equipment eligibility at any time after modifications have been made to the vehicle to correct all deficiencies; and

(6) Vehicles failing the requirements pursuant to Section 2603(b)(1) and (3) may be re-tested by the inspector for compliance with these requirements and issued a certificate of functional eligibility provided inoperable vehicle odometers are fixed prior to conducting this test, the vehicle has traveled a minimum of 50 miles subsequent to the failure determination, and the vehicle passes the functional eligibility inspection.

(c) Districts may adopt vehicle functional and equipment eligibility inspection requirements that are more stringent than those specified in Sec-

tion 2603(b) but may not omit or weaken any of the required functional or equipment tests.

NOTE: Authority cited: Sections 39600, 39601, 44094, 44101, 44102, 44106 and 44107, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44103 and 44107, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Amendment filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment of section and NOTE filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2604. VAVR Enterprise Operator Requirements.

(a) All owners and operators of VAVR enterprises shall comply with all applicable district rules and these regulations.

(b) The enterprise operator shall either:

(1) Be an auto dismantler, licensed according to the requirements of the California Vehicle Code and other business codes and the regulations of the DMV, for the purpose of vehicle disposal after purchase or

(2) Have a binding agreement with a duly authorized auto dismantler for the purpose of vehicle disposal after purchase.

(c) At least thirty (30) days prior to commencing operations as a VAVR enterprise operation, the operator shall notify the local district, in writing, of the intent to conduct such operations;

(1) The notification shall be submitted as specified by the district and shall contain information demonstrating the ability of the enterprise operator to comply with all provisions of this regulation;

(2) This information shall include, but is not limited to, enterprise operator name and business address, licensed auto dismantler name and business address, anticipated initiation date and duration of vehicle retirement operation, and time of vehicle intake; and

(3) The auto dismantler shall include a written statement under penalty of perjury certifying compliance with:

- (A) Local water conservation regulations;
- (B) State, county, and city energy and hazardous materials response regulations;
- (C) Local water agency soil, surface, and ground water contamination regulations; and
- (D) Any other information requested in applicable district rules.

(d) The local district shall have the right to refuse permission to generate emission reduction credits through VAVR to any requesting enterprise operator deemed by the local district as not meeting the requirements of these regulations or any applicable district rules.

(e) The district may assess an application fee to cover the costs of this approval process.

(f) The enterprise operator shall contract with an ARB-approved inspection entity to provide inspector services to perform the vehicle functional and equipment eligibility inspection specified in Section 2603(b) on-site at VAVR enterprise locations, if the VAVR enterprise operator is unable to or chooses not to perform this function.

(g) For each vehicle purchased as part of a VAVR enterprise and whose accelerated retirement creates emission reductions to be used as the basis for generating emission reduction credits, the enterprise operator shall:

(1) Verify that the vehicle meets the vehicle registration eligibility requirements of Section 2603(a); and

(2) Obtain from the vehicle owner the certificate of functional and equipment eligibility issued per Section 2603(b).

(h) At time of final sale of a vehicle to the VAVR enterprise, the enterprise operator shall verify that the person delivering the vehicle for sale is the legal owner or an authorized representative of the legal owner, properly empowered to complete the sale.

(i) The enterprise operator shall provide to the district, by the 5th day of each month, a list of all vehicles accepted for participation into a VAVR enterprise that are within sixty-one to ninety days (61-90) of their next required Smog Check inspection for the purpose of district compliance with Section 2602(c). Information to be provided for each

vehicle includes, but is not limited to, vehicle identification number (VIN); vehicle license plate number; and vehicle make, model, and model year.

(j) Violation of any provision of these regulations by any entity contracted to a district to conduct a VAVR enterprise, including falsification of any information or data, shall constitute a citable violation making the violator subject to all applicable penalties specified in the California Health and Safety Code.

(k) Violation of any provision of Section 2603 by a VAVR enterprise operator or its subcontractors shall result in the issuance of a Notice of Violation(s).

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44103, 44105, 44107 and 44120, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Repealer of subsections (f)-(f)(4), subsection relettering and amendment of newly designated subsection (f) filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2605. Offering Vehicles to the Public.

(a) There shall be a minimum period of ten (10) days between the day the VAVR enterprise operator provides a description of a vehicle to the local district and the day a DMV Registration 42 form (Report to Dismantler) is transmitted to the DMV for the vehicle. During this period, if any person contacts the enterprise operator and indicates an interest in purchasing the vehicle, the enterprise operator shall hold the vehicle for a minimum of an additional seven (7) days. During this extended waiting period, the enterprise operator shall arrange for the interested party to examine the vehicle and, if appropriate, negotiate the sale of the vehicle or any of its parts. Notwithstanding the foregoing, nothing in this section places the enterprise operator under any obligation to hold the vehicle for an interested party that has missed two or more prior appointments to examine any vehicle, or sell the vehicle or any of its parts if a mutually acceptable price cannot be negotiated.

(1) The enterprise operator will submit to the local district a description of the vehicle including, at a minimum, the vehicle make, model year, and first eight characters of the VIN. The district will, in turn, make this information available to an appropriate segment of the public. The intent is to allow interested third parties, including car collector enthusiasts and those interested in affordable transportation, an opportunity to examine the car and to negotiate with the enterprise operator the purchase of the vehicle or any of its parts according to Section 2606.

(2) Entire vehicles and/or parts may be sold prior to entry into the program; however, no emission reduction credits shall be granted for any vehicle resold to the public in this manner according to Section 2606.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44103, 44105, 44107, 44109 and 44120, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Repealer and new section filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2606. Parts Recycling and Resale.

(a) On vehicles used for the generation of emission reduction credits, parts recycling and resale is limited to non-emission-related and non-drive train parts per the List of Emission-Drive Train Related Parts List shown in Appendix B to Article 1 — Emission/Drive Train-Related Parts List;

(1) Parts recycling is at the sole discretion of the VAVR enterprise operator, subject to the limitations included herein.

(b) After the ten-day waiting period (and additional seven-days if appointment for inspection is made) and prior to offering non-emission and non-drive train parts for resale, the engine, emission-related parts, transmission, and drive train parts must be removed from a vehicle used for

the generation of emission reduction credits and destroyed by the enterprise operator, or the enterprise operator's duly contracted dismantler:

(1) For the purpose of this regulation, a part will be considered destroyed when it has been punched, crushed, shredded, or otherwise rendered permanently and irreversibly incapable of functioning as originally intended;

(2) A checklist is provided in Appendix C to Article 1 — Quality Control Checklist with a list of emission-related and drive train parts;

(3) After all emission-related and drive train parts are removed and destroyed, a quality control inspector (designated by the VAVR enterprise operator) must perform an inspection of the non-emission-related and non-drive train parts as well as the vehicle body;

(4) Upon verification by the quality control inspector that no emission-related parts or drive train parts have been exchanged with the non-emission-related and non-drive train parts, the quality control inspector must sign the checklist; and

(5) After the quality control inspector signs the check list, the dismantler may place the remaining non-emission parts, non-drive train parts, and vehicle body in yard to be available for sale to public.

(c) If the VAVR enterprise operator does not recover parts from a vehicle, then the entire vehicle must be dismantled within 90 days of acquisition by the operator;

(1) No parts may be removed, for sale or reuse, from any dismantled, retired vehicle for the purpose of generating emission reduction credits. The only allowable use for any retired vehicle is as a source of scrap metal and other scrap material;

(2) An enterprise operator may separate ferrous and non-ferrous metals from a dismantled, retired vehicle to sell as a source of scrap metal only; and

(3) An enterprise operator may sell tires and batteries from a dismantled, retired vehicle to an intermediary tire/battery recycler only.

(A) All facilities generating or receiving waste tires must use the services of a registered tire hauler/recycler and

(B) Battery recyclers must be registered and licensed by the State of California to handle batteries.

(d) No emission reduction credits or other compensation with public funds shall be granted for any vehicle from which emission-related or drive train parts have been sold.

(e) All activities associated with retiring vehicles, including but not limited to the disposal of vehicle fluids and vehicle components, shall comply with:

(1) Local water conservation regulations;

(2) State, county, and city energy and hazardous materials response regulations; and

(3) Local water agency soil, surface, and ground water contamination regulations.

(f) Local districts are required to perform audits of all parts recycling and resale activities.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44103, 44105, 44107 and 44120, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Renumbering of former section 2606 to section 2607 and new section 2606 filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2607. Advertising.

(a) Any advertising conducted by an enterprise operator for the purpose of recruiting vehicle owners to sell their cars into a VAVR enterprise shall not contain any language stating that the VAVR enterprise is anything but voluntary for the consumer or that the VAVR enterprise is affiliated with or is operated by the State of California;

(1) Any contracts or agreements between a vehicle seller and an enterprise operator relating to the sale of a vehicle to a VAVR enterprise shall not contain any language stating that the VAVR enterprise is anything

but voluntary for the consumer or that the VAVR enterprise is affiliated with or is operated by the State of California.

(b) Any enterprise operator requesting the DMV to send notices to vehicle owners as prospective VAVR participants, pursuant to Health and Safety Code Section 44103, shall meet the following requirements:

(1) Prominently display the disclaimer statement as follows: "This voluntary accelerated vehicle retirement enterprise is conducted by a private operator under the auspices of the State of California and your local air pollution control district/air quality management district. It is not operated by the State of California. State funds are not used for the purchase of vehicles. Emission reduction credits may be purchased by the State for air quality improvements. Your participation is entirely voluntary." and

(2) Provide the DMV with adequate criteria for selecting those registered vehicle owners who own the desired target vehicles which may consist of vehicle makes, models, model years, geographical locales, or any other criteria deemed acceptable or necessary by the DMV.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44103, 44105, 44107 and 44109, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Renumbering of former section 2607 to section 2608 and renumbering of former section 2606 to section 2607 filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2608. Emission Reduction Credits.

(a) VAVR enterprise operators may generate emission reduction credits that can be sold on the open market.

(b) VAVR enterprise operators may not make emission reduction credits available for purchase until they are approved and issued by the district.

(c) Districts shall not approve and issue emission reduction credits unless a VAVR enterprise operator demonstrates compliance with all applicable provisions in this regulation.

(d) Each district shall be responsible for approving and issuing emission reduction credits generated to VAVR enterprise operators, based on data supplied by each enterprise operator pursuant to Sections 2609.

(e) A district shall not approve and issue emission reduction credits for any vehicle retired within sixty-one to ninety (61-90) days of its next required Smog Check inspection until it has verified that the vehicle did not fail its Smog Check inspection during that time frame pursuant to Section 2602(c). Emission reduction credits shall not be issued for any vehicle failing its Smog Check inspection during the sixty-one to ninety (61-90) day time frame.

(f) The default lifetime of emission reduction credits is three (3) years;

(1) The maximum credit amount shall be no greater than the calculated emission reduction on which the credit is based;

(2) Districts may apply a discount factor to credits calculated under these regulations, consistent with applicable district and Board credit rules and programs; and

(3) Credit usage shall be in accordance with all federal, state, and local laws and regulations in effect at time of usage.

(g) Emission reduction credits shall be generated by the retirement of any vehicle for reductions of NO_x, ROG, CO, and PM where the magnitude of the credit for each pollutant shall be determined by the methodology described in Appendix D to this Article, "Calculation of Default Emission Reduction Credit."

(h) Extra emission reduction credits may be generated by the retirement of any high emitting vehicle for reductions of NO_x, ROG, and PM when retired in accordance with Section 2610;

(1) The detailed methodology that will be used to calculate extra emission reductions shall be submitted in a high emitting vehicle VAVR plan, as required by Section 2610(f), by the district or enterprise operator to the ARB for approval;

(2) The methodology for calculating extra emission reductions shall be consistent with the methodologies recommended by the ARB;

(3) The ARB shall publish the methodology for calculating extra emission reductions in the Carl Moyer Program Guidelines, pursuant to Health and Safety Code section 44275 et seq.;

(4) Any calculation of extra emission reductions that is not consistent with the methodology recommended by the ARB shall include a detailed and complete technical justification for the changes and differences;

(5) The ARB shall evaluate the methodology for calculating extra emission reductions within sixty (60) days of receipt using the following criteria:

(A) The methodology must clearly show how emissions are estimated from the raw data or initial measurements through the final emission rate in pounds per year;

(B) The methodology shall include all equations used to estimate the final emission rate, clearly define assumptions and constants, and include references for the derivation of any uncommon equations that are used;

(C) The methodology shall contain an example calculation showing how the final emission rate was calculated from the raw data or initial measurement; and

(D) The methodology must verify that emission reductions are real, surplus, quantifiable, and enforceable; and

(6) A detailed and complete technical justification for any other proposed change from the requirements of Section 2608 shall be provided with the high emitting vehicle VAVR plan.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101, 44102, 44121 and 44122, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Renumbering of former section 2608 to section 2609 and renumbering of former section 2607 to section 2608, including amendment of subsection (a), filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2609. Records and Auditing.

(a) Districts and enterprise operators shall meet the following records and auditing requirements.

(b) An enterprise operator shall maintain and store the following information for each vehicle dismantled and used to generate emission reduction credits:

- (1) Vehicle Identification Number (VIN);
- (2) Vehicle license plate number;
- (3) Vehicle model year;
- (4) Vehicle odometer reading;
- (5) Vehicle make and model;
- (6) Name, address, and phone number of legal owner selling vehicle to the enterprise operator;
- (7) Name, address, and phone number of registered owner if different from (b)(6);
- (8) Name and business address of inspector conducting the vehicle's eligibility inspection, if the VAVR enterprise operator contracts with an ARB-approved inspection entity to perform the vehicle functional and equipment eligibility inspection;
- (9) Date of purchase of vehicle by the enterprise operator;
- (10) Date of vehicle retirement;
- (11) The emission reduction amount claimed pursuant to Section 2608;
- (12) Reproductions of California Certificate of Title and registration, as signed-off by the seller at time of final sale to the VAVR enterprise;
- (13) Reproduction of the applicable certificate of functional and equipment eligibility;
- (14) Reproduction of the applicable Notice to Dismantler (report of vehicle to be dismantled and notice of acquisition, DMV Registration 42 form);
- (15) Reproduction of written documentation from the DMV verifying that a vehicle meets the requirements of Section 2603(a);
- (16) If applicable, reproduction of documentation issued pursuant to Section 2603(a)(6); and

(17) Any other pertinent data requested by the district.

(c) Upon request of the district, the data required in Section 2609(b) shall be transmitted to the district in an electronic database format, mutually agreed upon between the district and the enterprise operator, in lieu of paper copies.

(d) The enterprise operator shall maintain copies of the information listed in Section 2609(b) for a minimum period of time commensurate with the life of the emission reduction credits generated from each vehicle pursuant to Section 2608 and shall make those records available to the ARB or the district upon request.

(e) The district may conduct announced and unannounced audits and on-site inspections of VAVR enterprise operations to ensure that enterprises are being operated according to all applicable rules and regulations;

(1) The district shall report the results of any such audits and inspections to the Executive Officer, notify any non-compliant enterprise operator of the nature of the violation, and initiate any enforcement or remedial action necessary and

(2) Enterprise operators and their subcontractors shall allow the district to conduct announced and unannounced audits and inspections and shall cooperate fully.

NOTE: Authority cited: Sections 39600, 39601 and 44101, Health and Safety Code. Reference: Sections 39002, 39003, 42400, 42400.1, 42400.2, 42400.3, 42400.4, 42400.5, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, 42402.5, 42403, 43000, 43013, 43016, 44100, 44101, 44102, 44103, 44105, 44106 and 44107, Health and Safety Code.

HISTORY

1. New section filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Renumbering of former section 2609 to section 2610 and renumbering of former section 2608 to section 2609, including amendment of section and NOTE, filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment of section heading and section filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2610. Identification of High Emitting Vehicles.

(a) Remote sensing devices (RSD) and other ARB-approved technologies, including but not limited to databases such as a high emitter profile or smoking vehicles, may be used to identify potential high emitting vehicles for voluntary entry into a VAVR program and to generate extra emission reduction credit.

(1) The technology must be a common, scientifically established technology;

(2) The technology must identify ROG, NOx, PM, and/or CO emissions from potential high emitting vehicles; and

(3) The technology must identify vehicles whose emissions will most likely exceed the ASM Emission Standards and Gross Polluter Standards pursuant to Title 16, Division 33, Article 5.5, Section 3340.42 of the California Code of Regulations.

(b) The use of these technologies in a VAVR program is entirely optional.

(c) A high emitting vehicle VAVR program using these technologies shall comply with all applicable requirements of these regulations.

(d) All equipment and software associated with the technology shall be calibrated, operated, and maintained in accordance with the latest, approved manufacturer's standard operating procedures or other ARB-approved equivalent documentation for that technology.

(e) Any extra emission reduction credit generated by the voluntary retirement of a high emitting vehicle shall be calculated according to the requirements of Section 2608(h).

(f) A detailed plan to operate a high emitting vehicle VAVR program shall be submitted to the ARB for approval and shall not be implemented until written approval to proceed is received from the Executive Officer of the ARB.

(g) The plan shall contain, at a minimum, the following elements:

(1) A detailed description of the type and model of all equipment and software used to identify high emitting vehicles;

(2) A detailed description of the operation of the technology including but not limited to set up, typical operation, location and location criteria, calibration, and maintenance;

(3) A copy of the standard operating procedures or protocols for that technology including maintenance of the technology including equipment and software;

(4) The specific criteria to be used in the application of the technology to identify a high emitting vehicle;

(5) A detailed description of the methodology that will be used to calculate extra emission reduction credits including an example calculation pursuant to Section 2608;

(6) Documentation that personnel who will be operating the technology are trained and qualified for such operation;

(7) A description of how the high emitting vehicle VAVR program will be administered and operated in compliance with all applicable requirements of this regulation; and

(8) A detailed description of any anticipated deviations from the standard operating procedures or protocols of the technology, as required by this Section, and the recommended methodology for calculating extra emission reduction credits, as specified in Section 2608(h).

(h) The ARB shall evaluate the plan according to the following criteria. The plan shall:

(1) Be complete;

(2) Meet all of the requirements listed in Sections 2610(a), (c), and (d);

(3) Fully address all elements listed in Section 2610(g);

(4) Be approved, signed, and dated by a management-level official who has the authority to approve the plan; and

(5) Be approved for implementation by the ARB within sixty (60) days or returned to the submitter within sixty (60) days for revision.

NOTE: Authority cited: Sections 39600, 39601, 44101 and 44109, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101 and 44105, Health and Safety Code.

HISTORY

1. New section and appendix A filed 12-8-99; operative 1-7-2000 (Register 99, No. 50).
2. Renumbering of former section 2610 to section 2611 and renumbering of former section 2609 to section 2610 filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Repealer and new section heading and section and amendment of NOTE filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

§ 2611. Procurement of Credits for SIP Measure M1.

NOTE: Authority cited: Sections 39600 and 39601, 44101 and 44104, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43013, 44100, 44101 and 44104, Health and Safety Code.

HISTORY

1. Renumbering of former section 2610 to section 2611 and new appendices C and D filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
2. Repealer of section filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

Appendix A

VEHICLE FUNCTIONAL AND EQUIPMENT
ELIGIBILITY INSPECTION FORM

Legal Owner: _____ Address: _____
 City: _____ Zip: _____
 VIN: _____ License Number: _____
 Make: _____ Model: _____
 Model Year: _____ Odometer Reading: _____

VEHICLE QUALIFICATION

Vehicle within 61–90 days of next scheduled Smog Check: ☐ yes ☐ no 2602(c)
 If yes, vehicle failed next scheduled Smog Check: ☐ yes* ☐ no
 Vehicle registered in District for at least 24 months: ☐ yes ☐ no* 2603(a)(2)
 Vehicle on BAR repair cost waiver ☐ yes* ☐ no 2603(a)(4)
 Vehicle on BAR economic hardship extension ☐ yes* ☐ no 2603(a)(4)
 Vehicle within 60 days of next scheduled Smog Check: ☐ yes ☐ no 2603(a)(5)
 If yes, vehicle passed next scheduled Smog Check: ☐ yes ☐ no*
 The vehicle has been tampered with: ☐ yes* ☐ no 2603(a)(7)
 The vehicle has been driven to the inspection site ☐ yes ☐ no* 2603(b)(1)
 * Vehicle is not qualified for the VAVR program.

EQUIPMENT ELIGIBILITY

The following shall be present and in place:

2603(b)(3)

All doors	<input type="checkbox"/> yes <input type="checkbox"/> no*	Hood	<input type="checkbox"/> yes <input type="checkbox"/> no*
Dashboard	<input type="checkbox"/> yes <input type="checkbox"/> no*	Driver's seat	<input type="checkbox"/> yes <input type="checkbox"/> no*
One bumper	<input type="checkbox"/> yes <input type="checkbox"/> no*	All side and/or quarter panels	<input type="checkbox"/> yes <input type="checkbox"/> no*
Exhaust system	<input type="checkbox"/> yes <input type="checkbox"/> no*	One headlight	<input type="checkbox"/> yes <input type="checkbox"/> no*
One taillight	<input type="checkbox"/> yes <input type="checkbox"/> no*	One brake light	<input type="checkbox"/> yes <input type="checkbox"/> no*
One side window	<input type="checkbox"/> yes <input type="checkbox"/> no*	Interior pedals operational	<input type="checkbox"/> yes <input type="checkbox"/> no*

FUNCTIONAL ELIGIBILITY

The following shall be completed:

2603(b)(4)

Vehicle starts using keyed ignition ☐ yes ☐ no*
 Vehicle starts without the use of starting fluids or external battery ☐ yes ☐ no*
 Vehicle driven forward for a minimum of 25 feet ☐ yes ☐ no*
 Vehicle driven in reverse for a minimum of 25 feet ☐ yes ☐ no*
 * Vehicle is not eligible for the VAVR program.

INSPECTOR CERTIFICATION: (Check correct boxes.) I certify that this vehicle has (☐ passed ☐ not passed) both the functional and equipment eligibility inspections and (☐ is ☐ is not) eligible for acceptance into the VAVR program pursuant to California Code of Regulations, Title 13, Sections 2602 and 2603.

Printed Name: _____ Date: _____
 Signed: _____

The following should be completed if the vehicle is eligible for acceptance into a VAVR program.

OWNER ACCEPTANCE: I accept receipt of this CERTIFICATION of eligibility into a VAVR program. I agree not to alter the vehicle's equipment or functionality from that presented to the inspector. I agree to maintain the vehicle's condition and registration until the vehicle is retired.

Printed Name: _____ Date: _____
 Signed: _____

HISTORY

1. New appendix A filed 12–8–99; operative 1–7–2000 (Register 99, No. 50).

2. Repealer and new appendix A filed 7–13–2007; operative 8–12–2007 (Register 2007, No. 28).

Appendix B

State of California
Air Resources Board

Emission–Drive Train Related Parts List

Adopted November 4, 1977
Amended May, 1981
Amended June 1, 1990

The following list of components are examples of emission related parts as defined in Section 1900(b)(3), Chapter 3, Title 13, California Code of Regulations.

I. Carburetion and Air Induction System**A. Air Induction System:**

1. Temperature sensor elements
2. Vacuum motor for air control
3. Hot air duct & stove
4. Air filter housing & element
5. Turbocharger or supercharger
6. Intercooler

B. Emission Calibrated Carburetors:

1. Metering jets
2. Metering rods
3. Needle and seat
4. Power valve
5. Float circuit
6. Vacuum break
7. Choke mechanism
8. Throttle–control solenoid
9. Deceleration valve
10. Dashpot
11. Idle stop solenoid, anti–dieseling assembly
12. Accelerating pump
13. Altitude compensator

C. Mechanical Fuel Injection:

1. Pressure regulator
2. Fuel injection pump
3. Fuel injector
4. Throttle–position compensator
5. Engine speed compensator
6. Engine temperature compensator
7. Altitude cut–off valve
8. Deceleration cut–off valve
9. Cold–start valve

D. Continuous Fuel Injection:

1. Fuel pump
2. Pressure accumulator
3. Fuel filter
4. Fuel distributor
5. Fuel injections
6. Air–flow sensor
7. Throttle–position compensator
8. Warm–running compensator
9. Pneumatic overrun compensator
10. Cold–start valve

E. Electronic Fuel Injection:

1. Pressure regulator
2. Fuel distribution manifold
3. Fuel injectors
4. Electronic control unit
5. Engine speed sensor
6. Engine temperature sensor
7. Throttle–position sensor
8. Altitude/manifold–pressure sensor

9. Cold–start valve
- F. Air Fuel Ratio Control:**
1. Frequency valve
 2. Oxygen sensor
 3. Electronic control unit
- G. Intake Manifold**

II. Ignition System**A. Distributor**

1. Cam
2. Points
3. Rotor
4. Condenser
5. Distributor cap
6. Breaker plate
7. Electronic components (breakerless or electronic system)

B. Spark Advance/Retard System:

1. Centrifugal advance mechanism:
 - a. Weights
 - b. Springs
2. Vacuum advance unit
3. Transmission controlled spark system:
 - a. Vacuum solenoid
 - b. Transmission switch
 - c. Temperature switches
 - d. Time delay
 - e. CEC valve
 - f. Reversing relay
4. Electronic spark control system:
 - a. Computer circuitry
 - b. Speed sensor
 - c. Temperature switches
 - d. Vacuum switching valve
5. Orifice spark advance control system:
 - a. Vacuum bypass valve
 - b. OSAC (orifice spark advance control) valve
 - c. Temperature control switch
 - d. Distributor vacuum control valve
6. Speed controlled spark system:
 - a. Vacuum solenoid
 - b. Speed sensor and control switch
 - c. Thermal vacuum switch

C. Spark Plugs**D. Ignition Coil****E. Ignition Wires****III. Mechanical Components****A. Valve Trains:**

1. Intake valves
2. Exhaust valves
3. Valve guides
4. Valve springs
5. Valve seats
6. Camshaft

B. Combustion Chamber:

1. Cylinder head or rotor housing¹
2. Piston or rotor¹

IV. Evaporative Control System**A. Vapor Storage Canister and Filter****B. Vapor Liquid Separator****C. Filler Cap****D. Fuel Tank****E. Canister Purge Valve****V. Positive Crankcase Ventilation System****A. PCV Valve****B. Oil Filler Cap****C. Manifold PCV Connection Assembly**

VI. Exhaust Gas Recirculation System

A. EGR Valve:

1. Valve body and carburetor spacer
2. Internal passages and exhaust gas orifice

B. Driving Mode Sensors:

1. Speed sensor
2. Solenoid vacuum valve
3. Electronic amplifier
4. Temperature-controlled vacuum valve
5. Vacuum reducing valve
6. EGR coolant override valve
7. Backpressure transducer
8. Vacuum amplifier
9. Delay valves

VII. Air Injection System

A. Air Supply Assembly:

1. Pump
2. Pressure relief valve
3. Pressure-setting plug
4. Pulsed air system

B. Distribution Assembly:

1. Diverter, relief, bypass, or gulp valve
2. Check or anti-backfire valve
3. Deceleration control part
4. Flow control valve
5. Distribution manifold
6. Air switching valve

C. Temperature sensor

VIII. Catalyst, Thermal Reactor, and Exhaust System

A. Catalytic Converter:

1. Constricted fuel filler neck
2. Catalyst beads (pellet-type converter)
3. Ceramic support and monolith coating (monolith-type converter)
4. Converter body and internal supports
5. Exhaust manifold

B. Thermal Reactor:

1. Reactor casing and lining
2. Exhaust manifold and exhaust port liner

C. Exhaust System:

1. Manifold
2. Exhaust port liners
3. Double walled portion of exhaust system
4. Heat riser valve and control assembly

IX. Miscellaneous Items Used in Above Systems

1. Hoses, clamps, and pipers
2. Pulleys, belts, and idlers

X. Computer Controls

1. Electronic Control Unit (ECU)
2. Computer-coded engine operating parameter (including computer chips)
3. All sensors and actuators associated with the ECU

XI. Drive Train Parts (added to Emission-Related Parts List.

1. Engine
2. Drive mechanism
3. Transmission
4. Differential
5. Axles
6. Brakes

¹ Rotary (Wankel) engines only

HISTORY

1. Redesignation of former appendix B as appendix D and redesignation of former appendix C as new appendix B filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

Appendix C

Quality Control Check List

Check each box indicating whether the emissions-related or drive train part has been removed or destroyed. Insert N/A where a part is not in the original vehicle design.

Dismantler _____ Date _____
 Address _____
 Quality Control Inspector _____
 Vehicle Make _____
 Vehicle Model _____ Vehicle Year _____
 Vehicle License Number _____
 Vehicle Odometer Mileage _____

Category	Emission-Related Part	Part Removed	Part Destroyed
Air Induction System	Temperature sensor elements Vacuum motor for air control Hot air duct & stove Air filter housing & element Turbocharger or supercharger Intercooler		
Emission Calibrated Carburetors	Metering jets Metering rods Needle and seat Power valve Float circuit Vacuum break Choke mechanism Throttle-control solenoid Deceleration valve		
Emission Calibrated Carburetors (continued)	Dashpot Idle stop solenoid, anti-dieseling assembly Accelerating pump Altitude compensator		
Mechanical Fuel Injection:	Pressure regulator Fuel injection pump Fuel injector Throttle-position compensator Engine speed compensator Engine temperature compensator Altitude cut-off valve Deceleration cut-off valve Cold-start valve		
Continuous Fuel Injection:	Fuel pump Pressure accumulator Fuel filter Fuel distributor Fuel injections Air-flow sensor Throttle-position compensator Warm-running compensator Pneumatic overrun compensator Cold-start valve		
Electronic Fuel Injection:	Pressure regulator Fuel distribution manifold Fuel injectors Electronic control unit Engine speed sensor Engine temperature sensor Throttle-position sensor Altitude/manifold-pressure sensor		
Electronic Fuel Injection:	Cold-start valve		
Air Fuel Ratio Control:	Frequency valve Oxygen sensor		
Air Fuel Ratio Control:	Electronic control unit		
Intake Manifold	Intake Manifold Assembly		

Category	Emission-Related Part	Part Removed	Part Destroyed	Category	Emission-Related Part	Part Removed	Part Destroyed
Distributor	Cam Points Rotor Condenser Distributor cap Breaker plate Electronic components (breakerless or electronic system)				Delay valves		
	Centrifugal advance mechanism: weights and springs Vacuum advance unit Transmission controlled spark system: vacuum solenoid, transmission switch, temperature switches, time delay, CEC valve, reversing relay			Air Injection System	Pump Pressure-relief valve Pressure-setting plug Pulsed air system Diverter Relief, bypass, or gulp valve Check or anti-backfire valve Deceleration control part Flow control valve Distribution manifold Air switching valve Temperature sensor		
Spark Advance/Retard System	Electronic spark control system: computer circuitry, speed sensor, temperature switches, vacuum switching valve Orifice spark advance control system: vacuum bypass valve, orifice spark advance control valve, temperature control switch, distributor vacuum control switch Speed controlled spark system: vacuum solenoid, speed sensor and control switch, thermal vacuum switch			Catalytic Converter/Thermal Reactor/exhaust	Constricted fuel filler neck Catalyst beads (pellet-type converter), Ceramic support and monolith coating (monolith-type converter), Converter body and internal supports, Exhaust manifold Reactor casing and lining Exhaust manifold and exhaust port liner Manifold Exhaust port liners, Double walled portion of exhaust system, Heat riser valve and control assembly		
Spark Plugs	Spark Plugs			Miscellaneous Items Used in Above Systems	Hoses, clamps, and pipers Pulleys, belts, and idlers		
Ignition Coil	Ignition Coil				Electronic Control Unit (ECU) Computer-coded engine operating parameter (including computer chips) All sensors and actuators associated with the ECU		
Ignition Wires	Ignition Wires			Computer Controls			
Drive Train	Engine Flywheel Bell Housing Drive Shaft Transmission Differentials Axles Brakes			Quality Control Inspector Final Verification All Emission-Related Parts Removed and Destroyed			
Mechanical Components	Intake valves Exhaust valves Valve guides Valve springs Valve seats Camshaft Cylinder head or rotor housing Piston or rotor			Quality Control Inspector Signature: _____			
Evaporative Control System	Vapor Storage Canister and Filter Vapor Liquid Separator Filler Cap Fuel Tank Canister Purge Valve			Date: _____			
Positive Crankcase Ventilation System	PCV Valve Oil Filler Cap Manifold PCV Connection Assembly			HISTORY			
Exhaust Gas Recirculation System	EGR Valve: valve body and carburetor spacer, EGR Valve: internal passages and exhaust gas orifice			1. New appendix C filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).			
Driving Mode Sensors	Speed sensor Solenoid vacuum valve Electronic amplifier Temperature-controlled vacuum valve Vacuum reducing valve EGR coolant override valve Backpressure transducer Vacuum amplifier			2. Redesignation of former appendix C as appendix B and redesignation of former appendix D as new appendix C, including repealer and new appendix heading and new introductory paragraph, filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).			

Appendix D

VOLUNTARY ACCELERATED LIGHT-DUTY VEHICLE RETIREMENT PROGRAM
DEFAULT EMISSION REDUCTIONS

ARB shall annually calculate the emission reductions for voluntary accelerated vehicle retirement. By December 31 of each year, ARB shall calculate the emission reductions for vehicles retired in the next calendar year and shall make them publicly available in tabular form.

For exhaust (tailpipe) emissions, the following equation is used to calculate emission reduction credits. Exhaust emission reduction credits may be generated from reductions in oxides of nitrogen (NO_x), reactive organic gas (ROG), carbon monoxide (CO), and particulate matter (PM):

$$\text{ExhReduction} = [(\text{ER}_{\text{retired}} * \text{VMT}_{\text{retired}}) - (\text{ER}_{\text{replacement}} * \text{VMT}_{\text{replacement}})] * \text{Life}_{\text{retired}}$$

where:

ExhReduction	= total emission reduction for tailpipe emissions (grams/life);
ER _{retired}	= the retired vehicle exhaust emission rate (grams/mile) = the average exhaust emission rate of the model year vehicle retired calculated using ARB's emission inventory model;
VMT _{retired}	= the retired vehicle miles traveled (miles/year) = the average VMT of the model year vehicle retired calculated using ARB's emission inventory model;
Life _{retired}	= the retired vehicle remaining life (years) = 3 years;
ER _{replacement}	= the replacement vehicle exhaust emission rate (grams/mile) = the fleet average exhaust emission rate calculated using ARB's emission inventory model;
VMT _{replacement}	= the replacement vehicle miles traveled (miles/year) = VMT _{retired}

For evaporative emissions, the following equation is used to calculate emission reduction credits. Evaporative emission reduction calculations apply only to ROG emissions:

$$\begin{aligned} \text{EvapReduction} = & \{[(\text{ER}_{\text{runloss}})_{\text{retired}} - (\text{ER}_{\text{runloss}})_{\text{replacement}}] * \text{VMT}_{\text{retired}} + \\ & [(\text{ER}_{\text{hotsoak}})_{\text{retired}} - (\text{ER}_{\text{hotsoak}})_{\text{replacement}}] * \text{Trips}_{\text{retired}} + \\ & [(\text{ER}_{\text{diurnal}})_{\text{retired}} - (\text{ER}_{\text{diurnal}})_{\text{replacement}}] * 365 \text{ days/year} + \\ & [(\text{ER}_{\text{resting}})_{\text{retired}} - (\text{ER}_{\text{resting}})_{\text{replacement}}] * 365 \text{ days/year}\} * \text{Life}_{\text{retired}} \end{aligned}$$

where:

EvapReduction	= total lifetime reduction of evaporative ROG emissions (grams/life);
(ER _{runloss}) _{retired}	= the retired vehicle running loss evaporative emission rate (grams/mile) = the average running loss evaporative emission rate of the model year vehicle retired calculated using ARB's emission inventory model;
(ER _{runloss}) _{replacement}	= the replacement vehicle running loss evaporative emission rate (grams/mile) = the fleet average running loss evaporative emission rate calculated using ARB's emission inventory model;
(ER _{hotsoak}) _{retired}	= the retired vehicle evaporative emission rate attributed to hot soak after shut down (grams/trip) = the average hot soak evaporative emission rate of the model year vehicle retired calculated using ARB's emission inventory model;
(ER _{hotsoak}) _{replacement}	= the replacement vehicle evaporative emission rate attributed to hot soak after shut down (grams/trip) = the fleet average hot evaporative emission rate calculated using ARB's emission inventory model;
(ER _{diurnal}) _{retired}	= the retired vehicle emission rate for evaporative emissions occurring while vehicle is not operating and during periods of ambient temperature increase (grams/day) = the average diurnal evaporative emission rate of the model year vehicle retired calculated using ARB's emission inventory model;
(ER _{diurnal}) _{replacement}	= the replacement vehicle emission rate for evaporative emissions occurring while vehicle is not operating and during periods of ambient temperature increase (grams/day) = the fleet average diurnal evaporative emission rate calculated using ARB's emission inventory model;
(ER _{resting}) _{retired}	= the retired vehicle emission rate for evaporative emissions occurring while vehicle is not operating and during periods of constant or decreasing ambient temperature (grams/day) = the average resting evaporative emission rate of the model year vehicle retired calculated using ARB's emission inventory model;
(ER _{resting}) _{replacement}	= the replacement vehicle emission rate for evaporative emissions occurring while vehicle is not operating and during periods of ambient temperature increase (grams/day) = the fleet average resting evaporative emission rate calculated using ARB's emission inventory model;
Trips _{retired}	= number of trips per year expected from retired vehicle = the average trips of the model year vehicle retired calculated using ARB's emission inventory model.

HISTORY

1. New appendix D filed 1-3-2003; operative 1-3-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).

2. Redesignation of former appendix D as appendix C and redesignation of former appendix B as new appendix D, including repealer and new appendix heading and appendix, filed 7-13-2007; operative 8-12-2007 (Register 2007, No. 28).

Chapter 14. Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines

§ 2700. Applicability.

These procedures apply to in-use strategies which, through the use of sound principles of science and engineering, control emissions of particulate matter (PM) and oxides of nitrogen (NOx) from diesel-fueled diesel engines. These strategies may include but are not limited to, diesel particulate filters, diesel oxidation catalysts, fuel additives, selective catalytic reduction systems, exhaust gas recirculation systems, and alternative diesel fuels.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

[The next page is 325.]

HISTORY

1. New chapter 14 (sections 2700–2710) and section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).

§ 2701. Definitions.

(a) The definitions in Section 1900(b), Chapter 1, Title 13 of the California Code of Regulations are incorporated by reference herein. The following definitions shall govern the provisions of this chapter:

(1) “15 ppmw or less sulfur fuel” means diesel fuel with a sulfur content equal to or less than 15 parts per million by weight (ppmw).

(2) “Alternative Diesel Fuel” means any fuel used in diesel engines that is not commonly or commercially known, sold or represented as diesel fuel No. 1–D or No. 2–D, pursuant to the specifications in ASTM Standard Specification for Diesel Fuel Oils D975–81, and does not require engine or fuel system modifications for the engine to operate, although minor modifications (e.g. recalibration of the engine fuel control) may enhance performance. Examples of alternative diesel fuels include, but are not limited to, biodiesel, Fischer Tropsch fuels, and emulsions of water in diesel fuel. Natural gas is not an alternative diesel fuel. An emission control strategy using a fuel additive will be treated as an alternative diesel fuel based strategy unless:

(A) The additive is supplied to the vehicle or engine fuel by an on-board dosing mechanism, or

(B) The additive is directly mixed into the base fuel inside the fuel tank of the vehicle or engine, or

(C) The additive and base fuel are not mixed until vehicle or engine fueling commences, and no more additive plus base fuel combination is mixed than required for a single fueling of a single engine or vehicle.

(3) “Approach Light System with Sequenced Flasher Lights in Category 1 and Category 2 Configurations” (ALSF–1 and ALSF–2) mean high intensity approach lighting systems with sequenced flashers used at airports to illuminate specified runways during category II or III weather conditions, where category II means a decision height of 100 feet and runway visual range of 1,200 feet, and category III means no decision height or decision height below 100 feet and runway visual range of 700 feet.

(4) “Applicant” means the entity that has applied for or has been granted verification under this Procedure.

(5) “Auxiliary Emission Control Device” (AECD) means any device or element of design that senses temperature, vehicle speed, engine revolutions per minute (RPM), transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of the emission control system.

(6) “Average” means the arithmetic mean.

(7) “Backpressure Monitor” means a device that includes a sensor for measuring the engine backpressure upstream of a hardware-based diesel emission control system or component thereof installed in the exhaust system and an indicator to notify the operator when the backpressure exceeds specified high and in some cases low backpressure limits, as defined by the engine manufacturer or the applicant for verification of a diesel emission control strategy.

(8) “Baseline” means the test of a vehicle or engine without the diesel emission control strategy implemented.

(9) “Cold Start” means the start of an engine only after the engine oil and water temperatures are stabilized between 68 and 86 degrees F after a minimum of 15 minutes.

(10) “Diesel emission control strategy” or “Diesel emission control system” means any device, system, or strategy employed with an in-use diesel vehicle or piece of equipment that is intended to reduce emissions. Examples of diesel emission control strategies include, but are not limited to, particulate filters, diesel oxidation catalysts, selective catalytic reduction systems, fuel additives used in combination with particulate filters, alternative diesel fuels, and combinations of the above.

(11) “Diesel Emission Control Strategy Family Name.” See Section 2706(g)(2).

(12) “Diesel Engine” means an internal combustion engine with operating characteristics significantly similar to the theoretical diesel com-

bustion cycle. The primary means of controlling power output in a diesel cycle engine is by limiting the amount of fuel that is injected into the combustion chambers of the engine. A diesel cycle engine may be petroleum-fueled (i.e., diesel-fueled) or alternate-fueled.

(13) “Durability” means the ability of the applicant’s diesel emission control strategy to maintain a level of emissions below the baseline and maintain its physical integrity over some period of time or distance determined by the Executive Officer pursuant to these regulations. The minimum durability testing periods contained herein are not necessarily meant to represent the entire useful life of the diesel emission control strategy in actual service.

(14) “Emergency Standby Engine” means a diesel engine operated solely for emergency use, except as otherwise provided in airborne toxic control measures adopted by the ARB.

(15) “Emergency Use” means using a diesel engine to provide electrical power or mechanical work during any of the following events and subject to the following conditions:

(A) The failure or loss of all or part of normal electrical power service or normal natural gas supply to the facility,

(B) The failure of a facility’s internal power distribution system,

(C) The pumping of flood water or sewage to prevent or mitigate a flood or sewage overflow,

(D) The pumping of water for fire suppression or protection,

(E) The powering of ALSF–1 and ALSF–2 airport runway lights under category II or III weather conditions,

(F) Other conditions as specified in airborne toxic control measures adopted by the ARB.

(16) “Emission control group” means a set of diesel engines and applications determined by parameters that affect the performance of a particular diesel emission control strategy. The exact parameters depend on the nature of the diesel emission control strategy and may include, but are not limited to, certification levels of engine emissions, combustion cycle, displacement, aspiration, horsepower rating, duty cycle, exhaust temperature profile, and fuel composition. Verification of a diesel emission control strategy and the extension of existing verifications are done on the basis of emission control groups.

(17) “Executive Officer” means the Executive Officer of the Air Resources Board or the Executive Officer’s designee.

(18) “Executive Order” means the document signed by the Executive Officer that specifies the verification level of a diesel emission control strategy for an emission control group and includes any enforceable conditions and requirements necessary to support the designated verification.

(19) “Fuel Additive” means any substance designed to be added to fuel or fuel systems or other engine-related systems such that it is present in-cylinder during combustion and has any of the following effects: decreased emissions, improved fuel economy, increased performance of the entire vehicle or one of its component parts, or any combination thereof; or assists diesel emission control strategies in decreasing emissions, or improving fuel economy or increasing performance of a vehicle or component part, or any combination thereof. Fuel additives used in conjunction with diesel fuel may be treated as an alternative diesel fuel. See Section 2701 (a)(2).

(20) “Hot Start” means the start of an engine within four hours after the engine is last turned off. The first hot start test run should be initiated 20 minutes after the cold start for Federal Test Procedure testing following Section 86.1327–90 of the Code of Federal Regulations, Title 40, Part 86.

(21) “Portable Engine” means an engine designed and capable of being carried or moved from one location to another, except as defined in section 2701(a)(24). Engines used to propel mobile equipment of a motor vehicle of any kind are not portable. Indicators of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform. A portable engine cannot remain at the same facility location for more than 12 consecutive rolling months or 365 rolling days, whichever occurs first, not including time spent in a storage facility. If it does remain

at the facility for more than 12 months, it is considered to be a stationary engine. The definitions in Title 13 California Code of Regulations section 2452(g) and section 2452(x) are incorporated by reference herein.

(22) “Regeneration”, in the context of diesel particulate filters, means the periodic or continuous combustion of collected particulate matter that is trapped in a particulate filter through an active or passive mechanism. Active regeneration requires a source of heat other than the exhaust itself to regenerate the particulate filter. Examples of active regeneration strategies include, but are not limited to, the use of fuel burners and electrical heaters. Passive regeneration does not require a source of heat for regeneration other than the exhaust stream itself. Examples of passive regeneration strategies include, but are not limited to, the use of fuel additives and the catalyst-coated particulate filter. In the context of NO_x reduction strategies, “regeneration” means the desorption and reduction of NO_x from NO_x adsorbers (or NO_x traps) during rich operation conditions.

(23) “Revoke” means to cancel the verification status of a diesel emission control strategy. If a diesel emission control strategy’s verification status is revoked by the Executive Officer, the applicant must immediately cease and desist selling the diesel emission control strategy to end-users.

(24) “Stationary Engine” means an engine that is designed to stay in one location, or remains in one location. An engine is stationary if any of the following are true:

(A) The engine or its replacement is attached to a foundation, or if not so attached, will reside at the same location for more than 12 consecutive months. Any engine that replaces engine(s) at a location, and is intended to perform the same or similar function as the engine(s) being replaced, will be included in calculating the consecutive time period. In that case, the cumulative time of all engine(s), including the time between the removal of the original engine(s) and installation of the replacement engine(s), will be counted toward the consecutive time period; or

(B) The engine remains or will reside at a location for less than 12 consecutive months if the engine is located at a seasonal source and operates during the full annual operating period of the seasonal source, where a seasonal source is a stationary source that remains in a single location on a permanent basis (at least two years) and that operates at that single location at least three months each year; or

(C) The engine is moved from one location to another in an attempt to circumvent the residence time requirements [Note: The period during which the engine is maintained at a storage facility shall be excluded from the residency time determination.] The definitions in Title 13 California Code of Regulations section 2452(g) and section 2452(x) are incorporated by reference herein.

(25) “Verification” means a determination by the Executive Officer that a diesel emission control strategy meets the requirements of this Procedure. This determination is based on both data submitted or otherwise known to the Executive Officer and engineering judgement.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsection (a)(2) filed 7–15–2004; operative 8–14–2004 (Register 2004, No. 29).
3. New subsections (a)(3), (a)(14)–(a)(15)(F), (a)(21) and (a)(24)–(a)(24)(C), repealer of subsections (a)(13), (a)(19) and (a)(22) and subsection renumbering filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).

§ 2702. Application Process.

(a) Overview. Before submitting a formal application for the verification of a diesel emission control strategy for use with an emission control group, the applicant must submit a proposed verification testing protocol (pursuant to Section 2702(b)) at the Executive Officer’s discretion. To obtain verification, the applicant must conduct emission reduction testing (pursuant to Section 2703), durability testing (pursuant to Section 2704), a field demonstration (pursuant to Section 2705), and submit the

results along with comments and other information (pursuant to Sections 2706 and 2707) in an application to the Executive Officer, in the format shown in Section 2702(d). If the Executive Officer grants verification of a diesel emission control strategy, it will issue an Executive Order to the applicant identifying the verified emission reduction and any conditions that must be met for the diesel emission control strategy to function properly. After the Executive Officer grants verification of a diesel emission control strategy, the applicant must provide a warranty, conduct in-use compliance testing of the strategy after having sold or leased a specified number of units, and report the results to the Executive Officer (pursuant to Section 2709). A diesel emission control strategy that employs two or more individual systems or components must be tested and submitted for evaluation as one system. Applicants seeking verification of an alternative diesel fuel must follow the procedure described in Section 2710.

(b) Proposed Verification Testing Protocol. Before formally submitting an application for the initial verification of a diesel emission control strategy, the applicant must submit a proposed verification testing protocol at the Executive Officer’s discretion. The Executive Officer shall use the information in the proposed protocol to help determine whether the strategy relies on sound principles of science and engineering to control emissions, the need for additional analyses, and the appropriateness of allowing alternatives to the prescribed requirements. The protocol should include the following information:

(1) Identification of the contact persons, phone numbers, names and addresses of the responsible party proposing to submit an application.

(2) Description of the diesel emission control strategy’s principles of operation. A schematic depicting operation should be included as appropriate. It is the responsibility of the applicant to demonstrate that its product relies on sound principles of science and engineering to achieve emission reductions.

(A) If, after reviewing the proposed protocol, the Executive Officer determines that the applicant has not made a satisfactory demonstration that its product (diesel emission control strategy) relies on sound principles of science and engineering to achieve emission reductions, the Executive Officer shall notify the applicant of the determination in writing. The applicant may choose to withdraw from the verification process or submit additional materials and clarifications. The additional submittal must be received by the Executive Officer no later than 60 days from the date of the notification letter or the application may be suspended.

(B) If, after reviewing the additional submittal, the Executive Officer determines that the applicant has not yet made a satisfactory demonstration that its product relies on sound principles of science and engineering to achieve emission reductions, the application shall be suspended. If an application has been suspended, it may only be reactivated at the discretion of the Executive Officer.

(C) If at any time, the Executive Officer has reason to doubt the scientific or engineering soundness of a product, the Executive Officer may require the applicant to submit additional supporting materials and clarifications no later than 60 days from the date of the notification letter. If the additional submittal is not received by the Executive Officer by the deadline established in the notification letter, the application may be suspended or the existing verification may be revoked. In deciding whether to suspend an application or revoke an existing verification the Executive Officer will review submittals as provided in subsection (B) above.

(3) Preliminary parameters for defining emission control groups that are appropriate for the diesel emission control strategy. The Executive Officer will work with the applicant to determine appropriate emission control group parameters.

(4) The applicant’s plan for meeting the requirements of Sections 2703–2706. Existing test data may be submitted for the Executive Officer’s consideration. The protocol must focus on verification of the diesel emission control strategy for use with a single emission control group.

(5) A brief statement that the applicant agrees to provide a warranty pursuant to the requirements of section 2707.

(c) If an applicant submits a proposed verification testing protocol, the Executive Officer shall, within 30 days of its receipt, determine whether the applicant has identified an appropriate testing protocol to support an

application for verification and notify the applicant in writing that it may submit an application for verification. The Executive Officer may suggest modifications to the proposed verification testing protocol to facilitate verification of the diesel emission control strategy. All applications, correspondence, and reports must be submitted to:

CHIEF, HEAVY-DUTY DIESEL IN-USE STRATEGIES BRANCH
AIR RESOURCES BOARD
9528 TELSTAR AVENUE
EL MONTE, CA 91731

(d) Application Format. The application for verification of a diesel emission control strategy must follow the format shown below. If a section asks for information that is not applicable to the diesel emission control strategy, the applicant must indicate "not applicable." If the Executive Officer concurs with the applicant's judgement that a section is not applicable, the Executive Officer may waive the requirement to provide the information requested in that section.

1. Introduction
 - 1.1 Identification of applicant, manufacturer, and product
 - 1.2 Identification of type of verification being sought
 - 1.2.1 Description of emission control group selected
 - 1.2.2 Emission reduction claim
2. Diesel Emission Control Strategy Information
 - 2.1 General description of the diesel emission control strategy
 - 2.1.1 Discussion of principles of operation and system design
 - 2.1.2 Schematics depicting operation (as appropriate)
 - 2.2 Description of regeneration method
 - 2.2.1 Operating condition requirements for regeneration
 - 2.2.2 Thresholds and control logic to activate regeneration
 - 2.2.3 Description of backpressure monitor including thresholds and control logic
 - 2.3 Favorable operating conditions
 - 2.4 Unfavorable operating conditions and associated reductions in performance
 - 2.5 Fuel requirements and misfueling considerations
 - 2.6 Identification of failure modes and associated consequences
 - 2.7 Complete discussion of potential safety issues (e.g., *uncontrolled regeneration, lack of proper maintenance, unfavorable operating conditions, etc.*)
 - 2.8 Installation requirements
 - 2.9 Maintenance requirements
3. Alternative Diesel Fuel Information
 - 3.1 Information from Section 2710(b)
 - 3.2 Emission control group compatibility considerations
 - 3.3 Misfueling prevention strategies
4. Diesel Emission Control Strategy and Emission Control Group Compatibility
 - 4.1 Compatibility with the engine
 - 4.1.1 Discussion on calibrations and design features that may vary from engine to engine
 - 4.1.2 Effect on overall engine performance
 - 4.1.3 Effect on engine backpressure
 - 4.1.4 Additional load on the engine
 - 4.1.5 Effect on fuel consumption
 - 4.1.6 Engine oil consumption considerations
 - 4.2 Compatibility with the application
 - 4.2.1 Dependence of calibration and other design features on application characteristics
 - 4.2.2 Presentation of typical exhaust temperature profiles and other relevant field-collected data from representative applications within the emission control group
 - 4.2.3 Comparison of field-collected application data with operating conditions suitable for the diesel emission control strategy
5. Testing Information
 - 5.1 Emission reduction testing
 - 5.1.1 Test facility identification

5.1.2 Description of test vehicle and engine (*make, model year, engine family name, etc.*)

5.1.3 Test procedure description (*—pre-conditioning period, test cycle, etc.*)

5.1.4 Test results and comments

5.2 Durability testing

5.2.1 Test facility identification

5.2.2 Description of field application (where applicable)

5.2.3 Description of test vehicle and engine (*make, model year, engine family name, etc.*)

5.2.4 Test procedure description (*field or bench, test cycle, etc.*)

5.2.5 Test results and comments

5.2.6 Summary of evaluative comments from third-party for in-field durability demonstration (e.g., *driver or fleet operator*)

5.3 Field demonstration (where applicable)

5.3.1 Field application identification

5.3.2 Description of test vehicle and engine (*make, model year, engine family name, etc.*)

5.3.3 Engine backpressure and exhaust temperature graphs with comments

5.3.4 Summary of evaluative comments from third-party (e.g., *driver or fleet operator*)

6. References

7. Appendices

A. Laboratory test report information (*for all tests*)

A.1 Actual laboratory test data

A.2 Plots of engine backpressure and exhaust temperature

A.3 Driving traces for chassis dynamometer tests

A.4 Quality assurance and quality control information

B. Third-party letters or questionnaires describing in-field performance

C. Diesel emission control system label

D. Owner's manual (as described in Section 2706(i))

E. Other supporting documentation

(e) Within 30 days of receipt of the application, the Executive Officer shall notify the applicant whether the application is complete.

(f) Within 60 days after an application has been deemed complete, the Executive Officer shall determine whether the diesel emission control strategy merits verification and shall classify it as shown in Table 1:

Table 1. Verification Classifications for Diesel Emission Control Strategies

Pollutant	Reduction	Classification
PM	< 25%	Not verified
	≥ 25%	Level 1
		Level 1 Plus*
	≥ 50%	Level 2
		Level 2 Plus*
	≥ 85%, or ≤ 0.01 g/bhp-hr	Level 3
		Level 3 Plus*
NOx	< 15%	Not verified
	≥ 15%	Verified in 5% increments

*The diesel emission control strategy complies with the 20 percent NO₂ limit before January 1, 2009 (and after January 1, 2007).

The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision, and additional supporting documentation may be submitted by the applicant before a decision has been reached. The Executive Officer shall notify the applicant of the decision in writing and specify the verification level for the diesel emission control strategy and identify any terms and conditions that are necessary to support the verification.

(g) Extensions of an Existing Verification. If the applicant has verified a diesel emission control strategy with one emission control group and wishes to extend the verification to include additional emission control groups, it may apply to do so using the original test data, additional test data, engineering justification and analysis, or any other information

deemed necessary by the Executive Officer to address the differences between the emission control group already verified and the additional emission control group(s). Processing time periods follow sections (e) and (f) above.

(h) Design Modifications. If an applicant modifies the design of a diesel emission control strategy that has already been verified or is under consideration for verification by the Executive Officer, the modified version must be evaluated under this Procedure. The applicant must provide a detailed description of the design modification along with an explanation of how the modification will change the operation and performance of the diesel emission control strategy. To support its claims, the applicant must submit additional test data, engineering justification and analysis, or any other information deemed necessary by the Executive Officer to address the differences between the modified and original designs. Processing time periods follow sections (e) and (f) above.

(i) Treatment of Confidential Information. Information submitted to the Executive Officer by an applicant may be claimed as confidential, and such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000–91022. The Executive Officer may consider such confidential information in reaching a decision on a verification application.

(j) The Executive Officer may lower the verification level or revoke the verification status of a verified diesel emission control strategy family if there are errors, omissions or inaccurate information in the application for verification or supporting information.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsections (b) and (b)(2) and new subsections (b)(2)(A)–(C) and (b)(5) filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).
3. Amendment of subsections (f)–(h) filed 2–9–2007; operative 2–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2703. Emission Testing Requirements.

(a) The applicant must test the diesel emission control strategy on an emission control group basis and identify the emission control group. The applicant must identify the test engines and vehicles, if applicable, by providing the engine family name, make, model, model year, and PM and NOx certification levels if applicable. The applicant must also describe the applications for which the diesel emission control strategy is intended to be used by giving examples of in-use vehicles or equipment, characterizing typical duty cycles, indicating any fuel requirements, and/or providing other application-related information.

(b) Test Engine Requirements and Pre-conditioning. The applicant may tune-up or rebuild test engines prior to, but not after, baseline testing unless rebuilding the engine is an integral part of the diesel emission control strategy. All testing should be performed with the test engine in a proper state of maintenance. Emissions of NO₂ from the test engine must not exceed 15 percent of the total baseline NOx emissions by mass. If there is a special category of engines with NO₂ emission levels that normally exceed 15 percent, this requirement may be adjusted for those engines at the discretion of the Executive Officer.

(c) Diesel Emission Control System Pre-conditioning. The engine or vehicle installed with a diesel emission control system must be operated for a break-in period of between 25 and 125 hours before emission testing. Note that special pre-conditioning requirements may apply. See section 2706(a)(4) for details.

(d) Test Fuel.

(1) The test fuel must meet the specifications in the California Code of Regulations (Sections 2280 through 2283 of Title 13), with the exception of the sulfur content or other properties previously identified by the applicant and approved by the Executive Officer.

(2) If operation or performance of a diesel emission control strategy is affected by fuel sulfur content, the sulfur content of the test fuel must be no less than 66 percent of the stated maximum sulfur content for the diesel emission control strategy, unless

(A) the testing is performed with fuel containing 15 ppmw or less sulfur for verification on 15 ppmw or less sulfur diesel fuel, or

(B) the testing is performed with diesel fuel commercially available in California for verification on CARB diesel fuel (i.e., fuel meeting the specifications in Title 13, California Code of Regulations, Sections 2280 through 2283).

(3) Baseline testing may be conducted with commercially available diesel fuel or diesel fuel with 15 ppmw or less sulfur. Baseline and control tests must be performed using the same fuel unless the control fuel is specified as a component of the emission control strategy.

(4) The test fuel (or batch of fuel purchased) must be analyzed using American Society for Testing and Materials (ASTM) test methods listed in Table 6 (See Section 2710), which are incorporated herein by reference. At a minimum, sulfur content, aromatic content, polycyclic aromatic hydrocarbons, nitrogen content, and cetane number must be reported. The Executive Officer may ask for additional properties to be reported if evidence suggests those properties may affect functioning of the diesel emission control strategy.

(e) Test Cycle. The diesel emission control strategy must be tested using the test cycles indicated in subparagraphs 1–3 below (summarized in Table 2) or with an alternative cycle(s) approved by the Executive Officer pursuant to subsection (f) below.

Table 2. Test Cycles for Emission Reduction Testing*

Test Type	On-Road	Off-Road (including portable engines)	Stationary
Engine	FTP Heavy-duty Transient Cycle (1 cold-start and 3 hot-starts)	Steady-state test cycle from ARB off-road regulations (3 hot-starts)	Steady-state test cycle from ARB off-road regulations (3 hot-starts)
Chassis	UDDS (3 hot-starts) and a low-speed test cycle per 2703 (e)(1)(B)(ii) (3 hot-starts).	Not Applicable	Not Applicable

*Additional hot-starts are required for NOx emission reductions between 15 to 25 percent (see Section 2703(h)).

FTP = Federal Test Procedure; UDDS = Urban Dynamometer Driving Schedule

(1) On-road Engines and Vehicles. For on-road diesel-fueled vehicles, the applicant may choose between engine dynamometer testing and chassis dynamometer testing, subject to the following conditions. Engine testing may be used for verification of an absolute engine emissions level or a percent emission reduction. Chassis testing may be used only to verify a percent emission reduction. The applicant may use emission test data to satisfy the durability test data requirement, but must follow the same testing option for the remaining durability tests (see Section 2704).

(A) Engine testing must consist of one cold-start and at least three hot-start tests using the Federal Test Procedure (FTP) Heavy-duty Transient Cycle for engines used in on-road applications, in accordance with the provisions in the Code of Federal Regulations, Title 40, Part 86, Subpart N.

(B) The applicant must conduct all chassis tests in accordance with the provisions of the Code of Federal Regulations, Title 40, Part 86, Subpart N insofar as they pertain to chassis dynamometer testing. Chassis testing must include two separate test cycles as follows:

1. At least three hot-start tests using the Urban Dynamometer Driving Schedule (UDDS) (see Code of Federal Regulations, Title 40, Part 86, appendix I (d)).

2. Three hot-start tests using a low-speed chassis test cycle representing urban stop-and-go traffic operation. The test cycle must include a repetitive series of idling periods immediately followed by events of maximum vehicle acceleration. The applicant can propose, for Executive

Officer approval, a low-speed cycle as applicable to the type of vehicle and vehicle operation for which the diesel emission control strategy is intended. The Executive Officer will provide examples (e.g., New York Bus Cycle) of appropriate test cycles upon request by the applicant during the verification process. The applicant may request that the Executive Officer waive the requirement to conduct the low-speed chassis test. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, characteristics of the duty cycles in the emission control group and the principles of operation of the diesel emission control strategy.

3. The driver must follow the test cycles as closely as possible and must not deviate beyond the following tolerances (See Code of Federal Regulation, Part 86, Subpart M, 86.1215-85).

(i) The upper limit is 4 miles per hour higher than the highest point on the trace within 1 second of the given time.

(ii) The lower limit is 4 miles per hour lower than the lowest point on the trace within 1 second of the given time.

(iii) Speed variations greater than the tolerances (such as may occur during gear changes or braking spikes) are acceptable, provided they occur for less than 2 seconds on any occasion and are clearly documented as to the time and speed at that point of the test cycle.

(iv) Speeds lower than those prescribed are acceptable, provided the vehicle is operated at maximum available power during such occurrences.

(C) For any diesel emission control strategy intended to reduce NOx from on-road applications, the following requirements apply: (i) The applicant must identify and discuss the effects of elevated NOx emissions on the diesel emission control strategy (emissions of NOx that are significantly greater than certified levels are said to be elevated, and may result, for example, from the activation of an AECD that advances fuel injection timing under cruise conditions). The applicant's discussion must include effects on emission reduction performance, durability, and safety considerations, how the strategy would respond to elevated NOx emissions that do not occur at the time the strategy is calibrated, and must be supported by engineering justification and any pertinent data. (ii) The applicant must perform three hot-start tests with an additional test cycle that gives rise to significant periods of elevated NOx emissions, except as provided below.

1. The applicant may request that the Executive Officer provide assistance with determining an engine or chassis test cycle or may propose a test cycle for approval by the Executive Officer. The Executive Officer will evaluate the proposed test cycle based on its representativeness of real-life operation and consistency with established procedures for determining off-cycle emissions.

2. The applicant may request that the Executive Officer waive the requirement to conduct this additional testing. In reviewing the request, the Executive Officer may consider all relevant information including, but not limited to, the principles of operation of the diesel emission control strategy and the availability of an appropriate test cycle.

(2) Off-road Engines and Equipment (including portable engines). For off-road diesel-fueled vehicles and equipment, the applicant must follow the steady-state test procedure outlined in the ARB off-road regulations (California Code of Regulations, Title 13, Section 2423 and the incorporated California Exhaust Emission Standards and Test Procedures for New 2000 and Later Off-Road Compression-Ignition Engines, Part I-B). A minimum of three hot-start tests must be conducted using the specified test cycle. Applicants may request that the Executive Officer consider alternative test cycles, as described in subsection (f).

(3) Stationary Engines. For stationary engines, the applicant must follow the steady-state test procedure outlined in the ARB off-road regulations (as referenced in (2) above). A minimum of three hot-start tests must be conducted using the specified test cycle. Applicants may request that the Executive Officer consider alternative test cycles and methods, as described in subsection (f).

(f) Alternative Test Cycles and Methods. The applicant may request the Executive Officer to approve an alternative test cycle or method in

place of a required test cycle or method. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the following:

(1) Test procedures specified in airborne toxic control measures adopted by the ARB, e.g. the Airborne Toxic Control Measure for Stationary Compression Ignition Engines,

(2) Similarity of average speed, percent of time at idle, average acceleration, and other characteristics to the specified test cycle or method and in-use duty cycle,

(3) Body of existing test data generated using the alternative test cycle or method,

(4) Technological necessity, and

(5) Technical ability to conduct the required test.

(g) Test Run. The number of tests indicated in Table 2 must be run for both baseline (without the diesel emission control strategy implemented) and control configurations. For strategies that include exhaust aftertreatment, engine backpressure and exhaust temperature must be measured and recorded on a second-by-second basis (1 Hertz) during at least one baseline run and each of the control test runs.

(h) Verification of NOx Emission Reductions. The procedure for verifying NOx reductions depends on the magnitude and nature of the claimed reductions as follows:

(1) For NOx reductions of 25 percent or more below the baseline NOx emissions, the testing protocol described in (e) may be used.

(2) For NOx reductions of less than 25 percent below the baseline NOx emissions, additional hot-start test runs are required to attain equivalent confidence in the results.

(A) For NOx reductions equal to or more than 20 percent, but less than 25 percent, each set of three hot-starts in paragraph (e) above must be augmented to five hot-starts

(B) For NOx reductions equal to or more than 15 percent, but less than 20 percent, each set of three hot-starts in paragraph (e) above must be augmented to nine hot-starts.

(i) Emissions During Particulate Filter Regeneration Events. For any diesel emission control strategy that has a distinct regeneration event, emissions that occur during the event must be measured and taken into account when determining the net emission reduction efficiency of the system. If a regeneration event will not occur during emission testing, applicants may pre-load the diesel emission control system with diesel PM to force such an event to occur during testing, subject to the approval of the Executive Officer. Applicants must provide data or engineering analysis indicating when events occur on test cycles and in actual operation (e.g., backpressure data).

(j) Results. For all valid emission tests used to support emission reduction claims, the applicant must report emissions of total PM, non-methane hydrocarbons or total hydrocarbons (whichever is used for the relevant engine or vehicle certification), oxides of nitrogen, nitrogen dioxide, carbon monoxide, and carbon dioxide.

(1) For mobile sources, or for engines tested using an engine dynamometer, emissions must be reported in grams/mile (g/mile) or grams/brake horsepower-hour (g/bhp-hr).

(2) For stationary engines, gaseous and particulate matter emissions must be reported as required by the test methods approved by the Executive Officer.

(k) Incomplete and Aborted Tests. The applicant must identify all incomplete and aborted tests and explain why those tests were incomplete or aborted.

(l) Additional Analyses. The Executive Officer may require the applicant to perform additional analyses if there is reason to believe that the use of a diesel emission control strategy may result in the increase of toxic air contaminants, other harmful compounds, or a change in the nature or amount of the emitted particulate matter.

(1) In its determination, the Executive Officer may consider all relevant data, including but not limited to the following:

(A) The addition of any substance to the fuel, intake air, or exhaust stream,

(B) Whether a catalytic reaction is known or reasonably suspected to increase toxic air contaminants or ozone precursors,

(C) Results from scientific literature,

(D) Field experience, and

(E) Any additional data.

(2) These additional analyses may include, but are not limited to, measurement of the following:

(A) Benzene

(B) 1,3-butadiene

(C) Formaldehyde

(D) Acetaldehyde

(E) Polycyclic aromatic hydrocarbons (PAH)

(F) Nitro-PAH

(G) Dioxins

(H) Furans

(3) The Executive Officer will determine appropriate test methods for additional analyses in consultation with the applicant.

(m) Quality Control of Test Data. The applicant must provide information on the test facility, test procedure, and equipment used in the emission testing. For data gathered using on-road and off-road test cycles and methods, applicants must provide evidence establishing that the test equipment used meets the specifications and calibrations given in the Code of Federal Regulations, Title 40, Part 86, subpart N.

(n) The Executive Officer may, with respect to any diesel emission control strategy sold, leased, offered for sale, or manufactured for sale in California, order the applicant or strategy manufacturer to make available for testing and/or inspection a reasonable number of diesel emission control systems, and may direct that they be delivered at the applicant's expense to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any diesel emission control strategy being sold, leased, offered for sale, or manufactured for sale in California, have an applicant test and/or inspect a reasonable number of units at the applicant or manufacturer's facility or at any test laboratory under the supervision of the Executive Officer.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650-39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5-12-2003; operative 6-11-2003 (Register 2003, No. 20).
2. Amendment of subsections (e)(2)-(3), new subsection (f)(1) and subsection renumbering filed 12-2-2004; operative 1-1-2005 (Register 2004, No. 49).
3. Amendment of subsections (b) and (c) filed 2-9-2007; operative 2-9-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2704. Durability Testing Requirements.

(a) The applicant must demonstrate, to the satisfaction of the Executive Officer, the durability of the applicant's diesel emission control strategy through an actual field or laboratory-based demonstration combined with chassis or engine dynamometer-based emission tests. If the applicant chooses a laboratory-based durability demonstration, an additional field demonstration will be required to demonstrate in-field compatibility (pursuant to Section 2705). If the applicant has demonstrated the durability of the identical system in a prior verification or has demonstrated durability through field experience, the applicant may request that the Executive Officer accept the previous demonstration in fulfillment of this requirement. In evaluating such a request, the Executive Officer may consider all relevant information including, but not limited to, the similarity of baseline emissions and application duty cycles, the relationship between the emission control group used in previous testing and the current emission control group, the number of engines tested, evidence of successful operation and user acceptance, and published reports.

(b) Engine Selection. Subject to the approval of the Executive Officer, the applicant may choose the engine and application to be used in the durability demonstration. The engine and application must be representa-

tive of the emission control group for which verification is sought. The selected engine need not be the same as the engine used for emission testing, but if the applicant does use the same engine, the emission testing may also be used for the initial durability tests. Emissions of NO₂ from the emissions test engine must not exceed 15 percent of the total baseline NO_x emissions by mass. If there is a special category of engines with NO₂ emission levels that normally exceed 15 percent, this requirement may be adjusted for those engines at the discretion of the Executive Officer.

(c) Test Fuel.

(1) The test fuel must meet the specifications in the California Code of Regulations (Sections 2280 through 2283 of Title 13), with the exception of the sulfur content or other properties previously identified by the applicant and approved by the Executive Officer.

(2) If operation or performance of a diesel emission control strategy is affected by fuel sulfur content, the sulfur content of the test fuel must be no less than 66 percent of the stated maximum sulfur content for the diesel emission control strategy, unless

(A) the testing is performed with fuel containing 15 ppmw or less sulfur for verification on 15 ppmw or less sulfur diesel fuel, or

(B) the testing is performed with diesel fuel commercially available in California for verification on CARB diesel fuel (i.e., fuel meeting the specifications in Title 13, California Code of Regulations, Sections 2280 through 2283).

(3) Baseline testing may be conducted with commercially available diesel fuel or diesel fuel with 15 ppmw or less sulfur. Baseline and control tests must be performed using the same fuel unless the control fuel is specified as a component of the emission control strategy.

(4) The test fuel (or batch of fuel purchased) must be analyzed using American Society for Testing and Materials (ASTM) test methods listed in Table 6 (See Section 2710), which are incorporated herein by reference. At a minimum, sulfur content, aromatic content, polycyclic aromatic hydrocarbons, nitrogen content, and cetane number must be reported. The Executive Officer may ask for additional properties to be reported if evidence suggests those properties may affect functioning of the diesel emission control strategy.

(d) Service Accumulation. The durability demonstration consists of an extended service accumulation period in which the diesel emission control strategy is implemented in the field or in a laboratory, with emission reduction testing before and after the service accumulation. Service accumulation begins after the first emission test and concludes before the final emission test. The pre-conditioning period required in Section 2703 (c) cannot be used to meet the service accumulation requirements.

(1) Minimum Durability Demonstration Periods. The minimum durability demonstration periods are shown in Table 3, below. For strategies that include exhaust aftertreatment, engine backpressure and exhaust temperature must be measured and recorded for 1000 hours or over the entire durability period (whichever is shorter). The applicant may propose a sampling scheme for approval by the Executive Officer. The sampling scheme may include, but is not limited to, logging only significant changes in a parameter, averages, or changes above some threshold value. Data must be submitted electronically in columns as a text file or another format approved by the Executive Officer.

Table 3. Minimum Durability Demonstration Periods

Engine Type	Minimum Durability Demonstration Period
On-Road	50,000 miles or 1000 hours
Off-Road (including portable engines) and Stationary	1000 hours
Stationary Emergency Standby Engines	500 hours

(2) Fuel for Durability Demonstrations. The fuel used during durability demonstrations should be equivalent to the test fuel, or a fuel with properties less favorable to the durability of the emission control strategy. Durability demonstrations may, at the applicant's option and with the Executive Officer's approval, include intentional misfueling events so that data on the effects of misfueling may be obtained.

(e) Third-Party Statement for In-field Durability Demonstrations. For in-field durability demonstrations, the applicant must provide a written statement from an Executive Officer approved third party, such as the owner or operator of the vehicle or equipment used, at the end of the durability period. The statement must describe overall performance, maintenance required, problems encountered, and any other relevant comments. The results of a visual inspection conducted by the third party at the end of the demonstration period must also be described. The description should comment on whether the diesel emission control strategy is physically intact, securely mounted, leaking any fluids, and should include any other evaluative observations.

(f) Test Cycle. Testing requirements are summarized in Table 4. Note that the same cycle(s) must be used for both the initial and final tests.

(1) On-Road Applications. The applicant must perform either chassis or engine dynamometer-based testing before beginning and after completion of the service accumulation as specified in Table 4. A minimum of three hot-start tests are required for chassis testing while a minimum of one cold-start and three hot-start tests are required for engine testing. Chassis testing requires an additional three hot-starts on a low-speed cycle as described in Section 2703(e)(1)(B)2. As indicated in Section 2703(e)(1)(B)2., the applicant may request the Executive Officer to waive the tests on a low-speed cycle. If a field durability demonstration is selected, the applicant must perform chassis dynamometer testing, or request that the Executive Officer consider engine dynamometer testing. In reviewing the request, the Executive Officer may consider all relevant information, including, but not limited to the following:

(A) Similarity of the field vehicle's engine to the laboratory engine, and

(B) Similarity of the diesel emission control system's calibration and set-up when installed on the field vehicle to that when installed on the laboratory engine.

(2) Off-road and Stationary Applications. The applicant must use the same cycle for the emission reduction testing as defined in Section 2703. A minimum of three hot-start tests is required.

(g) Test Run. The requirements for emissions reduction testing are summarized in Table 4, below. Note that special pre-conditioning requirements may apply. See section 2706(a)(4) for details.

(1) The diesel emission control strategy must undergo one set of emission tests before beginning and after completion of the service accumulation. Baseline testing with test repetitions as indicated in Table 4 must be conducted for either the initial test or the final test, but is suggested for both. If there are substantial test data from previous field studies or field demonstrations, applicants may request that the Executive Officer consider these in place of the initial emission tests.

(2) As an alternative to testing a single unit before and after the service accumulation period, the applicant may request that the Executive Officer consider the testing of two identical units, one that has been preconditioned and another that has completed the service accumulation period. In reviewing the request, the Executive Officer may consider all relevant information, including, but not limited to, the following:

(A) The effect of the diesel emission control strategy on engine operation over time. Strategies that cause changes in engine operation are likely not to qualify for this testing option.

(B) The quality of the evidence the applicant can provide to support that the two units are identical,

(C) Previous experience with similar or related technologies, and

(D) Whether the applicant is participating in the U.S. EPA verification process and has made an agreement with U.S. EPA to test two units.

(3) For strategies that include exhaust aftertreatment, engine backpressure and exhaust temperature must be measured and recorded on a

second-by-second basis (1 Hertz) during at least one baseline run and each of the control test runs.

Table 4. Emission Tests Required for Durability Demonstrations

Application	Test Type	<i>Initial Test (prior to service accumulation)</i> <i>Final Test (after completion of 100% of the service accumulation)</i>
On-Road	Engine	FTP Heavy-duty Transient Cycle (1 cold and 3 hot-starts)
	Chassis	UDDS (3 hot-starts) and a low-speed cycle per 2703 (e)(1)(B)2. (3 hot-starts)
Off-Road and portable engines	Engine	Steady-state test cycle from ARB off-road regulations or an alternative cycle (3 hot-starts)
Stationary	Engine	Steady-state test cycle from ARB off-road regulations or an alternative cycle (3 hot-starts)

(h) Maintenance During Durability Demonstration. Except for emergency engine repair, only scheduled maintenance on the engine and diesel emission control system and re-fill of additives (if any) may be performed during the durability demonstration. If normal maintenance includes replacement of any component of the diesel emission control system, the time (miles, years, or hours) between component change or refill must be reported with the results of the demonstration.

(i) Performance Requirements. The diesel emission control strategy must meet the following requirements throughout the durability demonstration period:

(1) If the applicant claims a percent emission reduction, the percent emission reduction must meet or exceed the initial verified percent emission reduction level.

(2) If the applicant claims to achieve 0.01 g/bhp-hr for PM, the PM emission level must not exceed 0.01 g/bhp-hr.

(3) The diesel emission control system must maintain its physical integrity. Its physical structure and all of its components not specified for regular replacement during the durability demonstration period must remain intact and fully functional.

(4) The diesel emission control strategy must not cause any damage to the engine, vehicle, or equipment.

(5) The backpressure caused by the diesel emission control strategy should not exceed the engine manufacturer's specified limits, or must not result in any damage to the engine.

(6) No maintenance of the diesel emission control system beyond that specified in its owner's manual will be allowed without prior Executive Officer approval.

(j) Conditional Verification for Off-road and Stationary Applications. If the Executive Officer determines that the diesel emission control strategy is technologically sound and appropriate for the intended application, he may grant a conditional verification for off-road and stationary applications upon completion of 33 percent of the minimum durability period. In making this determination, the Executive Officer may consider all relevant information including, but not limited to, the following: the design of the diesel emission control system, filter and catalyst substrates used, similarity of the system under consideration to verified systems, the intended application of the diesel emission control system, other relevant testing data, and field experience. Where conditional verification is granted, full verification must be obtained by completing the durability testing and all other remaining requirements. These requirements must be completed within a year after receiving conditional verification if laboratory testing is chosen and within three years if field testing is chosen. For the aforementioned time periods, conditional verification is equivalent to verification for the purposes of satisfying the requirements of in-use emission control regulations.

(k) Failure During the Durability Demonstration Period. If the diesel emission control strategy fails to maintain its initial verified percent emission reduction or emission level for any reason, the Executive Offi-

cer may downgrade the strategy to the verification level which corresponds to the lowest degraded performance observed in the durability demonstration period. If the diesel emission control strategy fails to maintain at least a 25 percent PM reduction or 15 percent NO_x reduction at any time during the durability period, the diesel emission control strategy will not be verified. If the diesel emission control strategy fails in the course of the durability demonstration period, the applicant must submit a report explaining the circumstances of the failure within 90 days of the failure. The Executive Officer may then determine whether to deny verification or allow the applicant to correct the failed diesel emission control strategy and either continue the durability demonstration or begin a new durability demonstration.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsection (d)(1), redesignation of portions of subsection (g) as new subsections (g)(1) and (g)(3) and new subsections (g)(2)–(g)(2)(D) filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).
3. Amendment of subsections (b) and (g) filed 2–9–2007; operative 2–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2705. Field Demonstration Requirements.

(a) The applicant must demonstrate compatibility of its diesel emission control strategy in the field with at least one vehicle or piece of equipment belonging to the initial emission control group for which it seeks verification. Note that if the durability demonstration selected by the applicant is in-field, it may be used to satisfy the field demonstration requirement for that emission control group.

(1) Compatibility is determined by the Executive Officer based on the third-party statement (see part (c) of this section) and any other data submitted including backpressure data. A diesel emission control strategy is compatible with the chosen application if it:

- (A) Does not cause damage to the engine or engine malfunction
- (B) Does not cause backpressure outside of the engine manufacturer's specified limits or which results in any damage to the engine
- (C) Does not hinder or detract from the vehicle or equipment's ability to perform its normal functions
- (D) Is physically intact and well mounted with no signs of leakage or other visibly detectable problems

(2) To determine whether additional emission control groups require separate field demonstrations, the Executive Officer may consider all relevant information, including, but not limited to existing field experience and engineering justification and analysis.

(b) Test Period.

(1) For on- and off-road engines, and stationary engines not used in emergency generators, a vehicle or piece of equipment must be operated with the diesel emission control strategy installed for a minimum period of 200 hours or 10,000 miles, whichever occurs first.

(2) For stationary emergency standby engines, the emission control system must remain in the field for at least 30 days and operation must include:

- (A) 12 maintenance runs (allowing for engine cool down between runs), and
- (B) a minimum of two separate 4 hour sessions where the engine is operated under load (allowing engine cool down between runs).

(c) Reporting Requirements.

(1) For strategies that include exhaust aftertreatment, engine backpressure and exhaust temperature must be measured and recorded over the entire demonstration period. The applicant may propose a sampling scheme for approval by the Executive Officer. The sampling scheme may include, but is not limited to, logging only significant changes in a parameter, averages, or changes above some threshold value. Data must be sub-

mitted electronically in columns as a text file or another format approved by the Executive Officer.

(2) The applicant must provide a written statement from a third party approved by the Executive Officer, such as the owner or operator of the vehicle or equipment used in the field demonstration. The written statement must be provided at the end of the test period and must describe the following aspects of the field demonstration: overall performance of the test application and the diesel emission control strategy, maintenance performed, problems encountered, and any other relevant information. The results of a visual inspection conducted by the third party at the end of the demonstration period must also be described. The description should comment on whether the diesel emission control strategy is physically intact, securely mounted, leaking any fluids, and should include any other evaluative observations.

(d) Failure During the Field Demonstration. If the diesel emission control strategy fails in the course of the field demonstration, the applicant must submit a report explaining the circumstances of the failure within 90 days of the failure. The Executive Officer may then determine whether to deny verification or allow the applicant to correct the failed diesel emission control strategy and either continue the field demonstration or begin a new field demonstration.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsection (b)(2) filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).

§ 2706. Other Requirements.

(a) Limit and Procedure for Measuring Nitrogen Dioxide (NO₂).

(1) In order for a diesel emission control strategy to be verified, effective January 1, 2007, the diesel emission control strategy must not increase emissions of NO₂ by more than an increment equivalent in mass to 30 percent of the baseline NO_x emission level. Effective January 1, 2009, the increment is reduced to 20 percent of the baseline NO_x emission level. The average of NO₂ emission levels from both the initial and final emissions tests described in Section 2704(g) is used to determine compliance with the NO₂ limit. For chassis dynamometer testing, only the NO₂ emission level over the UDDS cycle is used. The first NO₂ emission limit takes effect beginning on January 1, 2007. Diesel emission control strategies verified and installed prior to January 1, 2007 are exempted from this requirement. Those verified prior to January 1, 2007 will no longer be allowed for installation after January 1, 2007 unless they meet the appropriate NO₂ emission limit. After January 1, 2007, all diesel emission control strategies verified and installed must meet this requirement.

(2) NO₂ emissions are to be quantified by one of the following methods:

- (A) Two chemiluminescence analyzers,
- (B) A dual-path chemiluminescence analyzer, or
- (C) An alternative method approved by the Executive Officer.

(3) Analyzer configuration and determination of NO₂ emission level. For (2)(A) and (2)(B), the analyzers are to be fed from a heated and conditioned sample path. If two chemiluminescence analyzers are employed, they are to be simultaneously fed from a common heated sample path. One instrument (or path) shall be set to NO_x mode, while the second shall be set to nitric oxide (NO) mode. The instrument (or path) set to NO_x mode receives a sample that has passed through an NO₂-to-NO converter, and the resultant concentration is designated as total NO_x (NO+NO₂) in the sample. The instrument (or path) that is set to NO mode receives a sample that has not passed through the converter and quantifies the amount of NO only. The difference between NO and NO_x is the amount of NO₂ in the sample. Both NO and NO_x signals are recorded by an external data acquisition system at 1 Hertz. Using the average concentrations

of NO and NO_x over the entire test cycle, the conventional equation for calculating total NO_x (Code of Federal Regulations, Title 40, part 86, Subpart N) is then used to generate a gram per mile or g/bhp-hr value for both NO and NO_x. The resulting value for NO is then subtracted from that for NO_x to determine the gram per mile or g/bhp-hr value for NO₂. The instrument for measuring NO and NO_x must be calibrated in accordance with the NO_x calibration procedure as described in the Code of Federal Regulations, Title 40, part 86, Subpart N.

(4) Pre-conditioning requirements. If the Executive Officer determines that NO₂ emissions from a diesel emission control system could be affected by the presence of particulate matter or ash (as with a catalyzed diesel particulate filter), the system must be preconditioned according to the following procedure:

(A) Initial test (prior to service accumulation). Before conducting the initial emissions test, the unit being tested must be pre-conditioned as follows:

1. Install the unit on an engine that is an appropriate size for the unit, in a good state of maintenance, and certified to a PM standard equal to or more stringent than that of the engines in the emission control group for which the applicant seeks verification.

2. Operate the engine on one of the test cycles specified below for 25 to 30 hours. For on-road verifications, use either the FTP (hotstart) or UDDS cycle as identified in 2703(e), or the 13-mode Supplemental Emissions Test (SET) in the Code of Federal Regulations, Title 40, Part 86. For off-road and stationary verifications, use either the steady-state test cycle from ARB off-road regulations or the Nonroad Transient Cycle (NRTC) in the Code of Federal Regulations, Title 40, Part 1039. For up to 10 hours of the 25 to 30 hour period, an applicant may alternatively:

- a. Run the engine at high load such that the exhaust temperature is between 350 and 450 degrees Celsius, or

- b. Alternate back and forth between high and low loads such that the exhaust temperature never exceeds 525 degrees Celsius and the low load operation does not result in significant soot accumulation at the end of the pre-conditioning period.

3. Measure and record the backpressure on a second-by-second basis (1 Hertz) for at least the first three of the repeated test cycles (when the unit is brand new) and the last three (which follow the optional high load operation of up to 10 hours). Determine the average backpressure for each run.

4. Following the 25 to 30 hour period of operation, run three test repetitions (hot-start) of the emissions test cycle with the unit installed on the emissions test engine. If using a chassis dynamometer, run the UDDS. For each run, measure and record the backpressure on a second-by-second basis (1 Hertz) and determine the average. Proceed with the emissions test.

(B) Final test (after the service accumulation). Before conducting the final emissions test, the aged unit may need to be pre-conditioned. Run three repetitions (hot-start) of the emissions test cycle with the unit installed on the emissions test engine. If using a chassis dynamometer, run the UDDS. For each run, measure and record the backpressure on a second-by-second basis (1 Hertz) and determine the average. Proceed with the emissions test if the average backpressure is within 30 percent of the average backpressure recorded for the initial test unit. If the backpressure is too high, burn off excess soot or clean out excess ash as necessary. Run an additional repetition of the emissions test cycle (hot-start) to check if the unit complies with the backpressure criterion. Repeat as necessary.

(C) In-use compliance testing. Before conducting the first phase of in-use compliance emissions testing, the test units may need to be preconditioned. Using the required test cycle, measure and record the backpressure on a second-by-second basis (1 Hertz) of a cleaned (or pre-conditioned per subsection (A) above) reference unit installed on the engine to be used for in-use compliance testing. The reference unit must be identical to the test units. Measure and record the backpressure of the test units retrieved from the field using the same engine and test cycle as

used with the reference unit. If the backpressure of the test units is within 30 percent of the average backpressure recorded for the reference unit, they do not require preconditioning. Otherwise, the test units must be pre-conditioned following subsection (B) above. Other units may not be substituted for the selected test units.

(5) Determination of compliance with the NO₂ limit. Compliance with the NO₂ limit is based on the average incremental increase in NO₂ emissions as determined by the following equation:

$$\text{Percent Increase} = 100\% \times 0.5 \times [(NO_2^i - NO_2^b) + (NO_2^f - NO_2^b)] / NO_x^b$$

Where "NO₂" and "NO_x" stand for the mass-based emission rates of NO₂ and NO_x, respectively, as determined in subsection (a)(3) above, and the superscripts "i", "f", and "b" stand for "initial test", "final test", and "baseline test", respectively. For in-use compliance testing, the equation is:

$$\text{Percent Increase} = 100\% \times (NO_2^c - NO_2^b) / NO_x^b$$

Where the superscript "c" stands for the in-use compliance emissions testing conducted with the unit installed on the test engine.

(6) Alternative Method to Measure NO₂. The applicant may request the Executive Officer to approve an alternative method in place of the required methods. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the following:

- (A) Correlation of the alternative method with the methods stated in 2(A) or 2(B).

- (B) Body of existing data generated using the alternative method.

- (b) Limits on Other Pollutants.

- (1) Limits on non-methane hydrocarbon (NMHC) and NO_x. In order for a diesel emission control strategy to be verified, the applicant must comply with one of the following:

- (A) The diesel emission control strategy must not increase the emissions of either NMHC or NO_x by more than ten percent of the baseline emissions level as reported under section 2708 (a), or

- (B) For strategies verified prior to July 1, 2006, the applicant must provide sufficient evidence to demonstrate that the sum of NMHC and NO_x emissions with the strategy implemented does not exceed the baseline emission level sum of NMHC and NO_x as reported under Section 2708(a); or

- (C) For strategies verified on or after July 1, 2006, the applicant must provide atmospheric modeling data which indicates that widespread use of the strategy will not result in an increase in exposure of the public to ozone. The atmospheric model employed must be approved in advance by the Executive Officer.

- (2) Limit on CO.

- (A) On-road and Off-road (including portable) Engines. In order for a diesel emission control strategy to be verified, the diesel emission control strategy must not increase the emissions of CO greater than the current CO emission standards for new diesel engines adopted by the Air Resources Board and in effect at the time of verification.

- (B) Stationary Engines. In order for a diesel emission control strategy to be verified, the diesel emission control strategy must either:

1. Meet the applicable CO standard for off-road engines of the same model year and maximum rated power as specified in the Off-Road Compression-Ignition Engine Standards (title 13, CCR, section 2423). If no standards have been established for an off-road engine of the same model year and maximum rated power as the stationary diesel-fueled CI engine, then the stationary diesel-fueled CI engine shall meet the Tier 1 standard in title 13, CCR, section 2423 for an off-road engine of the same maximum rated power, irrespective of the stationary diesel-fueled CI engine's model; Or

2. Not increase the emissions of CO by more than 10 percent of the baseline emissions level as reported under section 2708(a).

- (3) Limit on Ammonia (NH₃). In order for a diesel emission control strategy to be verified, the diesel emission control strategy must not increase the emissions of ammonia to a level greater than 25 parts per mil-

lion by volume on average over any test cycle used to support emission reduction claims.

(A) Emissions of ammonia are to be quantified with a method subject to approval by the Executive Officer which employs Fourier Transform Infrared (FTIR) spectroscopy. The applicant may request the Executive Officer to approve an alternative method in place of the required method. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, consistency with the method required by U.S. EPA and the body of existing data generated using the alternative method.

(B) If an applicant does not expect its diesel emission control strategy to increase emissions of ammonia, the applicant may request that the Executive Officer waive the requirement to conduct testing for ammonia emissions. In reviewing the request, the Executive Officer may consider all relevant information including, but not limited to, the principles of operation of the diesel emission control strategy, the existence of a mechanism for ammonia formation, and published emissions data from similar technologies.

(C) The strategy must be in compliance with applicable federal, state, and local government requirements relating to ammonia emissions, which may be more stringent than the limit presented here.

(4) Other Pollutants. In order for a diesel emission control strategy to be verified, the diesel emission control strategy must not increase the emissions of other pollutants by more than ten percent of the baseline emission level as reported under Section 2708(a).

(c) Fuel Additives. Diesel emission control strategies that use fuel additives must meet the following additional requirements for verification. Fuel additives must be used in combination with a level 3 diesel particulate filter unless they can be proven to the satisfaction of the Executive Officer to be safe for use alone. In addition, the applicant must meet the following requirements:

(1) The applicant must submit the exact chemical formulation of the fuel additive.

(2) Diesel emission control systems employing the dosing of an additive in conjunction with a diesel particulate filter must include an on-board monitor of the additive level in the reservoir, integrated with the diesel particulate filter. The on-board monitor for fuel additive must include indicators to notify the operator when the additive level becomes low and when the additive tank is empty. In addition, the on-board monitor must be capable of shutting off the supply of additive, if there is a detected diesel particulate filter problem.

(3) The applicant must submit to the Executive Officer environmental, toxicological, epidemiological, and other health-related data pertaining to the fuel additive every two years. The Executive Officer will review the data, including any new information, and may revoke the verification if the data indicate that the fuel additives cause, or are linked, to negative environmental, or health consequences.

(4) The applicant must conduct additional emission tests of fuel additives.

(A) Except as provided in (B) below, the additional emission tests must follow the same test procedures, test cycles, and number of test runs as indicated in Section 2703, except that the concentration of the additive must be at least 50 ppm or 10 times higher than that specified for normal use, whichever is highest. In all other respects, the additive in the high concentration test solutions must be identical to that in the fuel additive submitted for verification.

(B) The applicant may petition to use a concentration less than that required in (A), above, if the higher dose would result in catastrophic damage to the engine. The applicant must supply information on the failure modes, and the level of the additive that would trigger failure. The applicant must also supply information and data supporting the highest feasible dose for testing. An increase in emissions is not by itself sufficient to justify a dose lower than that required in (A), above, and must be correlated to potential engine damage. After reviewing this information and any other relevant information, the Executive Officer shall determine if

testing at a lower level could be accepted, or if testing must be conducted at 50 ppm or ten times the specified dose rate as required in (A).

(5) Fuel additives must be in compliance with applicable federal, state, and local government requirements. This requirement includes, but is not limited to, registration of fuel additives with the U.S. EPA.

(d) Engine Backpressure and Monitoring. During the emission and durability testing, the applicant must demonstrate that the backpressure caused by its diesel emission control system is within the engine manufacturer's specified limits, or will not result in any damage to the engine. Furthermore,

(1) If operation of the engine with the diesel emission control system installed will result in a gradual build-up of backpressure exceeding the engine's specified limits over time (such as due to the accumulation of ash in a filter), information describing how the backpressure will be reduced must be included.

(2) All filter-based diesel emission control systems must be installed with a backpressure monitor to notify the operator when the high backpressure limit, as specified by the engine manufacturer or included in the verification, is approached. The applicant must identify the high backpressure limits of the system in its application for verification.

(3) The Executive Officer reserves the right to require monitors that identify low backpressure limits in those cases where failures leading to low backpressure are unlikely to be detected, or have the potential to cause environmental damage beyond that caused by the engine prior to being equipped with the emission control strategy (e.g., systems that introduce additives into the fuel).

(e) Fuel and Oil Requirements. The applicant must specify the fuel and lubricating oil requirements necessary for proper functioning of the diesel emission control system. The applicant must also specify any consequences that will be caused by failure to comply with these requirements, as well as methods for reversing any negative consequences.

(f) Maintenance Requirements. The applicant must identify all normal maintenance requirements for the diesel emission control system. The applicant must specify the recommended intervals for cleaning and/or replacing components. Any components to be replaced within the defects warranty period must be covered with the original diesel emission control system package or provided free of charge to the customer at the appropriate maintenance intervals. Any normal maintenance items that the applicant does not intend to provide free of charge must be approved by the Executive Officer (the applicant is not required to submit cost information for these items). In addition, the applicant must specify procedures for proper handling of spent components and/or materials cleaned from the diesel emission control system. If any such materials are hazardous, the applicant must identify them as such in the owner's manual. For filter-based diesel emission control strategies, the applicant must include procedures for resetting any backpressure monitors after maintenance procedures are completed.

(g) System Labeling.

(1) The applicant must ensure that a legible and durable label is affixed on both the diesel emission control system and the engine on which the diesel emission control system is installed except as noted in (3) below. The required labels must identify the name, address, and phone number of the manufacturer, the diesel emission control strategy family name (defined in (2) below), a unique serial number, and the month and year of manufacture. The month and year of manufacture are not required on the label if this information can be readily obtained from the applicant by reference to the serial number. A scale drawing of a sample label must be submitted with the verification application. Unless an alternative is approved by the Executive Officer, the label information must be in the following format:

Name, Address, and Phone Number of Manufacturer
 Diesel Emission Control Strategy Family Name
 Product Serial Number
 ZZ-ZZ (Month and Year of manufacture, e.g., 06-02)

(2) Diesel Emission Control Strategy Family Name. Each diesel emission control strategy shall be assigned a family name defined as below: CA/MMM/YYYY/PM#/N##/APP/XXXXX

CA: Designates a diesel emission control strategy verified in California

MMM: Manufacturer code (assigned by the Executive Officer)

YYYY: Year of verification

PM#: PM verification level 1, 1+, 2, 2+, 3, or 3+ (e.g., PM3 means a level 3 PM emission control system).

N##: NOx verified reduction level in percent, if any (e.g., N25 means NOx reduction of 25 percent).

APP: Verified application which may include a combination of On-road (ON), Off-road (OF), or Stationary (ST)

XXXXX: Five alphanumeric character code issued by the Executive Officer

(3) The applicant may request that the Executive Officer approve an alternative format or waive the requirement to affix a label to the diesel emission control system or engine as described in this section. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the informational content of an alternative label as proposed by the applicant.

(h) Additional Information. The Executive Officer may require the applicant to provide additional information about the diesel emission control strategy or its implementation when such information is needed to assess environmental impacts associated with its use.

(i) Owner's Manual. The applicant must provide a copy of the diesel emission control system owner's manual, which must clearly specify at least the following information:

(1) Warranty statement including the warranty period over which the applicant is liable for any defects.

(2) Installation procedure and maintenance requirements for the diesel emission control system.

(3) Possible backpressure range imposed on the engine.

(4) Fuel consumption penalty, if any.

(5) Fuel requirements including sulfur limit, if any.

(6) Handling and supply of additives, if any.

(7) Instructions for reading and resetting the backpressure monitor.

(8) Requirements for lubrication oil quality and maximum lubrication oil consumption rate.

(9) Contact information for replacement components and cleaning agents.

(10) Contact information to assist an end-user to determine proper ways to dispose of waste generated by the diesel emission control strategy (e.g., ash accumulated in filter-based systems). At a minimum, the owner's manual should indicate that disposal must be in accordance with all applicable Federal, State and local laws governing waste disposal.

(j) Noise Level Control. Any diesel emission control system that replaces a muffler must continue to provide at a minimum the same level of exhaust noise attenuation as the muffler with which the vehicle was originally equipped by the vehicle or engine manufacturer. Applicants must ensure that the diesel emission control system complies with all applicable noise limits contained in Part 205, Title 40, Code of Federal Regulations and California Vehicle Code, Sections 27150, 27151 and 27200 through 27207, for the gross vehicle weight rating and year of manufacture of the vehicle for which the diesel emission control strategy is intended. All diesel emission control systems must be in compliance with applicable local government requirements for noise control.

(k) Multimedia Assessment for Fuel Strategies. Diesel emission control strategies which rely on fuel changes either through use of additives or through use of alternative diesel fuels must undergo an evaluation of the multimedia effects. No diesel emission control strategy that relies on the use of an additive or an alternative fuel may be verified unless a multimedia evaluation of the additive or alternative fuel has been conducted and the California Environmental Policy Council established by Public Resources Code section 71017 has determined that such use will not cause a significant adverse impact on the public health or the environ-

ment, pursuant to Health and Safety Code section 43830.8. No person shall sell, offer for sale, supply or offer for supply an alternative fuel or a diesel fuel in California that contains an additive for use in a verified diesel emission control strategy unless such a multimedia evaluation has been conducted and resulted in a determination that use of the alternative fuel or additive will not cause a significant adverse impact on the public health and the environment. The applicant shall bear the expense of conducting the multimedia assessment.

(l) Verification of a diesel emission control strategy by the Air Resources Board does not release the applicant from complying with all other applicable legal requirements.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600, 43700 and 43830.8, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204–43205.5 and 43830.8, Health and Safety Code; Section 71017, Public Resources Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsections (a)(1) and (a)(3), redesignation of portion of subsection (b)(2) as new subsection (b)(2)(A) and new subsections (b)(2)(B)–(b)(2)(B)2. filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).
3. Amendment of subsections (a)(1) and (a)(3), new subsections (a)(4)–(a)(5), subsection renumbering, amendment of subsection (g)(2) and new subsection (l) filed 2–9–2007; operative 2–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2707. Warranty Requirements.

(a)(1) Product Warranty.

(A) The applicant must warrant to all owners, for ownership within the warranty period and lessees, for lease contracts within the warranty period, that its verified diesel emission control strategy is free from defects in design, materials, workmanship, or operation of the diesel emission control strategy which cause the diesel emission control strategy to fail to conform to the emission control performance level it was verified to, or to the other requirements of Sections 2700–2706, and 2710 for the minimum periods shown in Table 5, provided the operation of and conditions of use for the vehicle, equipment, engine, and diesel emission control strategy conform with the operation and conditions specified in the ARB's Executive Order.

(B) For each engine type and size listed in Table 5, the minimum defects warranty period is terminated by that listed event which occurs first. The warranty must cover the full repair or replacement cost of the diesel emission control strategy, including parts and labor.

(C) The warranty must also cover the full repair or replacement cost of returning engine components to the condition they were in prior to the failure, including parts and labor, for damage to the engine proximately caused by the verified diesel emission control strategy. Repair or replacement of any warranted part, including the engine, must be performed at no charge to the vehicle or engine owner. This includes only those relevant diagnostic expenses in the case in which a warranty claim is valid. The applicant may, at its option, instead pay the fair market value of the engine prior to the time the failure occurs.

(D) The repair or replacement of any warranted part otherwise eligible for warranty coverage, may be excluded from such warranty coverage if the diesel emission control strategy, vehicle or engine has been abused, neglected, or improperly maintained, and that such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

(E) Failure of the vehicle or engine owner to ensure scheduled maintenance or to keep maintenance records for the vehicle, equipment, engine, or diesel emission control strategy may, but shall not per se, be grounds for disallowing a warranty claim.

(2) Installation Warranty

(A) A person or company who installs a verified diesel emission control strategy must warrant that the installation is free from defects in workmanship or materials which cause the diesel emission control strategy to fail to conform to the emission control performance level it was ver-

ified to or the other requirements of sections 2700–2706 for the minimum time periods shown in Table 5.

(B) For each engine type and size listed in Table 5, the minimum defects warranty period is terminated by that listed event whichever occurs first. The extent of the warranty coverage provided by installers must be the same as the warranty provided by the applicant as established in subsection (a)(1) and the same exclusions must apply.

Table 5. Minimum Warranty Periods

Engine Type	Engine Size	Minimum Warranty Period
	Light heavy-duty, 70 to 170 hp, Gross Vehicle Weight Rating (GVWR) less than 19,500 lbs.	5 years or 60,000 miles
On-Road	Medium heavy-duty, 170 to 250 hp, GVWR from 19,500 lbs. to 33,000 lbs.	5 years or 100,000 miles
	Heavy heavy-duty, exceeds 250 hp, GVWR exceeds 33,000 lbs.	5 years or 150,000 miles
	Heavy heavy-duty, exceeds 250 hp, GVWR exceeds 33,000 lbs., and the truck is: 1. Typically driven over 100,000 miles per year, and 2. Has less than 300,000 miles on the odometer at the time of installation.	2 years, unlimited miles
Off-Road (includes portable engines) and Stationary	Under 25 hp, and for constant speed engines rated under 50 hp with rated speeds greater than or equal to 3,000 rpm	3 years or 1,600 hours
	At or above 25 hp and under 50 hp	4 years or 2,600 hours
	At or above 50 hp	5 years or 4,200 hours

(b)(1) Product Warranty Statement. The applicant must furnish a copy of the following statement in the owner's manual. The applicant may include descriptions of circumstances that may result in a denial of warranty coverage, but these descriptions shall not limit warranty coverage in any way.

YOUR WARRANTY RIGHTS AND OBLIGATIONS

(Applicant's name) must warrant the diesel emission control system in the application for which it is sold or leased to be free from defects in design, materials, workmanship, or operation of the diesel emission control system which cause the diesel emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Sections 2700 to 2706, and 2710, for the periods of time listed below, provided there has been no abuse, neglect, or improper maintenance of your diesel emission control system, vehicle or equipment, as specified in the owner's manuals. Where a warrantable condition exists, this warranty also covers the engine from damage caused by the diesel emission control system, subject to the same exclusions for abuse, neglect or improper maintenance of your vehicle or equipment. Please review your owner's manual for other warranty information. Your diesel emission control system may include a core part (e.g., particulate filter, diesel oxidation catalyst, selective catalytic reduction converter) as well as hoses, connectors, a back pressure monitor (if applicable), and other emission-related assemblies. Where a warrantable condition exists, (applicant's name) will repair or replace your diesel emission control system at no cost to you including diagnosis, parts, and labor.

WARRANTY COVERAGE:

For a (engine size) engine used in a(n) (type of application) application, the warranty period will be (years or hours or miles of operation) whichever occurs first. If any emission-related part of your diesel emission control system is defective in design, materials, workmanship, or operation of the diesel emission control system thus causing the diesel emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Sections 2700 to 2706, and 2710, within the warranty period, as defined above, (Applicant's name) will repair or replace the diesel emission control system, including parts and labor.

In addition, (applicant's name) will replace or repair the engine components to the condition they were in prior to the failure, including parts and labor, for damage to the engine proximately caused by the verified diesel emission control strategy. This also includes those relevant diagnostic expenses in the case in which a warranty claim is valid. (Applicant's name) may, at its option, instead pay the fair market value of the engine prior to the time the failure occurs.

OWNER'S WARRANTY RESPONSIBILITY

As the (vehicle, engine, equipment) owner, you are responsible for performing the required maintenance described in your owner's manual. (Applicant's name) recommends that you retain all maintenance records and receipts for maintenance expenses for your vehicle, engine, or equipment, and diesel emission control system. If you do not keep your receipts or fail to perform all scheduled maintenance, (applicant's name) may have grounds to deny warranty coverage. You are responsible for presenting your vehicle, equipment, or engine, and diesel emission control system to a (applicant's name) dealer as soon as a problem is detected. The warranty repair or replacement should be completed in a reasonable amount of time, not to exceed 30 days. If a replacement is needed, this may be extended to 90 days should a replacement not be available, but must be performed as soon as a replacement becomes available.

If you have questions regarding your warranty rights and responsibilities, you should contact (Insert chosen applicant's contact) at 1-800-xxx-xxxx or the California Air Resources Board at 9528 Telstar Avenue, El Monte, CA 91731, or (800) 363-7664, or electronic mail: helpline@arb.ca.gov.

(2) Installation Warranty Statement. The installer must furnish the owner with a copy of the following statement.

YOUR WARRANTY RIGHTS AND OBLIGATIONS

(Installer's name) must warrant that the installation of a diesel emission control system is free from defects in workmanship or materials which cause the diesel emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Sections 2700 to 2706. The warranty period and the extent of the warranty coverage provided by (installer's name) must be the same as the warranty provided by the product manufacturer, and the same exclusions must apply.

OWNER'S WARRANTY RESPONSIBILITY

As the vehicle, engine, or equipment owner, you are responsible for presenting your vehicle, engine, or equipment, and diesel emission control system to (installer's name) as soon as a problem with the installation is detected.

If you have questions regarding your warranty rights and responsibilities, you should contact (Insert chosen installer's contact) at 1-800-xxx-xxxx or the California Air Resources Board at 9528 Telstar Avenue, El Monte, CA 91731, or (800) 363-7664, or electronic mail: helpline@arb.ca.gov.

(c) Diesel Emission Control Strategy Warranty Report. The applicant must submit a warranty report to the Executive Officer by April 1 of each calendar year. The applicant must also submit a warranty report within 30 calendar days if warranty claims exceed four percent of the number of diesel engines using the diesel emission control strategy. The warranty report must include the following information:

(1) Annual and cumulative sales, and annual and cumulative leases of diesel emission control systems (California only).

(2) Annual and cumulative production of diesel emission control systems (California only).

(3) Annual summary of warranty claims (California only). The summary must include:

(A) A description of the nature of the claims and of the warranty replacements or repairs. The applicant must categorize warranty claims for each diesel emission control strategy family by the component(s) replaced or repaired.

(B) The number and percentage of diesel emission control systems of each model for which a warranty replacement or repair was identified.

(C) A short description of the diesel emission control system component that was replaced or repaired under warranty and the most likely reason for its failure.

(4) Date the warranty claims were filed and the engine family and application the diesel emission control systems were used with.

(5) Delineate the reason(s) for any instances in which warranty service is not provided to end-users that file warranty claims.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsections (a)(1)(C)–(D), (a)(2)(B) and (b)(1) filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).
3. Amendment of subsection (c) filed 2–9–2007; operative 2–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2708. Determination of Emissions Reduction.

(a) Calculation of Emissions Reduction. The emissions reduction verified for a diesel emission control strategy is based on the average of all valid test results before (baseline) and after (control) implementation of the diesel emission control strategy. Test results from both emission testing and durability testing are to be used. If the applicant chooses to perform either the initial or the final durability baseline test, but not both, it must use those results to calculate the reductions obtained in both the initial and final control tests.

(1) Percentage Reduction. The percentage reduction for a given pair of baseline and control test sets (where a “set” consists of all test cycle repetitions, e.g., the test set of 3 hot–start UDDS tests) is the difference between the average baseline and average control emissions divided by the average baseline emissions, multiplied by 100 percent. The average of all such reductions, as shown in the equation below, is used in the verification of a diesel emission control strategy.

$$\text{Percentage Reduction} = 100\% \times \frac{\sum (\text{baseline}_{\text{AVG}} - \text{control}_{\text{AVG}}) / \text{baseline}_{\text{AVG}}}{\text{Number of control test sets}}$$

Where:

Σ = sum over all control test sets
 $\text{baseline}_{\text{AVG}}$ or $\text{control}_{\text{AVG}}$ = average of emissions from all baseline or control test repetitions within a given set

(A) For any test set involving cold and hot starts, the time weighted emission result is to be calculated by weighting the cold–start emissions by one–seventh (1/7) and the hot–start emissions by six–sevenths (6/7) as shown below.

$$\text{Weighted Emission Result} = 1/7 * \text{average cold–start emissions} + 6/7 * \text{average hot–start emissions}$$

(B) For applicants seeking verification of NOx reductions from on–road applications, weighted test results from the additional test set described in subsection 2703(e)1(C) are included in the percentage reduction equation above. The Executive Officer shall determine an appropriate weighting factor in consultation with the applicant based on factors including, but not limited to, the amount of time that vehicles within the selected emission control group have elevated NOx emissions and the breadth of engines and applications encompassed by the emission control group.

(2) The absolute emission level is the average control emission level, as defined in the following equation:

$$\text{Absolute Emission Level} = \frac{\sum (\text{control}_{\text{AVG}})}{\text{Number of control test sets}}$$

(b) Categorization of the Diesel Emission Control Strategy. The Executive Officer shall categorize diesel emission control strategies to reduce PM and NOx emissions based on their verified emission reductions. Diesel emission control strategies that reduce NOx will be assigned their verified emission reduction in five percent increments. Diesel emission control strategies are categorized by their PM reductions as follows:

(1) Level one: the system has been demonstrated under these procedures to reduce PM emissions by at least 25 percent from the baseline emission level.

(2) Level two: the system has been demonstrated under these procedures to reduce PM emissions by at least 50 percent from the baseline emission level.

(3) Level three: the system has been demonstrated under these procedures to reduce PM emissions by at least 85 percent from the baseline emission level, or to achieve PM emission levels of 0.01 grams per brake–horsepower–hour (g/bhp–hr) or less.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).

§ 2709. In–Use Compliance Requirements.

(a) Applicability. These in–use compliance requirements apply to all diesel emission control strategies for on–road, off–road, and stationary applications. It is the responsibility of the applicant to perform in–use compliance testing for each verified diesel emission control strategy family (see Section 2706(g)(2)). Testing is required when 50 units within a given diesel emission control strategy family have been sold or leased in the California market. Applicants must submit an in–use compliance testing proposal for approval by the Executive Officer prior to the in–use compliance testing.

(b) Test Phases. In–use compliance testing, as described below in (c), (d), and (e), must be conducted at two different phases for each diesel emission control strategy family:

(1) Phase 1. Applicants must obtain and test diesel emission control systems once they have been operated for at least one year or within three months of their first maintenance, whichever comes first.

(2) Phase 2. Applicants must obtain and test diesel emission control systems once they have been operated between 60 and 80 percent of their minimum warranty period. For all systems used with heavy heavy–duty vehicles, the 60 to 80 percent window must be applied to the 5 year or 150,000 mile minimum warranty period.

(c) Selection of Diesel Emission Control Systems for Testing. For each diesel emission control strategy family and for both test phases, the Executive Officer will identify a representative sample of engines or vehicles equipped with diesel emission control systems for in–use compliance testing. The engines or vehicles equipped with the selected diesel emission control systems must have good maintenance records and may receive a tune–up or normal maintenance prior to testing. The applicant must obtain information from the end users regarding the accumulated mileage or hours of usage, maintenance records (to the extent practica-

ble), operating conditions and a description of any unscheduled maintenance that may affect the emission results.

(d) Number of Diesel Emission Control Systems to be Tested. The number of diesel emission control systems an applicant must test in each of the two test phases will be determined as follows:

(1) A minimum of four diesel emission control systems in each diesel emission control strategy family must be tested. For every system tested that does not reduce emissions by at least 90 percent of the lower bound of its initial verification level (or does not achieve an emission level less than or equal to 0.011 g/bhp-hr of PM) or does not meet the NO₂ requirement in section 2709(j), two more diesel emission control systems from the same family must be obtained and tested. The total number of systems tested shall not exceed ten per diesel emission control strategy family.

(2) At the discretion of the Executive Officer, applicants may begin by testing more than the minimum of four diesel emission control systems. Applicants may concede failure of an emission control system before testing a total of ten diesel emission control systems.

(e) In-use Compliance Emission Testing. Applicants must follow the testing procedure used for emission reduction verification as described in Section 2703 (both baseline and control tests are required), and special pre-conditioning requirements may apply (see section 2706(a)(4) for details). In addition, applicants must select the same test cycle(s) that they used to verify the diesel emission control strategy originally. If a diesel emission control strategy verified by U.S. EPA must perform engine dynamometer testing with the Heavy-duty Transient FTP cycle to fulfill the in-use compliance requirements of that program, but was verified by the Executive Officer with chassis dynamometer testing, the Executive Officer will also accept testing with the Heavy-duty Transient FTP cycle for the in-use compliance requirements of this Procedure. If a diesel emission control strategy fails catastrophically during the in-use compliance testing, the applicant must provide an investigative report detailing the causes of the failure to the Executive Officer within 90 days of the failure.

(f) The Executive Officer may approve an alternative to the in-use testing described above, on a case by case basis, if such testing is overly burdensome to either the applicant or to the end-users due to the nature of the industry the particular diesel emission control systems are used in. The proposed alternative must use scientifically-sound methodology and be designed to determine whether the diesel emission control strategy is in compliance with the emission reductions the Executive Officer verified it to.

(g) The Executive Officer may, with respect to any diesel emission control strategy sold, leased, offered for sale, or manufactured for sale in California, order the applicant or strategy manufacturer to make available for compliance testing and/or inspection a reasonable number of diesel emission control systems, and may direct that they be delivered at the applicant's expense to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any diesel emission control strategy being sold, leased, offered for sale, or manufactured for sale in California, have an applicant compliance test and/or inspect a reasonable number of units at the applicant or manufacturer's facility or at any test laboratory under the supervision of the ARB Executive Officer.

(h) In-Use Compliance Report. The applicant must submit an in-use compliance report to the Executive Officer within three months of completing each phase of testing. The following information must be reported for each of the minimum of four diesel emission control systems tested:

- (1) Parties involved in conducting the in-use compliance tests.
- (2) Quality control and quality assurance information for the test equipment.
- (3) Diesel emission control strategy family name and manufacture date.
- (4) Vehicle or equipment and type of engine (engine family name, make, model year, model, displacement, etc.) the diesel emission control system was applied to.

(5) Estimated mileage or hours the diesel emission control system was in use.

(6) Results of all emission testing.

(7) Summary of all maintenance, adjustments, modifications, and repairs performed on the diesel emission control system.

(i) The Executive Officer may request the applicant to perform additional in-use testing if the warranty claims exceed four percent of the number of diesel engines using the diesel emission control strategy, or based on other relevant information. As noted in Section 2707(c), if warranty claims exceed four percent of the number of diesel engines using the diesel emission control strategy, the applicant must notify the Executive Officer and submit a warranty report within 30 calendar days of that time.

(j) Conditions for Passing In-Use Compliance Testing. For a diesel emission control strategy to pass in-use compliance testing, emission test results must indicate that the strategy reduced emissions by at least 90 percent of the lower bound of the emission reduction level the Executive Officer originally verified it to. In addition, the strategy must meet the requirements of section 2706(a) with the exception that the strategy must not increase emissions of NO₂ by more than an increment equivalent in mass to 33 or 22 percent of the baseline NO_x emission level for systems verified under the 30 or 20 percent NO₂ limits, respectively. If the first four diesel emission control systems tested within a diesel emission control strategy family meet both of these standards, the diesel emission control strategy passes in-use compliance testing. If any of the first four diesel emission control systems tested within a diesel emission control strategy family fail to meet either of these standards, and more than four units are tested, at least 70 percent of all units tested must meet both standards for the diesel emission control strategy family to pass in-use compliance testing. For each failed test, for which the cause of failure can be attributed to the product and not to maintenance or other engine-related problems, two additional units must be tested, up to a total of ten units per diesel emission control strategy family.

(k) Failure of In-use Compliance Testing. If a diesel emission control strategy family does not meet the minimum requirements for compliance, the applicant must submit a remedial report within 90 days after the in-use compliance report is submitted. The remedial report must include:

- (1) Summary of the in-use compliance report.
- (2) Detailed analysis of the failed diesel emission control systems and possible reasons for failure.
- (3) Remedial measures to correct or replace failed diesel emission control systems as well as the rest of the in-use diesel emission control systems.

(l) The Executive Officer may evaluate the remedial report, annual warranty report, and all other relevant information to determine if the diesel emission control strategy family passes in-use compliance testing. The Executive Officer may request more information from the applicant. Based on this review, the Executive Officer may lower the verification level or revoke the verification status of a verified diesel emission control strategy family. The Executive Officer may also lower the verification level or revoke the verification status of a verified diesel emission control strategy family, if the applicant does not conduct in-use compliance testing in accordance with this section, or if the Executive Officer conducts in-use compliance testing in accordance with this section (including alternative testing) and the diesel emission control strategy family does not pass the standards in this section.

(m) The Executive Officer may lower the verification level or revoke the verification status of a verified diesel emission control strategy family if the applicant fails to observe the requirements of Sections 2706 or 2707. The Executive Officer must allow the applicant an opportunity to address the possible lowering or revocation of the verification level in a remedial report to the Executive Officer and the Executive Officer may make this determination based on all relevant information.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and

43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).
2. Amendment of subsection (b)(2) filed 12–2–2004; operative 1–1–2005 (Register 2004, No. 49).
3. Amendment of subsections (d)(1), (e) and (j) filed 2–9–2007; operative 2–9–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 6).

§ 2710. Verification of Emission Reductions for Alternative Diesel Fuels.

(a) Applicability. This section applies to in-use strategies that include emission reductions from the use of alternative diesel fuels. The requirements in this section are in addition to those in Sections 2700–2709, except as specifically noted.

(b) Alternative Diesel Fuel Proposed Test Protocol. The applicant must submit a proposed test protocol which includes:

(1) References to criteria pollutant and toxic emissions sampling and analyses that are consistent with the requirements of Section 2703.

(2) Description and Parameters of Alternative Diesel Fuels.

(A) The applicant must describe the applicability of the alternative diesel fuel to diesel engines and identify any requirements for engine or fuel system modifications.

(B) The applicant must provide a general description of the alternative diesel fuel that includes the fuel type, fuel characteristics, fuel properties, fuel formulation, and chemical composition. The applicant for the candidate alternative diesel fuel must specify the following:

1. Identity, chemical composition, and concentration of fuel additives
2. Sulfur content
3. Total aromatic content
4. Total polycyclic aromatic hydrocarbon content
5. Nitrogen content
6. API gravity (density)
7. Distillation temperature distribution information, initial boiling point (IBP),
8. 10% recovered (REC), 50% REC, 90% REC, and end point (EP)

(C) The applicant must provide information on the candidate alternative diesel fuel that may affect engine performance, engine wear, and safety. The applicant for the candidate alternative diesel fuel must specify the following:

1. Viscosity (engine performance)
2. Fuel volatility (engine performance)
3. Ignition quality (engine performance)
4. Fuel operating temperatures (engine performance)
5. Engine wear tendencies (engine wear)
6. Corrosion (engine wear)
7. Lubricity (engine wear)
8. Fuel flash point (safety)

(D) The applicant must provide information on the candidate alternative diesel fuel to determine if there are chemicals in the fuel that may increase levels of toxic compounds or potentially form toxic compounds in the fuel. The applicant will conduct an analysis for metals and elements by a method specified by the applicant. Copper, iron, cerium, lead, cadmium, chromium, and phosphorus must be included in the analysis. Additional analysis for other toxic compounds may be required after reviewing the chemical composition of the candidate alternative diesel fuel and its additives. (Note: For alternative diesel fuels that are in part comprised of standard diesel fuel, such as emulsified diesel fuels, a toxic analysis of the diesel base fuel is not necessary).

(E) With the approval of the Executive Officer or designee, an applicant may also specify different fuel parameters and test methods that are appropriate to better characterize the candidate alternative diesel fuel.

(3) Upon review of the proposed test protocol, the Executive Officer or designee may require additional fuel components, parameters, and specifications to be determined. Reference Fuel Specifications. The ref-

erence fuel used in the comparative testing described in Section 2710(d) allows the applicant three options in selecting a reference fuel.

(4)(A) Option (1). The first option is to use a 10 percent aromatic California diesel reference fuel. The reference fuel must be produced from straight-run California diesel fuel by a hydroaromatization process and must have the characteristics set forth below under "Reference Fuel Specifications" (the listed ASTM methods are incorporated herein by reference).

(B) Option (2). The second option is to make the reference fuel from a custom blend using a "like" California diesel fuel made from a straight-run California diesel fuel by a hydroaromatization process and must have the characteristics set forth below under "Reference fuel Specifications. In addition the reference fuel must exhibit the bell shaped distillation curve characteristic of diesel fuel and no chemical feedstocks or pure chemicals such as solvents can be used as blend stocks. Details of the source and specifications of the feedstocks must be provided in the protocol and the processes and diesel feedstocks used to make the reference fuel must be reviewed and approved by the Executive Officer.

(C) Option (3). For alternative diesel fuels that contain diesel as a base fuel such as emulsified diesel fuel and 80:20 biodiesel fuel (80 percent diesel/20 percent biodiesel), the base diesel fuel used to make the alternative diesel fuel can be used in place of the 10 percent aromatic California diesel reference fuel. The base diesel fuel must be a certified, commercially available diesel fuel sold in California. The sulfur content, aromatic hydrocarbon content, polycyclic aromatic hydrocarbon content, nitrogen content, natural cetane number, API gravity, viscosity, and distillation specifications must be provided for the base diesel fuel used for the reference fuel.

Table 6. Fuel Test Methods and Reference Fuel Specifications

<i>Property</i>	<i>General Reference Fuel Specifications</i>	<i>ASTM Test Method</i>
Sulfur Content	500 ppm max	D5453–93
Aromatic Hydrocarbon content, Vol. %	10% max	D5186–96
Polycyclic Aromatic Hydrocarbon content %	1.4% max	D5186–96
Nitrogen Content	10 ppm max	D4629–96
Natural Cetane Number	48 min	D613–84
Gravity, API	33–39	D287–82
Viscosity at 40°, cSt	2.0–4.1	D445–83
Flash point, °F	130	D93–80
Distillation, °F		D86–96
IBP	340–420	
10%REC	400–490	
50%REC	470–560	
90%REC	550–610	
EP	580–660	

(5) The identity of the entity proposed to conduct the tests described in Section 2710(d);

(6) Reasonably adequate quality assurance and quality control procedures;

(7) Notification of any outlier identification and exclusion procedure that will be used, and

(8) A demonstration that any procedure meets generally accepted statistical principles.

(c) Application for Alternative Diesel Fuel Emission Reduction Verification. Upon completion of the tests, the applicant may submit an application for verification to the Executive Officer or designee. The application must follow the format in Section 2702(d) as applicable and include:

- (1) The approved test protocol,
- (2) All of the test data,

(3) Copy of the complete test log prepared in accordance with Section 2710(d)(3)(B).

(4) A demonstration that the candidate alternative diesel fuel meets the requirements for verification set forth in this section, and

(5) Such other information as the Executive Officer or designee may reasonably require.

(d) Emissions Test Procedures for Particulates, Nitrogen Oxides, Soluble Organic Fraction, Hydrocarbons, and Toxics.

(1) Criteria pollutants test requirements. In each test of a fuel, exhaust emissions of NO_x, NO₂ (pursuant to Section 2706(a)(2)), total PM, carbon monoxide, carbon dioxide, and hydrocarbons must be measured. In addition, for each test the soluble organic fraction (SOF) of the particulate matter in the exhaust emissions must be determined in accordance with the Air Resources Board's "Test Method for Soluble Organic Fraction (SOF) Extraction" dated April 1989, which is incorporated herein by reference.

(2) Toxic emissions sampling and analysis requirements. Exhaust emissions of formaldehyde, acetaldehyde, benzene, toluene, ethyl benzene, xylenes, butadiene, and polycyclic aromatic hydrocarbons are to be sampled and analyzed as specified in Table 7 for a minimum of three test samples collected from separate emission test repetitions.

Table 7. Toxics sampling and analysis ^{1,2}

Toxics	Method
Formaldehyde and acetaldehyde	ARB SOP 104
Benzene toluene, ethyl benzene, xylenes, and butadiene	ARB SOP 102/103
Polycyclic aromatic hydrocarbons	ARB method 429 ³

¹Additional toxics sampling may be required depending on the chemical composition of the additives in the fuel.

²At a minimum tunnel blanks are required prior to and after conducting toxic emissions sampling for the reference fuel and candidate alternative diesel fuel.

³PAH sampling consists of a filter to collect particulate PAHs and XAD resin to collect volatile PAHs. The sampling protocol needs to be included in the test protocol. Analysis of the samples will be performed by ARB method 429.

(3) Emission test requirements and test sequence for emissions test program.

(A) The applicant must follow the emission test requirements from Section 2703 subsections (a), (b), (k), (l), (m), and (n). For all on-road,

off-road, and stationary diesel vehicles and equipment, the applicant must conduct engine dynamometer testing using the Federal Test Procedure (FTP) Heavy-duty Transient Cycle, in accordance with the provisions in the Code of Federal Regulations, Title 40, Part 86, Subpart N. The applicant must use one of the following test sequences:

1. If both cold start and hot start exhaust emission tests are conducted, a minimum of five exhaust emission tests must be performed on the engine with each fuel, using either of the following sequences, where "R" is the reference fuel and "C" is the candidate alternative diesel fuel: RC RC RC RC (and continuing in the same order) or RC RC RC RC RC (and continuing in the same order). The engine mapping procedures and a conditioning transient cycle must be conducted with the reference fuel before each cold start procedure using the reference fuel. The reference cycle used for the candidate alternative diesel fuel must be the same as determined for the reference fuel.

2. If only hot start exhaust emission tests are conducted, one of the following test sequences must be used throughout the testing, where "R" is the reference fuel and "C" is the candidate alternative diesel fuel:

Alternative 1: RC RC RC RC (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 2: RR CC RR CC (continuing in the same order for a given calendar day; a minimum of twenty individual exhaust emission tests must be completed with each fuel)

Alternative 3: RRR CCC RRR CCC (continuing in the same order for a given calendar day; a minimum of twenty-one individual exhaust emission tests must be completed with each fuel)

For all alternatives, an equal number of tests must be conducted using the reference fuel and the candidate alternative diesel fuel on any given calendar day. At the beginning of each calendar day, the sequence of testing must begin with the fuel that was tested at the end of the preceding day. The engine mapping procedures and a conditioning transient cycle must be conducted at the beginning of each day for the reference fuel. The reference cycle used for the candidate alternative diesel fuel must be the same as determined for the reference fuel.

3. Alternative test sequence. The applicant may request the Executive Officer to approve an alternative test sequence in place of the above test sequences. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the following:

- (i.) Statistical and scientific equivalence to 1. or 2., and
- (ii.) Body of existing test data using the alternative test sequence.

[The next page is 339.]

(B) The applicant must submit a test schedule to the Executive Officer or designee at least one week prior to commencement of the tests. The test schedule must identify the days on which the tests will be conducted, and must provide for conducting test consecutively without substantial interruptions other than those resulting from the normal hours of operations at the test facility. The Executive Officer or designee should be permitted to observe any tests. The party conducting the tests must maintain a test log which identifies all tests conducted, all engine mapping procedures, all physical modifications to or operational tests of the engine, all recalibrations or other changes to the test instruments, and all interruptions between tests, and the reason for each interruption. The party conducting the tests or the applicant must notify the Executive Officer or designee by telephone and in writing of any unscheduled interruption resulting in a test delay of 48 hours or more, and the reason for such delay. Prior to restarting the test, the applicant or person conducting the tests must provide the Executive Officer or designee with a revised schedule for the remaining tests. All tests conducted in accordance with the test schedule, other than any test rejected in accordance with an outlier identification and exclusion procedure included in the approved test protocol, must be included in the comparison of emissions.

(C) Upon approval of the Executive Officer or designee, the applicant may specify an alternative test sequence to Section 2710(d)(3)(A). The applicant must provide the rationale demonstrating that the alternative test sequence better characterizes the average emissions difference between the reference fuel and the alternative diesel fuel.

(e) Durability.

(1) The applicant must meet the durability demonstration requirements in Section 2704 subsections (a), (b), (d), (e), and (h) with the exceptions of emission testing and fuel requirements. If the applicant's diesel emission control strategy includes hardware components in addition to the alternative diesel fuel, then the emission testing requirements in Section 2704 apply.

(2) The applicant must provide test data obtained after completion of the service accumulation, described in Section 2704(d), showing that the candidate alternative diesel fuel does not adversely affect the performance and operation of diesel engines or cause premature wear or cause damage to diesel engines. This must include but is not limited to lubricity, corrosion, and damage to engine parts such as fuel injector tips. The applicant must provide data showing under what temperature and conditions the candidate alternative diesel fuel remains stable and usable in California.

(f) Multimedia Assessment for Fuel Strategies. Diesel emission control strategies which rely on fuel changes either through use of additives or through use of alternative diesel fuels must undergo an evaluation of the multimedia effects. No diesel emission control strategy that relies on the use of an additive or an alternative fuel may be verified unless a multimedia evaluation of the additive or alternative fuel has been conducted and the California Environmental Policy Council established by Public Resources Code section 71017 has determined that such use will not cause a significant adverse impact on the public health or the environment, pursuant to Health and Safety Code section 43830.8. No person shall sell, offer for sale, supply or offer for supply an alternative fuel or a diesel fuel in California that contains an additive for use in a verified diesel emission control strategy unless such a multimedia evaluation has been conducted and resulted in a determination that use of the alternative fuel or additive will not cause a significant adverse impact on the public health and the environment. The applicant shall bear the expense of conducting the multimedia assessment.

(g) Other Requirements.

(1) The candidate alternative diesel fuel must be in compliance with applicable federal, state, and local government requirements.

(2) Applicants planning to market fuel in California must contact and register with the U.S. EPA and the California Dept. of Food and Agriculture. Contacts are listed below.

OFFICE OF TRANSPORTATION AND AIR QUALITY
U.S. EPA HEAD QUARTERS
ARIEL RIOS BLVD.
1200 PENNSYLVANIA AVE, N.W.
WASHINGTON DC 20468
PHONE (202) 564-9303

PETROLEUM PRODUCTS/WEIGHMASTER ENFORCEMENT BRANCH
DIVISION OF MEASUREMENT STANDARDS
DEPT. OF FOOD AND AGRICULTURE
8500 FRUITRIDGE ROAD, SACRAMENTO CA 95826
PHONE (916) 229-3000

(3) Additional government agencies such as the California Energy Commission, Area Council Governments, and Local Air Quality Management Districts may be contacted to facilitate the marketing of alternative diesel fuel in California.

(h) Conditional Verification.

(1) The Executive Officer may grant a conditional verification for an alternative diesel fuel for off-road or stationary application only after the conditional verification for on-road application is granted. The Executive Officer may grant a conditional verification for on-road application if the applicant meets the following conditions:

(A) The applicant has applied for U.S. EPA registration of the alternative diesel fuel;

(B) The U.S. EPA has granted a research and development exemption or otherwise granted permission for the alternative diesel fuel to be used, and;

(C) All relevant requirements of Sections 2700–2710 have been met with the exception that registration with the U.S. EPA has not been completed.

(D) Multimedia Assessment as specified in Section 2710 (f).

(2) Where conditional verification is granted, full verification must be obtained by completing the U.S. EPA registration process within a year after receiving conditional verification. During that year, conditional verification is equivalent to verification for the purposes of satisfying the requirements of in-use emission control regulations.

(i) Extensions of an Existing Verification. See Section 2702 (g). The applicant may request the Executive Officer to approve a reduced number of emission tests when extending an existing verification to other emission control groups. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the following:

(1) Variability in the test results used for the existing verification,

(2) Characteristics of the duty cycles in the other emission control groups,

(3) The mechanism by which the alternative diesel fuel reduces emissions, and

(4) Body of existing test data.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600, 43700 and 43830.8, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204–43205.5 and 43830.8, Health and Safety Code; Section 71017, Public Resources Code, and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 5–12–2003; operative 6–11–2003 (Register 2003, No. 20).

Chapter 15. Additional Off-Road Vehicles and Engines Pollution Control Requirements

Article 1. Evaporative Emission Requirements for Off-Road Equipment

§ 2750. Purpose.

The purpose of these regulations is to:

(a) Set performance standards for gasoline-fueled, spark-ignited small off-road engines rated at equal to or less than 19 Kilowatts, and equipment utilizing such engines;

(b) In order to give manufacturers maximum flexibility, compliance programs are available beginning the 2006 model year. The two options are identified in section 2754(a) and in section 2754(b), and assume running loss emissions are controlled during engine operation, which result in greater evaporative emissions reductions. Manufacturers must select one option for each evaporative family they certify.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New chapter 15 (article 1), article 1 (sections 2750-2773) and section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2751. Applicability.

(a) For the model year engines or equipment subject to this Article, no person shall:

- (1) manufacture for sale or lease for use or operation in California, or
- (2) sell or lease or offer for sale or lease for use or operation in California, or
- (3) deliver or import into California for introduction into commerce in California, without an evaporative emission control system that has been certified and labeled pursuant to this Article.

(b) This Article does not apply to:

- (1) engines or equipment that use compression-ignition engines, or engines or equipment powered with compressed natural gas (CNG), propane, liquefied petroleum gas (LPG), or liquefied natural gas (LNG).
- (2) engines or equipment that use small off-road engines manufactured in California for sale and use outside of California.
- (3) snowthrowers or ice augers.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2752. Definitions.

(a) The definitions in section 2401(a), and section 2403(b), Chapter 9, Title 13 of the California Code of Regulations, apply to this Article with the following additions:

- (1) "Coextruded Multilayer Fuel Tank" means a multi-layered high-density polyethylene fuel tank with a continuous nylon or ethylene vinyl alcohol layer(s) present within the walls of the tank.
- (2) "CP-901" means "Certification and Approval Procedures for Small Off-Road Engine Fuel Tanks", adopted July 26, 2004.
- (3) "CP-902" means "Certification and Approval Procedures for Evaporative Emission Control Systems", adopted July 26, 2004.
- (4) "Diurnal Emissions" means evaporative emissions resulting from the daily cycling of ambient temperatures and include resting losses, and permeation emissions, as measured according to test procedures incorporated in this Article.

(5) "Equivalent Fuel Tank" means a metal or coextruded multilayer fuel tank used on a small off-road engine. Fuel tanks approved per section 2767 are also deemed equivalent fuel tanks. The volume of an equivalent tank must be less than or equal to a nominal tank. An equivalent tank must be functionally equivalent to a nominal tank.

(6) "Equivalent Fuel Line" means a fuel line that permeates less than or equal to 15 grams per square meter per day when tested per SAE J1737 at 40°C or higher, and ambient pressure using Phase II California Reformulated Certification (CERT) fuel, CE10, CM10, CM15, or Indolene.

(7) "Evaporative Emissions" means emissions that result from the evaporation of reactive organic gases into the atmosphere.

(8) "Evaporative Emission Control System" means the fuel system and associated components that are designed to control evaporative emissions.

(9) "Evaporative Family" means a class of off-road engines or equipment that are grouped together based on similar fuel system characteristics

as they relate to evaporative emissions. For equipment less than or equal to 80 cc, the engine family and evaporative family are considered equivalent. For integrated equipment greater than 80 cc the engine family and the evaporative family may be considered equivalent at the manufacturer's discretion.

(10) "Evaporative Model Emission Limit (EMEL)" means the diurnal emissions level declared by the manufacturer for a model within an evaporative family. The declared level must be based on diurnal emissions test results for a worst case model of engine or equipment within the evaporative family, obtained by following Test Procedure 902.

(11) "Evaporative Family Emission Limit Differential (EFELD)" means the emission level differential between the effective standard level for a specific model and the EMEL declared for the model and is applicable to the entire evaporative family represented by the model.

(12) "Executive Order of Certification" means an order signed by the Executive Officer that documents certification of evaporative emission control systems on engines or equipment to the performance standards of this Article.

(13) "Holder" means the person to whom the Executive Order of Certification is issued.

(14) "Hot Soak Emissions" means evaporative emissions that occur for the one-hour period following the termination of engine operation.

(15) "Hydrocarbon" means a molecule composed primarily of carbon and hydrogen atoms.

(16) "Manufacturer" means either an engine manufacturer or equipment manufacturer.

(17) "Nominal Capacity" means the volume of fuel indicated by the manufacturer that represents the maximum recommended fill level.

(18) "Nominal Fuel Tank" means the fuel tank that is used by an engine or equipment manufacturer to certify the evaporative emissions control system on a small off-road engine.

(19) "Nominal Fuel Line" means the fuel line that is used by an engine or equipment manufacturer to certify the evaporative emissions control system on a small off-road engine.

(20) "Permeation Emissions" means evaporative emissions that result from reactive organic gas molecules penetrating through the walls of fuel system components and evaporating on outside surfaces, as measured by test procedures incorporated in this Article. Permeation emissions are a component of diurnal emissions, as measured by test procedures incorporated in this Article.

(21) "Permeation Rate" means the total mass of reactive organic gas molecules passing through the internal surface area of a fuel tank in a 24-hour period, as measured by test procedures incorporated in this Article.

(22) "Person" means any individual, association, partnership, limited liability company, or corporation.

(23) "Reactive Organic Gases (ROG)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, and excluding the following:

	CAS *
(1) methane;	[74-82-8]
methylene chloride (dichloromethane);	[75-09-2]
1,1,1-trichloroethane (methyl chloroform);	[71-55-6]
trichlorofluoromethane (CFC-11);	[75-69-4]
dichlorodifluoromethane (CFC-12);	[75-71-8]
1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);	[76-13-1]
1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);	[76-14-2]
chloropentafluoroethane (CFC-115);	[76-15-3]
chlorodifluoromethane (HCFC-22);	[75-45-6]
1,1,1-trifluoro-2,2-dichloroethane (HCFC-123);	[306-83-2]
2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);	[2837-89-0]
1,1-dichloro-1-fluoroethane (HCFC-141b);	[1717-00-6]
1-chloro-1,1-difluoroethane (HCFC-142b);	[75-68-3]
trifluoromethane (HFC-23);	[75-46-7]
pentafluoroethane (HFC-125);	[354-33-6]
1,1,2,2-tetrafluoroethane (HFC-134);	[359-35-3]
1,1,1,2-tetrafluoroethane (HFC-134a);	[811-97-2]
1,1,1-trifluoroethane (HFC-143a);	[420-46-2]

	CAS *
1,1-difluoroethane (HFC-152a);	[75-37-6]
cyclic, branched, or linear completely methylated siloxanes;	[various]
the following classes of perfluorocarbons:	[various]
(A) cyclic, branched, or linear, completely fluorinated alkanes;	
(B) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;	
(C) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and	
(D) sulfur-containing perfluorocarbons with no unsaturations and with the sulfur bonds only to carbon and fluorine; and	
(2) the following low-reactive organic compounds which have been exempted by the U.S. EPA:	
acetone;	[67-64-1]
ethane;	[74-84-0]
methyl acetate;	[79-20-9]
perchloroethylene; and	[127-18-4]
parachlorobenzotrifluoride (1-chloro-4-trifluoromethyl benzene).	[98-56-6]

* NOTE: Chemical Abstract Service (CAS) identification numbers have been included in brackets [] for convenience.

(24) "Running Loss Emissions" means evaporative emissions from a small off-road engine that occur while it is being operated.

(25) "SHED" (Sealed Housing Evaporative Determination) means the enclosure and associated equipment used to determine evaporative emissions. A SHED must meet the design specifications in 40 Code of Federal Regulations Part 86.107-96.

(26) "Small Production Volume Tank Exemption applies to all models with identical tanks produced by an engine or equipment manufacturer with total California sales of 400 or fewer units per year.

(27) "Structurally Integrated Nylon Fuel Tank" means a fuel tank having the following characteristics:

(A) The fuel tank is made of a polyamide material which:

1. does not contain more than 50 percent by weight of a reinforcing glass fiber and/or mineral filler; and
2. does not contain more than 10 percent by weight of impact modified polyamides which use rubberized agents such as EPDM rubber

(B) The fuel tank must be:

1. used in a chainsaw; or
2. of a pre-existing design that is substantially similar to a current production fuel tank used by the same manufacturer that is integrated into a major structural member where, as a single component, the fuel tank material is a primary structural/stress member for other major components such as the engine, transmission or cutting attachment.

(28) "TP-901" means "Test Procedure for Determining Permeation Emissions from Small Off-Road Engine Equipment Fuel Tanks," adopted July 26, 2004.

(29) "TP-902" means "Test Procedure for Determining Diurnal Evaporative Emissions from Small Off-Road Engines," adopted July 26, 2004.

(30) "Total Hydrocarbons" means the total mass of open chain and cyclic hydrocarbon molecules, as measured under the test procedures incorporated in this Article.

(31) "Walk-Behind Mower" means a grass-cutting product which has:

(A) A Class I vertical shaft engine that includes a blade brake mechanism that provides for compliance with ANSI B71.1 requirements;

(B) A horizontally fixed blade and/or string directly attached to the crankshaft of a vertical shaft engine.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2753. Certification Requirements and Procedures.

(a) Certification

Small off-road engines or equipment that use small off-road engines subject to this Article must contain evaporative emission control systems. For engines less than or equal to 80 cc, the evaporative emission

control system consists of the fuel tank only. The evaporative emission control systems must be certified annually to the performance-based or system design standards set out in sections 2754 through 2757 by the Air Resources Board. An Executive Order of Certification for such engines or equipment must be obtained prior to the sale or lease, or the offering for sale or lease, for use or operation in California or the delivery or importation for introduction into commerce in California. Engine manufacturers or equipment manufacturers may apply for an Executive Order of Certification. Applicants must follow the certification procedures outlined in CP-901, adopted July 26, 2004 or CP-902, July 26, 2004, as applicable, which are incorporated by reference herein.

(b) Certification of Complete Systems

Certification of a complete evaporative emission control system is required. An applicant for certification of an evaporative emission control system that complies with the diurnal standards specified in section 2754(a), or section 2757 must submit diurnal evaporative emission data for an engine or equipment that exhibits the highest evaporative emission characteristics for an evaporative family as part of the certification application.

(1) An applicant for certification of an evaporative emission control system that complies with the fuel hose permeation standard specified in section 2754(a) must submit fuel hose permeation data for model year 2006 equipment as part of the certification application. Alternatively, manufacturers may submit the Executive Order number approving the component pursuant to section 2767.1 of this Article.

(2) An applicant for certification of an evaporative emission control system that complies with the design standards specified in section 2754(b) must submit fuel tank permeation data, fuel hose permeation data, and carbon canister butane working capacity data or equivalent for an engine or equipment that exhibits the highest evaporative emission characteristics for an evaporative family as part of the certification application. Alternatively, manufacturers may submit the Executive Order number approving the component pursuant to section 2767.1 of this Article.

(3) An applicant for certification of an evaporative emission control system that complies with the fuel tank permeation standards specified in section 2755 must submit fuel tank permeation data that exhibits the highest evaporative emission characteristics for an evaporative family as part of the certification application. For engines less than or equal to 80 cc, the manufacturer need only test the tank with the most surface area for all evaporative families with the same material/process. These certification test results can then be used in the certification of other tanks/engine families constructed of the same materials/processes.

(4) TP-901, adopted July 26, 2004, is used to determine fuel tank permeation. TP-902, adopted July 26, 2004, is used to determine the evaporative emissions from engines or equipment with complete evaporative emission control systems.

(c) Modifications to the Evaporative Emission Control System

(1) Manufacturers are allowed to replace the nominal fuel tank and/or nominal fuel line of a certified evaporative emission control system that complies with the performance-based standards specified in section 2754 with an equivalent fuel tank and/or equivalent fuel line. All other evaporative emission control components in a system that complies with the performance-based standards in section 2754 must function similarly and have equivalent or better performance to those components used to certify the control system.

(2) Modification of any certified evaporative emission control systems in any manner other than replacement of the nominal tanks and/or fuel lines with equivalent fuel tanks and/or fuel lines invalidates the certification of the control system. When any evaporative emission control system's certification is invalidated due to an unapproved modification, a new certification is required per CP-902, adopted July 26, 2004.

(3) Manufacturers are required to notify the Executive Officer in writing of any modification of any certified evaporative emission control system. The notification must include a statement citing the basis for the equivalent fuel tank and/or fuel line determination.

(d) Reduced Certification Requirements

Manufacturers meeting the requirements of section 2766 of this Article must be certified annually by the Air Resources Board by submitting a Letter of Conformance. The Letter of Conformance must include, at a minimum, a statement citing the basis for complying with section 2766. An Executive Order of Certification for such engines or equipment must be obtained prior to the sale or lease, or the offering for sale or lease, or the delivery or importation for introduction into commerce in California of such engines or equipment in California.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).

§ 2754. Evaporative Emission Performance and Design Standards.

The table below specifies the evaporative emission performance and design standards for small off-road engines, and equipment that use small off-road engines, with displacements greater than 80 cc.

Table 1
Evaporative Emission Standards

Effective Date Model Year	Performance Requirements Section 2754(a) ¹	Design Requirements Section 2754(b)		
	Diurnal Standard Grams HC/day	Fuel Hose Permeation Grams ROG/m ² /day	Fuel Tank Permeation ² Grams ROG/m ² /day	Carbon Canister ³ or Equivalent Butane Working Capacity Grams HC
Displacement Category: Walk-Behind Mowers >80 cc – <225cc				
2006	None	15	None	None
2007 and 2008	1.3	N/A	N/A	N/A
2009	1.0	N/A	N/A	N/A
Displacement Category: Non Walk-Behind Mowers > 80 cc – <225cc				
2006	None	15	None	None
2007 through 2011	1.20 + 0.056*tank vol. (liters)	15	2.5	Specified in TP-902
2012	0.95 + 0.056*tank vol. (liters)	15	1.5	Specified in TP-902
Displacement Category: >225 cc				
2006 and 2007	None	15	None	None
2008	1.20 + 0.056*tank vol. (liters)	15	2.5	Specified in TP-902
2010 ⁴	None	15	None	Specified in TP-902
2013	1.20 + 0.056*tank vol. (liters)	15	1.5	Specified in TP-902

¹ For model year 2006 only, all engines and equipment with displacements > 80 cc – <225cc must comply with the fuel hose permeation design requirement in section 2754(a)(1)(C). Engines and equipment with displacements greater than or equal to 225 cc must comply with the fuel hose permeation design requirement in section 2754(a)(1)(C) for model years 2006 and 2007 only.

² Permeation emissions as determined by TP-901. Permeation emissions must be measured to two significant figures.

³ Canister design requirements and the procedure for determining butane working capacity are specified in TP-902. The Executive Officer may designate technology equivalent to carbon canisters on a case by case basis as part of the certification process per section 2766.

⁴ Applies to small production volume tanks exempted pursuant to section 2766.

(a) On or after the model year set out in Table 1 of section 2754, evaporative emissions from any small off-road engine or equipment that use small off-road engines certifying under this section 2754(a) must not exceed the performance requirements specified in Table 1 of section 2754.

(1) Manufacturers certifying engines or equipment under this section 2754(a) shall do the following:

(A) Submit a determination in the certification application that running loss emissions are controlled from being emitted into the atmosphere. The Executive Officer must approve the determination for an Executive Order of Certification to be issued. Approval by the Executive Officer is not required if actively purged carbon canisters meeting the requirements of this article are used.

(B) Test all evaporative families in accordance with TP-902.

(C) Provide test data in the certification application showing that fuel lines meet the permeation requirement of 15 grams/m²/day using test procedure SAE J1737 (Issued August 1997). The permeation testing must be conducted at 40°C, or higher, and ambient pressure using Phase II California Reformulated Certification (CERT) fuel, CE10, CM15, or Indolene. Alternatively, manufacturers can submit the Executive Order

number approving the component pursuant to section 2767.1 of this Article.

(b) On or after the model year set out in Table 1 of section 2754, evaporative emissions from any small off-road engine or equipment that use small off-road engines certifying under this section 2754(b) must not exceed the design requirements specified in Table 1 of section 2754.

(1) Manufacturers certifying engines or equipment under 2754(b) shall also do the following:

(A) Submit a determination in the certification application that the running loss emissions are controlled from being emitted into the atmosphere. The Executive Officer must approve the determination before an Executive Order of Certification can be issued. Approval by the Executive Officer is not required if actively purged carbon canisters meeting the requirements of this article are used.

(B) Provide test data in the certification application showing that the fuel tank and carbon canister meet the applicable design requirements. Provide test data in the certification application showing that fuel lines meet the permeation requirement of 15 grams/m²/day using test procedure SAE J1737 (Issued August 1997). The permeation testing must be

conducted at 40°C, or higher, and ambient pressure using Phase II California Reformulated Certification (CERT) fuel, CE10, CM15, or Indolene. Alternatively, manufacturers can submit the Executive Order number approving the component pursuant to section 2767.1 of this Article.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).
2. Change without regulatory effect adding footnote 4 to Table 1 filed 8–18–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 33).

§ 2754.1. Certification Averaging and Banking.

(a) Applicability — The averaging requirements specified in this section 2754 apply only to engines or equipment with complete evaporative emission control systems certified to the diurnal emission performance standards specified in section 2754(a) of this Article. Participation in the certification averaging and banking program is voluntary. The provisions of this section are applicable only for determining compliance with this section.

(b) General provisions.

(1) The certification averaging and banking provisions for diurnal emissions from eligible engines and equipment are described in this section.

(2) A manufacturer of an evaporative family subject to this Article may use the averaging and banking provisions of this section 2754 for the purpose of creating diurnal emissions credits.

(3) A manufacturer shall not include in its calculation of credit generation and may exclude from its calculation of credit usage, any new engines or equipment not subject to this Article.

(4) A manufacturer may include its entire inventory of an evaporative family subject to this Article in calculating the diurnal emissions credit for a given model year.

A manufacturer shall certify evaporative families to an Evaporative Family Emission Limit Differential (EFELD). The EFELD is declared by an engine or equipment manufacturer and can be positive or negative subject to the limitation in subsections (b)(6) and (b)(7) of this section, provided the sum of the manufacturer's projected balance of credits from all credit transactions for each engine class in a given model year is greater than or equal to zero, as determined under subsection (e). The EFELD is determined based on the diurnal test results, in accordance with TP-902, of the worst case model of engine or equipment within an evaporative family. The worst case model of engine or equipment is defined as the engine or equipment expected to produce the highest negative or the smallest positive EFELD within the family on a per unit basis. The EFELD is calculated by setting the EMEL for the model of engine or equipment tested at a level above the diurnal test results and then subtracting the EMEL from the applicable standard level for the model.

(A) A manufacturer of an evaporative family with a negative EFELD shall obtain positive emission credits sufficient to address the associated credit shortfall within the time period set out in (8) below.

(B) An evaporative family with a positive EFELD may generate positive emission credits for averaging, or banking, or a combination thereof.

(6) No walk-behind mowers within an evaporative family may have diurnal emissions greater than 1.5 times the applicable diurnal standard in section 2754(a).

(7) No model of Class I or Class II engine or equipment (excluding walk-behind mowers) within an evaporative family may have diurnal emissions greater than 3.0 times the applicable diurnal standard in section 2754(a).

(8) A manufacturer must demonstrate compliance with this section within 270 days of the end of the model year.

(9) No new Executive Order of Certifications will be issued to the manufacturer until a plan to make up the emissions deficit plus a penal amount of 25% of the deficit has been approved by the Executive Officer.

(10) The failure of a manufacturer to comply with the diurnal emissions standards in accordance with this section 2754 shall be grounds for revocation or suspension of the Executive Order of Certification in accordance with section 2770. A revocation under this provision shall be deemed to revoke the Executive Order of Certification *ab initio*.

(11) The failure of a manufacturer to submit the plan required in subsection (b)(9) above within 270 days of the end of a model year shall be grounds for revocation or suspension of the Executive Order of Certification in accordance with section 2770. A revocation under this provision shall be deemed to revoke the Executive Order of Certification *ab initio*.

(c) Averaging.

(1) Negative credits from evaporative families with negative EFELDs must be offset by positive credits from evaporative families having positive EFELDs, as allowed under the provisions of this section. Averaging of credits in this manner is used to determine compliance under subsection (e)(2).

(2) Subject to the provisions in subsection (b)(9), credits used in averaging for a given model year may be obtained from credits generated in the same model year by another evaporative family, or credits banked in previous model years. The restrictions of this subsection notwithstanding, credits from a given model year may be used to address credit needs of previous model year engines.

(d) Banking.

(1) Beginning with the 2007 model year, a manufacturer of an evaporative family with a positive EFELD for model year 2007 and subsequent engines and equipment may bank credits in that model year for use in averaging. Positive credits may be banked only according to the requirements of subsection (e)(1) of this section.

(2) A manufacturer may bank emission credits only after the end of the model year and after ARB has reviewed the manufacturer's end-of-year reports. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for averaging in the end-of-year report and final report.

(3) A manufacturer may use credits claimed from a previous model year that have not been approved by the ARB, in an averaging calculation pending the review of the ARB. In the event such review does not substantiate the amount of credits claimed, an Executive Order will not be issued until a plan to make up the emissions deficit has been approved by the Executive Officer.

(e) Credit Calculation and Manufacturer Compliance with Emission Standards

(1) For evaporative family, diurnal emission credits (positive or negative) are to be calculated according to the following equation and rounded to the nearest tenth of a gram. Consistent units with two significant digits are to be used throughout the equation.

EFELD = Applicable standard level — EMEL

Credits = EFELD x Sales

Where:

EMEL = the declared evaporative model emission limit for the model tested within the evaporative family in grams

EFELD = the calculated evaporative family emission limit differential in grams

Sales = the total Sales for all models within a given evaporative family

Sales or Eligible Sales means the actual or calculated sales of an evaporative family in California for the purposes of averaging and banking. Upon Executive Officer approval, an engine or equipment manufacturer may calculate its eligible sales through market analysis. Because of the multiple steps in the product distribution chain and confidential nature of sales information for many retailers and original equipment manufacturers an educated and consistent estimate with the best available documentation will be acceptable as the final report of sales in California. Actual sales are sales calculated at the end of a model year on that model year's production, rather than estimates of production. Actual sales volume is used in determining actual credits for end-of-year compliance determination.

(2) Manufacturer compliance with this section is determined on a corporate average basis at the end of each model year. A manufacturer is in compliance when the sum of positive and negative emission credits it holds is greater than or equal to zero.

(f) Certification Using Credits.

(1) For certification relying on averaging or banking of credits, a manufacturer shall:

(A) Submit a statement that the engines for which certification is requested will not, to the best of the manufacturer's knowledge, cause the manufacturer to be in noncompliance under subsection (e)(2) when all credits are calculated for all the manufacturer's engine families.

(B) Declare an EFELD for the evaporative family. The EFELD must be calculated to two significant digits.

(C) Indicate the projected number of emission credits generated/needed for this family; the projected applicable eligible sales volume and the values required to calculate credits as given in section 2754(e).

(D) Submit calculations in accordance with section 2754(e) of projected emission credits (positive or negative) based on production projections for each family.

(E)(i) If the evaporative family is projected to generate negative emission credits, state specifically the source (manufacturer/evaporative family or reserved) and quantity of the credits necessary to offset the credit deficit according to projected production.

(ii) If the evaporative family is projected to generate positive emission credits, state specifically the recipient (manufacturer/evaporative family or reserved) and quantity of the credits used to offset a deficit banked according to where the projected credits will be applied.

(2) The manufacturer may supply the information required above in section 2754(f)(1)(C), (D), and (E) by use of a spreadsheet detailing the manufacturer's annual production plans and the credits generated or consumed by each evaporative family.

(3) The manufacturer bears the burden of establishing to the satisfaction of the Executive Officer that the conditions upon which the Executive Order was issued were satisfied.

(4) Projected credits based on information supplied in the certification application may be used to obtain an Executive Order. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Executive Officer.

(g) Maintenance of records.

(1) The manufacturer shall establish, maintain, and retain the following adequately organized and indexed records for each evaporative family:

(A) ARB evaporative family identification code,

(B) Declared EFELD,

(C) Projected sales volume for the model year, and

(D) Records appropriate to establish the quantities of engines or equipment that constitute eligible sales for each evaporative family.

(2) The manufacturer shall retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy, CD-ROM, diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(3) Nothing in this section limits the Executive Officer's discretion in requiring the manufacturer to retain additional records or submit information not specifically required by this section.

(4) A manufacturer shall submit all information requested by the Executive Officer within 30 days of the date of such request.

(5) The Executive Officer may revoke or suspend the Executive Order for an evaporative family for which the manufacturer fails to retain the records required in this section or to provide such information to the Executive Officer upon request. No new Executive Orders will be issued to the manufacturer until the requested records are made available and/or a plan that describes the records to be retained as required by this section is approved by the Executive Officer.

(h) End-of-year and final reports.

(1) End-of-year and final reports must indicate the evaporative family, the actual sales volume, the values required to calculate credits as given in subsection (e), and the number of credits generated/required. Manufacturers shall also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. The report must include a calculation of credit balances to show that the credit summation for each class of engines or equipment is equal to or greater than zero.

(2) The calculation of eligible sales as defined in subsection (e)(1) of this section for end-of-year and final reports must be based on the location of the point of first retail sale (for example, retail customer or dealer) also called the final product purchase location. Upon advance written request, the Executive Officer will consider other methods to track engines for credit calculation purposes, such as shipments to distributors of products intended for sale in California.

(3)(A) End-of-year reports must be submitted within 90 days of the end of the model year to:

CHIEF, MOBILE SOURCE OPERATIONS DIVISION,
AIR RESOURCES BOARD,
9528 TELSTAR, EL MONTE, CA 91731.

(B) Unless otherwise approved by the Executive Officer, final reports must be submitted within 270 days of the end of the model year to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731.

(4) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for any engines or equipment subject to regulation under this section is a violation of this section for each engine or equipment in the evaporative family covered by the report.

(5) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by ARB. Use of projected credits pending ARB review is not permitted in these circumstances.

(6) Errors discovered by ARB or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report.

(7) If ARB or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to ARB under this section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in subsection (h) of this section. Erroneous negative credit balances may be adjusted by ARB.

(8) If within 270 days of the end of the model year, ARB review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, ARB must restore the credits for use by the manufacturer.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2754.2. Validation Study.

(a) To confirm that the performance-based evaporative certification option in section 2754(a) and the design-based evaporative certification option in section 2754(b) are achieving ARB's overall emission reduction goals, ARB will conduct an inventory validation study utilizing diurnal test data from such equipment.

(b) This validation study will be conducted at two time periods: (a) in 2010 for the years 2008, 2009 and 2010 and (b) in 2015 for the years 2013, 2014 and 2015.

(c) For each year in the study, the Executive Officer will select engine and/or equipment evaporative families and request, from the certificate holder, one production unit from each identified family from production inventory according to a method specified by the Executive Officer. Diurnal testing of each selected unit (including the complete evaporative

emission control system) will be conducted pursuant to TP-902, including pre-conditioning. Unless otherwise directed by the Executive Officer, three data points will be generated and submitted to the Executive Officer for each engine and / or equipment tested.

(d) The number of data points and equipment to be tested for this validation study is as follows:

<i>Year</i>	<i>Number of Data Points (# of Equipment Tested) for Units Certified per the Performance-Based Standards Under Section 2754(a)</i>	<i>Number of Data Points (# of Equipment Tested) for Units Certified per the Design-Based Standards Under Section 2754(b)</i>
2008	9 (3)	45 (15)
2009	3 (1)	15 (5)
2010	3 (1)	15 (5)
2013	9 (3)	45 (15)
2014	3 (1)	15 (5)
2015	3 (1)	15 (5)

(e) The costs for testing engines or equipment certified under the design-based element of the validation study are the responsibility of the certificate holder. The costs for testing engines or equipment certified under the performance-based element of the validation study are the responsibility of ARB. For each of the years 2010 and 2015, the Executive Officer will also review the annual performance-based and design-based certification submissions for that year and two prior years (i.e., 2010, 2009, 2008 for the 2010 validation and 2015, 2014, 2013 for the 2015 validation) to supplement this validation study.

(f) The Executive Officer will evaluate the data collected and, based on reasonable criteria, make a determination whether the performance-based option in section 2754(a) and the design-based option in section 2754(b) are achieving ARB's overall emission reduction goals. In making this determination, the Executive Officer will consider, among other things, whether a particular product tested is in full compliance with the underlying standards and whether the product configurations are non-representative (i.e., large tanks).

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2755. Permeation Emissions Performance Standard.

On or after the model year set out herein, fuel tanks used on equipment subject to this section must not exceed the following permeation rates:

<i>Permeation Rate Standard (grams per meter² per day)</i>		
<i>Effective Date Model Year</i>	<i>Applicability</i>	<i>Requirement¹ Tank Permeation</i>
2007	Equipment That Use Gasoline Powered Small Off-Road Engines With Displacements ≤80cc	Fuel Tank Permeation Emissions Shall Not Exceed 2.0 Grams Per Square Meter Per Day As Determined By TP-901.

¹ Permeation rate must be measured to two significant digits.

(a) Data documenting the permeation rate of fuel tanks must be included in a certification application, except for models of equipment which use "equivalent fuel tanks." Such data are not required for engines or equipment meeting the requirements of section 2766.

(b) The test procedure for determining compliance with the standards for permeation rates from small off-road engine fuel tanks are set forth in "Test Procedure for Determining Permeation Emissions from Small Off-Road Engine Equipment Fuel Tanks, TP-901," adopted July 26, 2004, which is incorporated by reference herein.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2756. Fuel Cap Performance Standard.

For the model year set out herein, no person shall sell, supply, offer for sale or manufacture for sale fuel caps for fuel tanks for small off-road engines or equipment that use small off-road engines with displacements >80 cc subject to this Article that do not meet the following performance standards unless exempted in an Executive Order issued pursuant to section 2767 of the Article:

Fuel Cap Performance Standards

(a) Fuel cap must be permanently tethered to the tank, equipment, or engine; and

(b) Fuel cap must be designed to provide physical and/or audible feedback to the user that a fuel tank vapor seal is established.

The following table defines equipment subject to the fuel cap performance standards of this section:

Equipment Subject to the Fuel Cap Performance Standards

<i>Effective Date Model Year</i>	<i>Applicability</i>
2007	Fuel Caps For ALL SORE Equipment With Small Off-Road Engines >80 cc to <225cc
2008	Fuel Caps For ALL SORE Equipment With Small Off-Road Engines ≥ 225 cc

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2757. Optional Performance Standards.

The Air Resources Board recognizes that evaporative emissions can be further reduced by incorporating advanced fuel system designs that reduce or eliminate carburetor and permeation emissions. These optional performance standards are emission targets that are more stringent than the performance standards set out in section 2754, and 2755. These optional performance standards will be part of a statewide clean air-labeling program. Upon implementation, a manufacturer certifying to an optional performance standard would be allowed to affix a "Blue Sky Label" on their equipment.

Optional Permeation Rate Standard

<i>Effective Date Model Year</i>	<i>Applicability</i>	<i>Requirement¹ Tank Permeation</i>
2007	Equipment That Use Gasoline Powered Small Off-Road Engines With Displacements <80 cc	Fuel Tank Permeation Emissions Shall Not Exceed 1.0 Grams Per Square Meter Per Day As Determined By TP-901.

¹ Permeation rate must be measured to two significant digits.

Optional Evaporative Emission Standards (Grams per 24-hour diurnal test)

<i>Effective Date Model Year</i>	<i>Applicability</i>	<i>Requirement¹ Total Hydrocarbons</i>
2007	All Equipment That Use Small Off-Road Engines With Displacements > 80 cc To < 225cc	Diurnal Emissions Shall Not Exceed 0.5 Grams Total Hydrocarbons Per Day As Determined By TP-902.
2008 and Later	All Equipment That Use Small Off-Road Engines With Displacements ≥ 225 cc	Diurnal Emissions Shall Not Exceed 1.0 Grams Total Hydrocarbons Per Day As Determined By TP-902.

¹ Diurnal emissions must be measured to two significant digits.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2758. Test Procedures.

(a) Testing to determine compliance with section 2754 of this Article shall be performed using TP-902, adopted July 26, 2004, which is incorporated by reference herein.

(b) Testing to determine compliance with section 2755 of this Article shall be performed using TP-901, adopted July 26, 2004, which is incorporated by reference herein.

(c) Testing to determine compliance with section 2757 of this Article shall be performed using TP-901, adopted July 26, 2004 to determine permeation emissions, and TP-902, adopted July 26, 2004, to determine diurnal emissions.

Test procedures referred to in this Article may be obtained from the California Air Resources Board at P.O. Box 2815, Sacramento, California 95812 or over the Internet at <http://www.arb.ca.gov>.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2759. Equipment and Component Labeling.

(a) Purpose. The Air Resources Board recognizes that certain emissions—critical and/or emissions—related parts must be properly labeled in order to identify equipment that meets applicable evaporative emission standards. These specifications require equipment and/or engine manufacturers to affix a certification label (or labels) on each production equipment (or engine, as applicable).

(b) Applicability. These specifications apply to:

(1) Engines or equipment that have been certified to the applicable evaporative emission standards in this Article.

(2) Equipment manufacturers who use an engine certified under this Article if their equipment obscures the emissions control label of such certified engine.

(c) Certification Label Content and Location.

(1) A plastic or metal label must be welded, riveted or otherwise permanently attached by the equipment or engine manufacturer to an area on the engine or equipment in such a way that it will be readily visible.

(2) In selecting an acceptable location, the possibility of accidental damage must be considered (e.g. possibility of tools or sharp instruments coming in contact with the label). Each certification label must be affixed in such a manner that it cannot be removed without destroying or defacing the label, and must not be affixed to any engine (or equipment, as applicable) component that is easily detached from the engine or equipment as applicable.

(3) The engine or equipment label information must be written in the English language and use block letters and numerals (i.e., sans serif, upper-case characters) that must be of a color that contrasts with the background of the label.

(4) The engine or equipment label must contain the following information:

(A) The label heading must read: "IMPORTANT EMISSIONS INFORMATION." When combined with an exhaust label, "EMISSIONS" relates to both exhaust and evaporative emissions.

(B) The full corporate name or trademark of the engine or equipment manufacturer.

1. A manufacturer may request approval to delete its name and trademark, and substitute the name and trademark of another manufacturer, original equipment manufacturer, or third-party distributor.

2. Such an approval does not relieve the manufacturer of complying with the requirements imposed by this Article.

(C) Identification of the evaporative emission control system. Abbreviations per SAE J1930 dated May 14, 2002, or manufacturers evaporative code as defined in the owners manual are allowed if they are submitted as part of the certification application.

(D) The date of engine manufacture (month and year) for evaporative emission control systems certified by the engine manufacturer or the date of equipment manufacture (month and year) for evaporative emission control systems certified by the equipment manufacturer.

(E) An unconditional statement of compliance with the appropriate model year(s) (for 2006 and later) California regulations; for example, "THIS ENGINE MEETS 2006 CALIFORNIA EVP EMISSION REGULATIONS FOR SMALL OFF-ROAD ENGINES".

(F) Evaporative emissions family. Attachment 1 of the Certification Procedures, CP-902, adopted July 26, 2004, contains the classification criteria for determining an evaporative family for engines greater than 80 cc. For equipment less than or equal to 80 cc, the engine exhaust family is the evaporative family.

(d) Conformance with Other Requirements. A label may state that the equipment conforms to any applicable Federal, Canadian, or European evaporative emission standards for new equipment; or any other information that the manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the engine.

(e) Label Visibility. As used in these specifications, readily visible to the average person means that a label is readable from a distance of 46 centimeters (18 inches) without any obstructions from equipment or engine parts (including all original equipment manufacturer or engine manufacturer (as applicable) available optional equipment) except for flexible parts (e.g., vacuum hoses, ignition wires) that can be moved out of the way without disconnection. Alternatively, information required by these specifications to be printed on the equipment and/or engine (as applicable) must be no smaller than 2 millimeters in height provided that no equipment or engine parts (including all manufacturer available optional equipment), except for flexible parts, obstruct the label(s).

(f) Label Durability. The labels and any adhesives used must be designed to withstand, for the equipment's useful life, typical equipment environmental conditions in the area where the labels required by this section are attached. Typical equipment environmental conditions include, but are not limited to, exposure to engine fuels, lubricants and coolants (e.g., gasoline, motor oil, water, and ethylene glycol). The engine or equipment manufacturer must submit, with its certification application, a statement attesting that its labels comply with these requirements.

(g) Sample Label Submission. Samples of all actual production labels used within an evaporative family must be submitted to the Executive Officer within thirty days after the start of production. Sample labels are not required for carry over certification unless labels are revised. Engine manufacturers must provide samples of their own applicable production labels, and samples of applicable production labels of the equipment manufacturer that are accessible to the engine manufacturers due to any direct market arrangement between such manufacturers.

(h) The Executive Officer may approve alternate label locations or may, upon request, waive or modify the label content requirements provided that the intent of these specifications is met. Such approval may be conditioned upon providing such information in the owner's manual as the Executive Officer deems appropriate.

(i) Labeling Enforcement

Use of labels that are different from those approved will be grounds for revocation or suspension of the Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2760. Defects Warranty Requirements for Small Off-Road Engines.

(a) Applicability. This section applies to small off-road engines or equipment that use small off-road engines subject to the performance standards in this Article. The warranty period begins on the date the engine or equipment is delivered to an ultimate purchaser.

(b) General Evaporative Emissions Warranty Coverage. The engine or equipment must be warranted to the ultimate purchaser and any subse-

quent owner that the evaporative emission control system when installed was:

(1) Designed, built, and equipped so as to conform with all applicable regulations; and

(2) Free from defects in materials and workmanship that causes the failure of a warranted part for a period of two years.

(c) The warranty on evaporative emissions-related parts will be interpreted as follows:

(1) Any warranted part that is not scheduled for replacement as required maintenance in the written instructions required by subsection (e) must be warranted for the warranty period defined in subsection (b)(2). If any such part fails during the period of warranty coverage, it must be repaired or replaced by the manufacturer issuing the warranty according to subsection (4) below. Any such part repaired or replaced under the warranty must be warranted for a time not less than the remaining warranty period.

(2) Any warranted part that is scheduled only for regular inspection in the written instructions required by subsection (e) must be warranted for the warranty period defined in subsection (b)(2). A statement in such written instructions to the effect of "repair or replace as necessary" will not reduce the period of warranty coverage. Any such part repaired or replaced under warranty must be warranted for a time not less than the remaining warranty period.

(3) Any warranted part that is scheduled for replacement as required maintenance in the written instructions required by subsection (e) must be warranted for the period of time prior to the first scheduled replacement point for that part. If the part fails prior to the first scheduled replacement, the part must be repaired or replaced by the manufacturer according to subsection (4) below. Any such part repaired or replaced under warranty must be warranted for a time not less than the remainder of the period prior to the first scheduled replacement point for the part.

(4) Repair or replacement of any warranted part under the warranty provisions of this article must be performed at no charge to the owner at a warranty station.

(5) Notwithstanding the provisions of subsection (4) above, warranty services or repairs must be provided at distribution centers that are franchised to service the subject engines or equipment.

(6) The owner must not be charged for diagnostic labor that leads to the determination that a warranted part is in fact defective, provided that such diagnostic work is performed at a warranty station.

(7) Throughout the evaporative emission control system's warranty period set out in subsection (b)(2), the manufacturer issuing the warranty must maintain a supply of warranted parts sufficient to meet the expected demand for such parts.

(8) Manufacturer approved replacement parts must be used in the performance of any warranty maintenance or repairs and must be provided without charge to the owner. Such use will not reduce the warranty obligations of the manufacturer issuing the warranty.

(9) The use of any add-on or modified parts will be grounds for disallowing a warranty claim made in accordance with this article. The manufacturer issuing the warranty will not be liable under this Article to warrant failures of warranted parts caused by the use of an add-on or modified part.

(10) The manufacturer issuing the warranty shall provide any documents that describe that manufacturer's warranty procedures or policies within five working days of request by the Executive Officer.

(d) A copy of the following evaporative emission warranty parts list must be included with each new engine or equipment subject to this Article, using those portions of the list applicable to the engine or equipment.

- (1) Fuel Tank*
- (2) Fuel Cap
- (3) Fuel Line
- (4) Fuel Line Fittings
- (5) Clamps**
- (6) Pressure Relief Valves**

- (7) Control Valves**
- (8) Control Solenoids**
- (9) Electronic Controls**
- (10) Vacuum Control Diaphragms**
- (11) Control Cables**
- (12) Control Linkages**
- (13) Purge Valves
- (14) Vapor Hoses
- (15) Liquid/Vapor Separator
- (16) Carbon Canister
- (17) Canister Mounting Brackets
- (18) Carburetor Purge Port Connector

*NOTE: The parts list for equipment less than or equal to 80 cc only includes the fuel tank.

**NOTE: As they relate to the evaporative emission control system.

(e) Written instructions for the maintenance and use of the evaporative emissions control system by the owner shall be furnished with each new engine or equipment subject to this Article. The instructions must be consistent with this article and applicable regulations contained herein.

(f) The documents required by subsection (d) must be submitted with the application for evaporative emission control system certification for approval by the Executive Officer. Approval by the Executive Officer of the documents required by subsection (d) is a condition of certification. The Executive Officer will approve or disapprove the documents required by subsection (d) within 90 days of the date such documents are received.

(g) The application for evaporative emission control system certification must also include a statement regarding the maintenance of the evaporative emission control system. The statement must include, but not be limited to, information on evaporative emission control system maintenance, and a maintenance schedule.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2761. Emission-Related Defect Reporting Requirements.

(a) Applicability. This section applies to 2007 model year and later small off-road engines and equipment that use small off-road engines. The requirement to report evaporative emission-related defects affecting a given class or category of engines or equipment will remain applicable for five years from the end of the calendar year in which such engines or equipment were manufactured.

(b) A manufacturer must file a defect information report whenever, on the basis of data obtained subsequent to the effective date of these regulations:

(1) The manufacturer determines, in accordance with procedures established by the manufacturer to identify either safety-related or performance defects, that a specific evaporative emission-related defect exists; and

(2) A specific evaporative emission-related defect exists in 25 or more tanks, engines or equipment of a given evaporative family manufactured in the same Executive Order or model year.

(c) No report must be filed under this section for any evaporative emission-related defect corrected prior to the sale of the affected engines or equipment to ultimate purchasers.

(d) The manufacturer must submit defect information reports to Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar, El Monte, CA 91731, not more than 15 working days after an emission-related defect is found to affect 25 or more engines or equipment certified under the same Executive Order or model year. Information required by subsection (d) of this section that is either not available within 15 working days or is significantly revised must be submitted to the Executive Officer as it becomes available.

(e) Each defect report must contain the following information:

- (1) The manufacturer's corporate name.
- (2) A description of the defect.

(3) A description of each class or category of engines or equipment potentially affected by the defect including make, model, model year, calendar year produced, and any other information required to identify the engines affected.

(4) For each class or category of engines or equipment described in response to subsection (d) of this section, the following must also be provided:

(A) The number of engines or equipment known or estimated to have the defect and an explanation of the means by which this number was determined.

(B) The address of the plant(s) at which the potentially defective engines or equipment were produced.

(5) An evaluation of the evaporative emissions impact of the defect and a description of any operational problems that a defective engine or equipment might exhibit.

(6) Available evaporative emission data that relate to the defect.

(7) An indication of any anticipated manufacturer follow-up.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2762. Voluntary Emission Recall Program.

(a) When any manufacturer initiates a voluntary emissions recall program involving 25 or more tanks, engines, or equipment, the manufacturer must submit a report describing the manufacturer's voluntary emissions recall plan as prescribed by this section within 15 working days of the date owner notification began. The report must contain the following:

(1) A description of each class or category of engines or equipment recalled including the number of tanks, engines or equipment to be recalled, the model year, the make, the model, and such other information as may be required to identify the engines recalled;

(2) A description of the specific modifications, alterations, repairs, corrections, adjustments, or other changes to be made to correct the tanks, engines, or equipment affected by the emission-related defect;

(3) A description of the method by which the manufacturer will notify engine or equipment owners and, if applicable, the method by which the manufacturer will determine the names and addresses of engine or equipment owners;

(4) A description of the proper maintenance or use, if any, upon which the manufacturer conditions eligibility for repair under the recall plan, an explanation of the manufacturer's reasons for imposing any such conditions, and a description of the proof to be required of an engine or equipment owner to demonstrate compliance with any such conditions;

(5) A description of the procedure to be followed by engine or equipment owners to obtain correction of the nonconformity. This may include designation of the date on or after which the owner can have the nonconformity remedied, the time reasonably necessary to perform the labor to remedy the defect, and the designation of facilities at which the defect can be remedied;

(6) A description of the class of persons other than dealers and authorized warranty agents of the manufacturer who will remedy the defect;

(7) When applicable, three copies of any letters of notification to be sent engine owners;

(8) A description of the system by which the manufacturer will assure that an adequate supply of parts is available to perform the repair under the plan, and that the supply remains both adequate and responsive to owner demand;

(9) Three copies of all necessary instructions to be sent to those persons who are to perform the repair under the recall plan;

(10) A description of the impact of the proposed changes on fuel consumption, performance, and safety of each class or category of engines or equipment to be recalled;

(11) A sample of any label to be applied to engines or equipment that participated in the voluntary recall campaign.

(b) The manufacturer must submit at least one report on the progress of the recall campaign. Such report must be submitted no later than 18

months from the date notification was begun and include the following information:

(1) The methods used to notify both engine or equipment owners, dealers and other individuals involved in the recall campaign;

(2) The number of engines or equipment to be affected by the emission-related defect and an explanation of the means by which this number was determined;

(3) The number of engines or equipment actually receiving repair under the plan; and

(4) The number of engines or equipment determined to be ineligible for remedial action due to a failure to properly maintain or use such engines.

(c) Send the defect report, voluntary recall plan, and the voluntary recall progress report to: Chief, Mobile Source Operations Division, Air Resources Board, 9528 Telstar Avenue, El Monte, CA, 91731.

(d) Retain the information gathered by the manufacturer to compile the reports for not less than five years from the date of the end of the model year. The manufacturer must make this information available to duly authorized officials of the ARB upon request.

(e) The filing of any report under the provisions of this section does not affect a manufacturer's responsibility to file reports or applications, obtain approval, or give notice under any provision of law.

(f) The act of filing an Emission Defect Information Report is inconclusive as to the existence of a defect subject to the warranty provided by section 2764 of this Article.

(g) A manufacturer may include on each page of its Emission Defect Information Report a disclaimer stating that the filing of a Defect Information Report pursuant to these regulations is not conclusive as to the applicability of the warranty provided by section 2764 of this Article.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2763. Ordered Recalls.

(a)(1) If the Executive Officer determines that a substantial number of any class or category of engines or equipment, or components used on such engines or equipment certified pursuant to section 2754(b), although properly maintained and used, do not meet the performance or design standards prescribed under this Article, when in actual use throughout their useful life, the Executive Officer shall immediately notify the responsible manufacturer of such nonconformity and require the manufacturer to submit a plan for remedying the nonconformity.

The manufacturer's plan shall provide that the nonconformity of any such engines or equipment that are properly used and maintained will be remedied at the expense of the manufacturer.

If the manufacturer disagrees with such determination of nonconformity, the manufacturer may appeal such determination pursuant to section 2771.

(2) Any notification required to be given by the manufacturer under subsection (a)(1) of this section with respect to any class or category of engines or equipment shall be given to dealers, ultimate purchasers, and subsequent purchasers (if known) in such manner and containing such information as required in section 2761 of this Article.

(3)(A) Prior to an ARB ordered recall, the manufacturer may perform a voluntary emissions recall pursuant to section 2762 of this Article. Such manufacturer is subject to the reporting and record keeping requirements of section 2762 subsections (c) and (d) of this Article.

(B) Once ARB determines that a substantial number of engines or equipment fail to conform to the requirements of this Article, the manufacturer will not have the option of a voluntary recall.

(b) The manufacturer bears all cost obligation a dealer incurs as a result of a requirement imposed by subsection (a) of this section. The transfer of any such cost obligation from a manufacturer to a dealer through franchise or other agreement is prohibited.

(c) Any inspection of an engine or equipment for purposes of subsection (a)(1) of this section, after its sale to the ultimate purchaser, is to be

made only if the owner of such engine or equipment voluntarily permits such inspection to be made, except as may be provided by any state or local inspection program.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2764. Evaporative Emission Control Warranty Statement.

(a) Any application for an evaporative emission control system certification must include a copy of the following statement:

CALIFORNIA EVAPORATIVE EMISSION CONTROL WARRANTY STATEMENT YOUR WARRANTY RIGHTS AND OBLIGATIONS

The California Air Resources Board (and manufacturer's name, optional) is pleased to explain the evaporative emission control system's warranty on your (year(s)) (equipment type). In California, new equipment that use small off-engines must be designed, built, and equipped to meet the State's stringent anti-smog standards. (Manufacturer's name) must warrant the evaporative emission control system on your (equipment type) for the period listed below provided there has been no abuse, neglect or improper maintenance of your equipment.

Your evaporative emission control system may include parts such as: carburetors, fuel tanks, fuel lines, fuel caps, valves, canisters, filters, vapor hoses, clamps, connectors, and other associated components. **For engines less than or equal to 80 cc, only the fuel tank is subject to the evaporative emission control warranty requirements of this section.**

A combined exhaust and evaporative warranty statement is acceptable. For combined warranty statements, "evaporative emission" can be replaced with "emissions" where "emissions" is understood to mean both exhaust and evaporative emissions.

MANUFACTURER'S WARRANTY COVERAGE:

This evaporative emission control system is warranted for two years. If any evaporative emission-related part on your equipment is defective, the part will be repaired or replaced by (manufacturer's name).

OWNER'S WARRANTY RESPONSIBILITIES:

- As the (equipment type) owner, you are responsible for performance of the required maintenance listed in your owner's manual. (Manufacturer's name) recommends that you retain all receipts covering maintenance on your (equipment type), but (manufacturer's name) cannot deny warranty solely for the lack of receipts.
- As the (equipment type) owner, you should however be aware that the (manufacturer's name) may deny you warranty coverage if your (equipment type) or a part has failed due to abuse, neglect, or improper maintenance or unapproved modifications.
- You are responsible for presenting your (equipment type) to a (manufacturer's name) distribution center or service center as soon as the problem exists. The warranty repairs should be completed in a reasonable amount of time, not to exceed 30 days. If you have a question regarding your warranty coverage, you should contact (Insert chosen manufacturer's contact) at 1-XXX-XXX-XXXX.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2765. New Equipment Compliance Testing.

(a) Compliance Test Procedures.

(1) The Executive Officer may order an engine or equipment manufacturer to make available for compliance testing and/or inspection five fuel

lines, carbon canisters, tanks, engines, or equipment units. Unless otherwise directed by the Executive Officer, the fuel lines, carbon canisters, tanks, engines, or equipment units shall be delivered to the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California. Fuel lines, carbon canisters, tanks, engines or equipment units must be selected at random from sources specified by the Executive Officer according to a method approved by the Executive Officer, that, insofar as practical, must exclude engines or equipment that would result in an unreasonable disruption of the manufacturer's distribution system. Such an order may include a requirement to demonstrate that the measured rate or volume of purge from a representative sample of production canisters and engines certified under section 2754 (b) meets any design specification required by the Executive Officer in the applicable Executive Order of Certification or included by the manufacturer in the application for such an Order.

(2) The method for selection and testing of the fuel lines, carbon canisters, tanks, engines or equipment and the evaluation of test data must be made in accordance with the procedures set forth herein.

(3) Air Resources Board personnel shall have access to the fuel line, carbon canister, tank, engine, or equipment assembly plants, or distribution facilities for the purposes of tank, engine, or equipment selection and testing. Scheduling of access shall be arranged with the representative designated in the application for certification.

(4) All testing must be conducted in accordance with the applicable model year evaporative emission test procedures. Any evaporative emission control system parameters must be set to values or positions that are within the range available to the ultimate purchaser as determined by ARB. No break-in or modifications, adjustments, or special preparation or maintenance will be allowed on engines or equipment units chosen for compliance testing without the written consent of the Executive Officer.

(5) Correction of damage or maladjustment that may reasonably be found to have resulted from shipment of the engine or equipment is permitted only after an initial test of the engine or equipment, except where 100 percent of the manufacturer's production is given that inspection or maintenance by the manufacturer's own personnel. The manufacturer may request that the engine or equipment be repaired from shipping damage, and be retested. If the Executive Officer concurs, the engine or equipment may be retested, and the original test results may be replaced by the after-repair test results.

(6) Engines or equipment must be randomly chosen from the selected evaporative family or subgroup.

(7) Five fuel lines, carbon canisters, tanks, engines or equipment of the same model within an evaporative family or subgroup will be selected for testing per the applicable test procedure. An evaporative family or subgroup will be deemed to have passed the compliance testing if all five test results are below the applicable standard. If one or more of the test results are above the applicable standard, an evaporative family or subgroup will be deemed to have failed the compliance testing if the upper 95% confidence limit of the five samples is greater than 150%, 130%, or 110% of the applicable performance standards specified in sections 2754 through 2757 of this Article per the following table:

Test Category	"Pass" If "U" is less than or equal to	"Fail" If "U" is greater than
1st Year of Production of Evaporative Families	1.5*Applicable Standard	1.5*Applicable Standard
2nd Year of Production of Evaporative Families	1.3*Applicable Standard	1.3*Applicable Standard
3rd and Subsequent Years of Production of Evaporative Families	1.1*Applicable Standard	1.1*Applicable Standard

Where:

$$U = \bar{x} + 2.776 * \frac{s}{\sqrt{n}}$$

$$\bar{x} = \frac{\sum_{i=1}^n \text{sample}_i}{n}$$

$$s = \sqrt{\frac{\sum_{i=1}^n (x_i - \bar{x})^2}{n-1}}$$

$$n = 5$$

(8) If any group of fuel lines, carbon canisters, tanks, engines, or equipment units selected for inspection fails an evaporative emission test as determined by subsection (a)(7), or fails to conform to the labeling requirements of section 2759, the Executive Officer shall notify the manufacturer in accordance with subsection (b).

(b) Notification of Failure

If compliance testing identifies engines or equipment units that do not meet the standards set out in (a)(7) above, or that do not conform with the permeation control design or permeation specifications of section 2754, the Executive Officer will notify the Holder of the Executive Order of Certification covering the engines or equipment. The Executive Officer shall also notify such Holder that the Executive Order of Certification may be suspended or revoked. The Holder of the Executive Order of Certification shall have 30 calendar days in which to notify the Executive Officer of their intent to provide additional information and/or independent test results for five tanks, engines, or equipment that document compliance of the evaporative family. The Executive Officer will consider all relevant information provided by the manufacturer, and other interested parties, including, but not limited to corrective actions applied to the non-compliant evaporative family and emission credits to remedy the failure.

(c) Suspension and Revocation of Executive Orders.

(1) The Executive Officer shall not revoke or suspend the Executive Order of Certification, without considering any information provided by the holder of such certification pursuant to (b) above.

(2) If the results of the compliance testing indicate that the failed tanks, engines, or equipment units of a particular evaporative family or subgroup are produced at one plant, the Executive Officer may elect to suspend the Executive Order of Certification with respect to that evaporative family for engines or equipment manufactured at that plant.

(3) Notwithstanding the foregoing, the Executive Officer may suspend an Executive Order of Certification, in whole or in part, effective upon written notice to the Holder if the Executive Officer finds that:

(A) The Holder of the Executive Order of Certification has refused to comply with any of the requirements of this section; or

(B) The Holder has submitted false or incomplete information in any report or information provided to the Executive Officer under this section;

(C) The Holder has rendered inaccurate any test data submitted under this section;

(D) That ARB personnel have been denied the opportunity to conduct activities authorized under this section after a warrant or court order is presented to the Holder;

(E) That ARB personnel were unable to conduct activities authorized in this Article because the facility is located in a foreign jurisdiction where local law prohibits those activities.

(4) The Executive Officer may revoke an Executive Order of Certification for an evaporative family after the Executive Order of Certification has been suspended pursuant to subsection (1) or (2) of this section if the proposed remedy for the nonconformity, as reported by the Holder to the Executive Officer, is one requiring a design change or changes to the evaporative emission control system as described in the application for certification of the affected evaporative family or subgroup.

(5) Once an Executive Order of Certification has been suspended for a failed tank, engine, or equipment, as provided for in subsection (1) of

this section, the Holder must take the following actions before the Executive Order of Certification can be reinstated:

(A) Remedy the nonconformity;

(B) Demonstrate that the tank, engine, or equipment conforms to the evaporative emission standards by retesting the tank, engine, or equipment in accordance with these regulations; and

(C) Submit a written report to the Executive Officer, after successful completion of testing on the failed tank, engine, or equipment that contains a description of the remedy and test results for each tank, engine, or equipment in addition to other information that may be required by this part.

(6) Once an Executive Order of Certification for a failed evaporative family or subgroup has been suspended pursuant to subsection (1), (2) or (3) of this section, the Holder must take the following actions before the Executive Officer will consider reinstating the Executive Order of Certification:

(A) Submit a written report to the Executive Officer that identifies the reason for the noncompliance of the tanks, engines, or equipment, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the Holder to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(B) Demonstrate that the evaporative family or subgroup for which the Executive Order of Certification has been suspended does in fact comply with the regulations of this part by testing no fewer than five tanks, engines, or equipment. The results must meet the "Pass" criteria in subsection (a)(7). Such testing must comply with the provisions of this section.

(7) Once the Executive Order of Certification has been revoked for an evaporative family or subgroup, if the Holder desires to continue introduction into commerce of a modified version of that evaporative family or subgroup, the Holder must:

After implementing the change or changes intended to remedy the nonconformity, demonstrate that the modified evaporative family does in fact conform to the applicable standards of this Article by testing five engines or equipment from the modified evaporative family unless such testing is waived by the Executive Officer.

(8) To permit a Holder to avoid storing non-test engines or equipment while conducting subsequent testing of the noncomplying evaporative family, a Holder may request that the Executive Officer conditionally reinstate the Executive Order of Certification for that evaporative family.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2766. Exemptions.

(a) Low Permeation Tanks — Metal tanks, coextruded multilayer tanks, and structurally integrated nylon fuel tanks on SORE equipment with engine displacements < 80 cc are specifically exempt from section 2755 of this Article. Tank permeation data is not required to be submitted in the certification application.

(b) Small Production Volume Tank Exemption. These engines or equipment qualifying under section 2752(a)(26) are exempt from the diurnal standards in section 2754 and the fuel tank permeation standard in 2754 of this Article if the equipment contains the following:

(1) An evaporative emission control system certified by an engine manufacturer that uses an actively purged carbon canister, an equivalent fuel line, and a sealed tethered fuel cap; or

(2) An evaporative emission control system that passively vents fuel tank vapors to a carbon canister with a minimum butane working capacity as specified in TP-902, an equivalent fuel line, and a sealed tethered fuel cap.

Tank permeation data is not required to be submitted in the certification application for Small Production Volume Tanks.

(c) Equipment Fueled by a Vehicle Fuel Tank — Generators that are fueled from the fuel tank of an on-road motor vehicle or marine vessel are exempt from the diurnal performance requirements in section 2754

and the fuel tank permeation and carbon canister design requirements in section 2754(b). However, these generators must use fuel hose that meets the design requirements specified in section 2754(b).

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2767. Innovative Products.

(a) The Executive Officer may make a determination that tank vent emission control achieved by an innovative technology may be approved per section 2767.1 if an evaluation of the innovative technology reveals that the technology can meet the evaporative emission requirements in section 2754.

(b) The Executive Officer may make a determination to exempt engines and equipment from section 2756(b) of this Article if an evaluation of the innovative technology reveals that the technology can meet the diurnal evaporative emission standards in section 2754.

(c) The Executive Officer may make a determination that fuel tanks that have undergone special treatment or that have been manufactured from a unique material are "equivalent fuel tanks" if it can be demonstrated that they meet the permeation standard in section 2755 of this Article when using TP-901, July 26, 2004. Tanks deemed equivalent augment "equivalent fuel tanks" already defined in section 2752 of this Article.

(d) A manufacturer must apply in writing to the Executive Officer for an innovative product equivalency claimed under subsection (a, b, or c). The application must include the supporting documentation that quantifies the emissions from at least 5 samples of the innovative product, including the test methods used to generate the data. The test methods shall include criteria for reproducibility, accuracy, and sampling and laboratory procedures. In addition, the applicant must provide any information to enable the Executive Officer to establish conditions for making a determination of "equivalency". All information, including proprietary data submitted by a manufacturer pursuant to this section, shall be handled in accordance with the procedures specified in title 17, California Code of Regulations, sections 91000-91022.

(e) Within 30 days of receipt of the application, the Executive Officer shall determine whether an application is complete.

(f) Within 90 days after an application has been deemed complete, the Executive Officer will determine whether, under what conditions, and to what extent, a determination of "equivalency" will be permitted. The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision. An applicant may submit additional supporting documentation before a decision has been reached. The Executive Officer will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that emissions from use of the product will meet the emissions reductions specified in subsection (a, b, or c).

(g) In granting an "equivalency" determination for a fuel tank, the Executive Officer shall specify the test method(s) for determining conformance to the conditions established.

(h) For any fuel tank for which an innovative product "equivalency" has been granted pursuant to this section, the manufacturer shall notify the Executive Officer in writing at least 30 days before the manufacturer changes a product's design, connections, or other factors that may effect the ROG emissions during recommended usage. The manufacturer must also notify the Executive Officer within 30 days after the manufacturer learns of any information that would alter the emissions estimates submitted to the Executive Officer in support of the "equivalency" application.

(i) If the permeation standards are amended for a product category, all innovative "equivalency" determinations granted for products in the product category, except as provided in subsection (j), have no force and effect as of the effective date of the amended permeation standards.

(j) If the Executive Officer believes that a fuel tank for which an "equivalency" determination has been granted no longer meets the crite-

ria for an innovative product specified in subsections (a, b, or c), the Executive Officer may hold a public hearing in accordance with the procedures specified in title 17, California Code of Regulations, article 1, subchapter 1.25, Chapter 1, Division 3, to determine if the "equivalency" determination should be modified or revoked.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2767.1. Approved Evaporative Emission Control System Components.

(a) The Executive Officer may make a determination to approve components (fuel tanks, fuel hoses, and carbon canisters) for use on evaporative emission control systems that have been shown to meet the Design Requirements in Table 1 of section 2754 of this Article.

(b) A component manufacturer must apply in writing to the Executive Officer for a component claimed under subsection (a). The application shall include the supporting documentation that quantifies the emissions or performance from at least five samples of the component, including the test methods used to generate the data. If the test methods are not as prescribed in this article the test methods shall include criteria for reproducibility, accuracy, and sampling and laboratory procedures. All information, including proprietary data submitted by a manufacturer pursuant to this section, shall be handled in accordance with the procedures specified in title 17, California Code of Regulations, sections 91000-91022.

(c) Within 30 days of receipt of the application, the Executive Officer shall determine whether an application is complete.

(d) Within 90 days after an application has been deemed complete, the Executive Officer will approve/disapprove the component. If approved, an Executive Order will be issued for the component. The applicant and the Executive Officer may mutually agree to a longer time for reaching a decision. An applicant may submit additional supporting documentation before a decision has been reached. The Executive Officer will notify the applicant of the decision in writing and specify such terms and conditions that are necessary to ensure that the component will meet the performance standards in subsection (a).

(e) If the Evaporative Emission Performance and Design Standards (reference section 2754) are amended for a product category, all "approvals" granted for components in the product category, except as provided in subsection (f), have no force and effect as of the effective date of the amended standards unless the applicable component requirements are not amended.

(f) If the Executive Officer determines that a component for which an "approval" has been granted no longer meets the performance standards specified in subsection (a), the Executive Officer may deny, suspend or revoke the Executive Order following provisions of Section 2770 of this Article.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2768. Variances.

(a) Any manufacturer of small off-road engines or equipment that use small off-road engines or fuel tanks subject to this Article that cannot meet the requirements set forth in sections 2754 through 2757 of this Article, due to extraordinary reasons beyond the manufacturer's reasonable control, may apply in writing for a variance. The variance application must set forth:

- (1) The provisions of the regulations for which a variance is sought;
- (2) the specific grounds upon which the variance is sought;
- (3) the proposed date(s) by which compliance will be achieved; and
- (4) a compliance plan detailing the method(s) that will achieve compliance.

(b) Within 75 calendar days of receipt of a variance application containing the information required in subsection (a), the Executive Officer

or his nominee shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance is necessary and should be allowed. Notice of the time and place of the hearing must be sent to the applicant by certified mail not less than 30 days before to the hearing. Notice of the hearing must also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such a notice, not less than 30 days before the hearing. The notice must state that the parties may, but not need to be, represented by counsel at the hearing. At least 30 days before the hearing, the variance application must be made available to the public for inspection. Interested members of the public must be allowed a reasonable opportunity to testify at the hearing and their testimony must be considered.

(c) No variance may be granted unless all of the following findings are made:

(1) that, due to reasons beyond the reasonable control of the applicant, compliance would result in extraordinary economic hardship;

(2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the variance;

(3) that the compliance plan proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible; and

(4) that the applicant has mitigated the noncompliance to the maximum extent feasible.

(d) Any variance order shall specify a final date by which compliance will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(e) A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

(f) Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from requirements of sections 2753 through 2756 or section 2759 after holding a public hearing in accordance with the provisions of subsection (b).

(g) A variance shall not be granted for more than one full model year after the year such variance is granted.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).

§ 2769. Inspection.

The Executive Officer, or an authorized representative of the Executive Officer, may periodically inspect any facility of a manufacturers of equipment, manufacturers of engines, or manufacturers of evaporative emission control components, technology, or systems subject to this Article as deemed necessary to ensure compliance with these regulations. Failure of a manufacturer, distributor, or retailer or other person subject to this Article to allow access for inspection purposes shall be grounds for suspension or revocation of an Executive Order of Certification.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).

§ 2770. Denial, Suspension or Revocation of Certification.

(a) The Executive Officer for just cause may deny, suspend or revoke an Executive Order of Certification in any of the following circumstances:

(1) An applicant or Holder has materially misrepresented the meaning, findings, effect or any other material aspect of the certification application, including submitting false or incomplete information in its applica-

tion for certification regardless of the applicant's personal knowledge of the falsity or incompleteness of the information;

(2) An applicant or Holder that uses a label other than the approved label on any engine or equipment, or the label used otherwise fails to comply with the requirements of this Article.

(3) An applicant or Holder may be denied certification or be subject to a suspension or revocation action pursuant to this section based upon the actions of an agent, employee, licensee, or other authorized representative.

(4) Pursuant to section 2754.1(b)(10) and (11) and 2769 above.

(b) The Executive Officer shall notify the applicant or Holder by certified mail of any action taken by the Executive Officer to deny, suspend or revoke any certification granted under this Article. The notice shall set forth the reasons for and evidence supporting the action(s) taken. A suspension or revocation is effective upon receipt of the notification.

(c) A Holder may request that the suspension or revocation be stayed pending a hearing under section 2771. In determining whether to grant the stay, the Executive Officer shall consider the harm the Holder will likely suffer if the stay is not granted. The Executive Officer shall deny the stay if the adverse effects of the stay on the public health, safety, and welfare outweigh the harm to the Holder if the stay is not granted.

(d) Once an Executive Order of Certification has been suspended pursuant to (a) above, the Holder must satisfy and correct all noted reasons for the suspension and submit a written report to the Executive Officer advising him or her of all such steps taken by the Holder before the Executive Officer will consider reinstating the Executive Order of Certification.

(e) Nothing in this section shall prohibit the Executive Officer from taking any other action provided for by law for violations of the Health and Safety Code.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9–20–2004; operative 10–20–2004 (Register 2004, No. 39).

§ 2771. Appeals.

Any person whose application for Executive Order of Certification has been denied, or whose certification has been suspended or revoked may request a hearing to review the action as provided herein. Any such request shall be made within fifteen working days of the date the action for which review is sought became final.

(a) Hearing Procedure.

Except as provided for in subsection (b) below, any appeal pursuant to this section shall be conducted in accordance with the Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions, title 17, California Code of Regulations, Division 3. Chapter 1 Article 2, commencing with section 60055.1.

(b) Review by written submission.

(1) In lieu of the hearing procedure set forth in (a) above, a manufacturer may request that a review of the Executive Officer's decision be conducted by a hearing officer solely by written submission.

(2) A manufacturer may request a review of the Executive Officer's decision to deny, suspend or revoke a certification no later than 20 days from the date of issuance of the notice of the denial, suspension, or revocation. Such request shall include, at a minimum, the following:

(A) name of the manufacturer, the name, address and telephone number of the person representing the manufacturer and a statement signed by a senior officer of the manufacturer warranting that the representative has full authority to bind the manufacturer as to all matters regarding the appeal;

(B) copy of the Executive Order granting certification and the written notification of denial;

(C) a statement of facts and explanation of the issues to be raised setting forth the basis for challenging the denial, suspension, or revocation (conclusory allegations will not suffice) together with all documents relevant to those issues; and

(D) the signature of the representative named in (A) above.

(3) Upon receipt of a request for review, the request shall be referred to the administrative hearing office of the state board for assignment of a hearing officer.

(4) Within 15 days of appointment of a hearing officer ARB staff shall submit a written response to the manufacturer's submission and documents in support of the Executive Officer's action no later than 10 days after receipt of the manufacturer's submission;

(5) within 7 days of receipt of the ARB response, the manufacturer may submit one rebuttal statement which shall be limited to the issues raised in the ARB rebuttal;

(6) if the manufacturer submits a rebuttal, ARB staff may, within 7 days of receipt of the manufacturer's rebuttal, submit one rebuttal statement which shall be limited to the issues raised in the manufacturer's rebuttal; and

(7) the hearing officer shall receive all statements and documents and render a written decision. The hearing officer's decision shall be mailed to the manufacturer no later than 60 working days after the final deadline for submission of papers.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2772. Penalties.

In addition to suspension or revocation of an Executive Order of Certification as provided in this Article, the Executive Officer may seek civil or criminal penalties as provided for by law and/or such equitable relief deemed appropriate by the Executive Officer for any violation of these regulations. Such penalties shall apply on a per engine or equipment unit basis. Each day in which there is a violation shall be a separate violation.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

§ 2773. Severability.

Each part of this article is severable, and in the event that any part of this article is held to be invalid, the remainder of this article remains in full force and effect.

NOTE: Authority cited: Sections 39600, 39601 and 43013, Health and Safety Code. Reference: Section 43013, Health and Safety Code.

HISTORY

1. New section filed 9-20-2004; operative 10-20-2004 (Register 2004, No. 39).

Article 2. Large Spark-Ignition (LSI) Engine Fleet Requirements

§ 2775. Applicability.

(a) *General Applicability.* This article applies to operators of off-road large spark-ignition (LSI) engine forklifts, sweepers/scrubbers, industrial tow tractors or airport ground support equipment operated within the State of California in the conduct of business with:

(1) 25 horsepower or more (greater than 19 kilowatts for 2005 and later model year engines), and

(2) greater than 1.0 liter displacement.

(b) *Exemptions.*

(1) Small Fleets as defined in subsection (d).

(2) Rental or leased equipment operated in California no more than 30 aggregated calendar days per year shall be exempt from the requirements of this article.

(3) Off-road military tactical vehicles or equipment exempt from regulation under the federal national security exemption, 40 CFR, subpart J, section 90.908, are exempt from the requirements of this article. Vehicles and equipment covered by the definition of military tactical vehicle that are commercially available and for which a federal certificate

of conformity has been issued under 40 CFR Part 90, subpart B, shall also be exempt from the requirements of this article.

(4) Each part of this article is severable, and in the event that any part of this chapter or article is held to be invalid, the remainder of the article shall remain in full force and effect.

(c) *Definitions.* The definitions in Section 1900(b), Chapter 1, and Section 2431(a), Chapter 9 of Title 13 of the California Code of Regulations apply to this article. In addition, the following definitions apply to this article:

"Aggregated Operations" means all of an operator's California facilities for which equipment purchasing decisions are centrally made. Facilities that budget and make equipment purchasing decisions independent of a government or corporate headquarters are assumed to be independent and therefore are not required to be aggregated for the purpose of determining fleet size.

"Agricultural Crop Preparation Services" means packinghouses, cotton gins, nut hullers and processors, dehydrators, feed and grain mills, and other related activities that fall within the United States Census Bureau NAICs (North American Industry Classification System) definition for Industry 115114 — "Postharvest Crop Activities," as published in the North American Industry Classification System — United States, 2002.

"Airport Ground Support Equipment," "Ground Service Equipment," or "GSE" means any large spark-ignition engine or electric-powered equipment contained in the 24 categories of equipment included in section B.3. of Appendix 2 of the South Coast Ground Support Equipment Memorandum of Understanding, dated November 27, 2002. Specifically included in this definition are those categories of GSE equipment designed for on-road use, but not licensed for on-road use ("On-Road Equivalent" GSE).

"Baseline Inventory" means an inventory of equipment as defined in this subdivision that reflects all equipment owned at the time of the inventory.

"Certification Standard" means the level to which an LSI engine is certified, in grams per kilowatt-hour of hydrocarbon and oxides of nitrogen, combined, as identified in an Executive Order (EO) issued by the Executive Officer of the California Air Resources Board.

"Dehydrators" means sun drying of fruits, vegetables, tomatoes, dates, prunes, raisins and olives, or artificially drying and dehydrating fruits, vegetables, tomatoes, dates, prunes, raisins, grapes, and olives.

"Emission Control System" means any device or system employed with a new or in-use off-road LSI-engine vehicle or piece of equipment that is intended to reduce emissions. Examples of LSI emission control systems include, but are not limited to, closed-loop fuel control systems, fuel injection systems, three-way catalysts, and combinations of the above.

"Equipment" or "Pieces of Equipment" means one or more forklifts, industrial tow tractors, sweeper/scrubbers, or pieces of airport ground support equipment as defined in this section.

"Executive Officer" means the Executive Officer of the California Air Resources Board, or his or her delegate.

"Executive Order" means a document signed by the Executive Officer that specifies the standard to which a new LSI engine is certified or the level to which an LSI retrofit emission control system is verified.

"Facility" means any structure, appurtenance, installation, and improvement on land that operates and/or garages one or more pieces of equipment.

"Facility Sample" means the selection of one or more individual facilities from an operator's California facilities for comparison to the operator's aggregate fleet inventory for fleet average calculation.

"Fleet Average Emission Level" means the arithmetic mean of the combined hydrocarbon plus oxides of nitrogen emissions certification standard or verification absolute emissions level for each piece of applicable equipment comprising an operator's fleet. For the purposes of calculating the fleet average, electric-powered equipment shall be considered to have combined hydrocarbon plus oxides of nitrogen emissions level of zero (0). Electric-powered equipment of less than 19 kilowatts

shall be allowed to be included in the fleet average calculation provided that the operator can demonstrate that the equipment performs the work equivalent of an LSI engine-powered piece of equipment. For the purposes of calculating the fleet average for a non-forklift fleet, each piece of On-Road Equivalent GSE shall be considered to have a combined hydrocarbon plus oxides of nitrogen emissions level as follows: 1.1 g/bhp-hr (1.5 g/kW-hr) for purposes of determining compliance with the 1/1/2009 standard; 0.8 g/bhp-hr (1.1 g/kW-hr) for purposes of determining compliance with the 1/1/2011 standard; and 0.7 g/bhp-hr (0.9 g/kW-hr) for purposes of determining compliance with the 1/1/2013 standard. For the purpose of calculating the fleet average, fleet operators shall be permitted to exclude at their discretion any electric-powered equipment that could otherwise be used to lower the LSI fleet's average emission level.

"Forklift" means an electric Class 1 or 2 rider truck or a large spark-ignition engine-powered Class 4 or 5 rider truck as defined by the Industrial Truck Association. Electric Class 3 trucks are not forklifts for the purposes of this regulation.

"Industrial Tow Tractor" means an electric or large spark-ignition engine-powered Class 6 truck as defined by the Industrial Truck Association. Industrial tow tractors are designed primarily to push or pull non-powered trucks, trailers, or other mobile loads on roadways or improved surfaces. Industrial tow tractors are commonly referred to as tow motors or tugs. Industrial tow tractors are distinct from airport ground support equipment tugs for the purposes of this regulation.

"Label" means a permanent material that is welded, riveted or otherwise permanently attached to the engine block or other major component in such a way that it will be readily visible after installation of the engine in the equipment. If the equipment obscures the label on the engine, the equipment manufacturer must attach a supplemental label such that it is readily visible. The label will state the emission standard or verification absolute emissions level to which the engine or equipment was certified or verified.

"Large Fleet" means an operator's aggregated operations in California of 26 or more pieces of equipment.

"Leased forklift" for use in agricultural crop preparation services means a forklift under a contract or agreement for a term or period of one year or more that may include an option to purchase the forklift.

"LSI Retrofit Emission Control System" means an emission control system employed exclusively with an in-use off-road LSI-engine vehicle or piece of equipment.

"Manufacturer" means the manufacturer granted new engine certification or retrofit emission control system verification.

"Medium Fleet" means an operator's aggregated operations in California of 4 to 25 pieces of equipment.

"Memorandum of Understanding Signatories" or "MOU Signatories" means any of the airlines that entered into the South Coast Ground Support Equipment Memorandum of Understanding, dated November 27, 2002.

"Military tactical vehicles or equipment" means vehicles or pieces of equipment that meet military specifications, are owned by the U.S. Department of Defense and/or the U.S. military services or its allies, and are used in combat, combat support, combat service support, tactical or relief operations, or training for such operations.

"Model Year" means the manufacturer's annual production period, which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.¹

"New Engine" means an engine's ownership has not been transferred to the ultimate consumer.]

"Non-forklift fleet" means an operator's aggregated operations in California of four (4) or more sweeper/scrubbers, industrial tow tractors, or pieces of airport ground support equipment, alone or in combination.

"Nut hullers and processors" means facilities where nuts are received, hulled, aspirated, shelled, sized, stored, packaged and shipped. Facilities that blanch, slice, dice, roast, salt, or smoke nuts or nut meats are not included in the "nut hullers and processors" definition.

["Off-Road Large Spark-ignition Engines" or "LSI Engines" means any engine that produces a gross horsepower of 25 horsepower or greater (greater than 19 kilowatts for 2005 and later model years) or is designed (e.g., through fueling, engine calibrations, valve timing, engine speed modifications, etc.) to produce 25 horsepower or greater (greater than 19 kilowatts for 2005 and later model years). If an engine family has models at or above 25 horsepower (greater than 19 kilowatts) and models below 25 horsepower (at or below 19 kilowatts), only the models at or above 25 horsepower (above 19 kilowatts) would be considered LSI engines. The engine's operating characteristics are significantly similar to the theoretical Otto combustion cycle with the engine's primary means of controlling power output being to limit the amount of air that is throttled into the combustion chamber of the engine. LSI engines or alternate fuel-powered LSI internal combustion engines are designed for powering, but not limited to powering, forklift trucks, sweepers, generators, and industrial equipment and other miscellaneous applications. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically excluded from this category. Specifically excluded from this category are: 1) engines operated on or in any device used exclusively upon stationary rails or tracks; 2) engines used to propel marine vessels; 3) internal combustion engines attached to a foundation at a location for at least 12 months; 4) off-road recreational vehicles and snowmobiles; and 5) stationary or transportable gas turbines for power generation.]

"Operator" means a person with legal right of possession and use of LSI engine equipment other than a person whose usual and customary business is the rental or leasing of LSI engine equipment. Operator includes a person whose usual and customary business is the rental or leasing of LSI engine equipment for any LSI engine equipment not solely possessed or used for rental or leasing.

"Rental forklift" for use in agricultural crop preparation services means a forklift under a contract or agreement for a term or period of less than one year that may include an option to renew the contract or agreement.

"Repower" means a new or remanufactured engine and parts offered by the OEM or by a non-OEM rebuilder that has been demonstrated to the ARB to be functionally equivalent from a durability standpoint to the OEM engine and components being replaced.

"Retrofit" means the application of an emission control system to a non-new LSI engine.

"Serial Number" means an engine serial number and date of engine manufacture (month and year) that are stamped on the engine block or stamped on a metal label riveted or permanently attached to the engine block. Engine manufacturers must keep records such that the engine serial number can easily be used to determine if an engine was certified for the applicable model year, and beginning January 1, 2007, the standard to which the engine was certified.

"Small Fleet" means an operator's aggregated operations in California of 1 to 3 forklifts and/or 1 to 3 pieces of non-forklift equipment.

"Sweeper/scrubber" means an electric or large spark-ignition engine-powered piece of industrial floor cleaning equipment designed to brush and vacuum up small debris and litter or scrub and squeegee the floor, or both.

"Specialty Equipment" means a piece of equipment with unique or specialized performance capabilities that allow it to perform prescribed tasks and as approved by the Executive Officer.

["Ultimate Purchaser" means the first person who in good faith purchases a new LSI engine or equipment using such engine for purposes other than resale.]

"Uncontrolled LSI Engine" means pre-2001 uncertified engines and 2001-2003 certified uncontrolled LSI engines. The default emission rate for an uncontrolled LSI engine is 16.0 grams per kilowatt-hour of hydrocarbon plus oxides of nitrogen.

"Verification" means a determination by the Executive Officer that the LSI emission control system meets the requirements of this Proce-

ture. This determination is based on both data submitted or otherwise known to the Executive Officer and engineering judgement.

“Verification Level” means one of four emission reduction classifications that apply to the performance capability of retrofit emission control systems as described in Title 13, California Code of Regulations, Section 2782(f), Table 1, as set forth in Table 1:

Table 1. LSI Engine Retrofit System Verification Levels

Classification	Percentage Reduction (HC+NOx)	Absolute Emissions (HC+NOx)
LSI Level 1 ⁽¹⁾	> 25% ⁽²⁾	Not Applicable
LSI Level 2 ⁽¹⁾	> 75% ⁽³⁾	3.0 g/bhp-hr ⁽³⁾ (4.0 g/kW-hr)
LSI Level 3a ⁽¹⁾	> 85% ⁽⁴⁾	0.5, 1.0, 1.5, 2.0, 2.5 g/bhp-hr (0.7, 1.3, 2.0, 2.7, 3.4 g/kW-hr)
LSI Level 3b ⁽⁵⁾	Not Applicable	0.5, 1.0, 1.5, 2.0 g/bhp-hr (0.7, 1.3, 2.0, 2.7 g/kW-hr)

Notes:

(1) Applicable to uncontrolled engines only

(2) The allowed verified emissions reduction is capped at 25% regardless of actual emission test values

(3) The allowed verified reduction for LSI Level 2 is capped at 75% or 3.0 g/bhp-hr (4.0 g/kW-hr) regardless of actual emission test values

(4) Verified in 5% increments, applicable to LSI Level 3a classifications only

(5) Applicable to emission-controlled engines only

¹ Bracketed definitions are replicated for ease of use and presentation clarity from Section 1900(b), Chapter 1, or Section 2431(a), Chapter 9, of Title 13 of the California Code of Regulations.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 43013, 43017 and 43018, Health and Safety Code.

HISTORY

1. New article 2 (sections 2775–2775.2) and section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2775.1. Standards.

(a) Operators of forklift and/or non-forklift fleets shall first determine the size of their fleets, using the equipment definitions in Section 2775. Then, except as provided in subdivisions (c), (d), (e), and (f), operators of medium and large forklift fleets and operators of non-forklift fleets with more than three pieces of equipment shall comply with the fleet average emission level standards in Table 2 by the specified compliance dates.

Table 2: Fleet Average Emission Level Standards
in grams per kilowatt-hour (brake-horsepower-hour)
of hydrocarbons plus oxides of nitrogen

Fleet Type	Initial Compliance Date		
	1/1/2009	1/1/2011	1/1/2013
Large Forklift Fleet	3.2 (2.4)	2.3 (1.7)	1.5 (1.1)
Medium Forklift Fleet	3.5 (2.6)	2.7 (2.0)	1.9 (1.4)
Non-forklift Fleet	4.0 (3.0)	3.6 (2.7)	3.4 (2.5)

(1) Fleet operators subject to the fleet average provisions shall include in their fleet average calculations any piece of equipment that the operator has rented or leased or reasonably expects to rent or lease for a period of one year or more.

(2) Fleet operators may exclude from the fleet average calculation uncontrolled 2003 and 2004 model year rental equipment (if the equipment is rented for a period of less than one year) until January 1, 2010.

(3) In addition to the provisions of (a)(2) above, fleet operators may exclude from the fleet average calculation rental or leased equipment if:

(A) the rental or lease is for a period of less than one year, and

(B) the rental or lease component comprises no more than 20 percent of the operator's equipment at any time, and

(C) the equipment rented or leased during the period from January 1, 2009 through December 31, 2010 is controlled to a 4.0 g/kW-hr (3.0 g/bhp-hr) standard or better and equipment rented or leased on or after January 1, 2011 is controlled to a 2.7 g/kW-hr (2.0 g/bhp-hr) standard or better.

(4) Fleet operators shall comply with the applicable fleet average standard in Table 2 with the following exceptions:

(A) if through business expansion, a fleet meets the definition of a larger size category, the fleet may continue to comply with the applicable fleet standard for the initial size category until the subsequent compliance date, at which time the fleet must meet the applicable fleet standard for the new fleet size category, or

(B) if through retirement or other fleet size reduction mechanism the fleet would otherwise be required to comply with a less stringent fleet standard, then the less stringent fleet standard becomes effective immediately.

(b) Operators of mixed fleets comprised of forklifts and non-forklift equipment shall determine fleet size individually for forklift fleets and non-forklift fleets; a mixed fleet with three or fewer forklifts and three or fewer non-forklift pieces of equipment shall be considered to be a small fleet.

(c) Except as provided in subdivisions (d), (e), and (f), each operator of a forklift fleet used in agricultural crop preparation services shall address emissions from their uncontrolled forklifts engines as follows:

(1) by January 1, 2009, identify that portion of the owned 1990 and newer LSI forklift fleet for which retrofit emission control systems have been verified and control 20 percent of that portion as prescribed in subdivision (d)(1)(D)(i) below; and

(2) by January 1, 2012, control 100 percent of the owned 1990 and newer LSI forklift fleet for which retrofit emission control systems have been verified as prescribed in subdivision (d)(1)(D)(i) below.

(3) Operators of fleets used in agricultural crop preparation services may exclude from their LSI forklift fleet:

(A) leased forklifts provided the forklifts meet a 4.0 g/kW-hr (3.0 g/bhp-hr) standard or better. Forklifts under a lease agreement that was initiated prior to May 25, 2006 may also be excluded from the 4.0 g/kW-hr standard for the life of the lease, or until January 1, 2010, whichever is earlier, and

(B) rental forklifts rented on or after January 1, 2009, provided the forklifts meet a 4.0 g/kW-hr standard or better. Forklifts with an uncontrolled 2003 or 2004 model year engine may be excluded from the requirements of this subpart until January 1, 2010.

(d) *Limited Hours of Use Provisions.*

(1) Forklift and non-forklift equipment in medium and large fleets shall be exempted from the provisions of subdivision (a) of this section provided that:

(A) the equipment is used, on average over any three year period, less than 251 hours per year, and

(B) the equipment is equipped with an operational hours of use meter, and

(C) the operator maintains hours of use records for the piece of equipment at a facility, and

(D) the operator addresses the emissions by January 1, 2011, through option (i) or (ii) below:

(i) retrofit or repower the equipment to a Level 2 or Level 3 verification level as described in Title 13, California Code of Regulations, Section 2782 (f), or

(ii) retire the equipment or replace the equipment with a new or used piece of equipment certified to a 4.0 g/kW-hr (3.0 g/bhp-hr) hydrocarbon plus oxides of nitrogen standard.

(2) Forklifts used in agricultural crop preparation services fleets shall be exempted from the provisions of subdivision (c) of this section provided that they meet the requirements of subdivisions (d)(1)(A) through (d)(1)(C).

(e) *Specialty Equipment Exemption.*

(1) Forklift and non-forklift specialty equipment shall be exempt from the requirements of subdivisions (a) through (c) of this section provided that:

(A) the replacement cost exceeds the replacement cost of a "typical" piece of equipment from that category by 50 percent or the retrofit cost exceeds the "typical" retrofit cost of a piece of equipment from that category by 100 percent, and

(B) they meet the requirements of subdivisions (d)(1)(A) through (d)(1)(C), and

(C) the Executive Officer approves the listing of the piece of equipment as specialty equipment.

(f) *Alternate Compliance Option for Operators of Fleets used in Agricultural Crop Preparation Services.*

(1) Operators of forklift fleets used in agricultural crop preparation services shall be exempted from the provisions of subdivision (c) of this section provided that the forklift fleet complies with a 4.0 g/kW-hr (3.0 g/bhp-hr) fleet average emission level.

(g) *Use of Experimental Emission Control Strategies.*

(1) An operator may use an experimental emission control strategy provided by or operated by the manufacturer in no more than ten percent of his total fleet for testing and evaluation purposes. The operator shall keep documentation of this use in records as specified in Section 2775.2(b).

(h) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 43013, 43017 and 43018, Health and Safety Code.

HISTORY

1. New section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2775.2. Compliance Requirements for Fleet Operators.

(a) Fleet operators subject to the fleet average emission level requirements contained in Table 2 of section 2775.1(a) shall conduct a baseline inventory of their fleet within six months of May 12, 2007 and shall maintain records at their facilities of their baseline inventory and subsequent inventories indicating accessions and retirements until June 30, 2016.

(b) At a minimum, fleet operators subject to the fleet average emission level requirements contained in Table 2 of section 2775.1(a) shall record and maintain on file at their facilities, information on the equipment type, make, model, serial number, and emission certification standard or retrofit verification level. Fleet operators shall also maintain on file, for a period of three years, information on the quality of propane fuel they purchased for their fleet that includes a written statement, product delivery ticket, or receipt from the fuel supplier, if obtainable, that the fuel supplied to the operator meets all applicable state and federal laws for use in their engines. Operators that maintain multiple facilities may aggregate the records at a centralized facility or headquarters. Records for all equipment at all facilities shall be made available to the Air Resources Board within 30 calendar days upon request. Compliance staff may then select a facility sample for inspection purposes.

(c) Medium and large fleets shall be required to demonstrate at any time between January 1, 2009 and December 31, 2015, based on actual inventory, and reconciled against inventory records, that they meet the applicable fleet average emission level standard in Section 2775.1(a).

(d) Agricultural crop preparation services fleets shall be required to demonstrate at any time on or after January 1, 2009, based on actual inventory and reconciled against inventory records, that they have addressed their 1990 and newer uncontrolled LSI engines as prescribed in Section 2775.1(c).

(e) *Compliance Extensions.* An operator may be granted an extension to a compliance deadline specified in Section 2775.1 for one of the following reasons:

(1) Compliance Extension based on No Verified Retrofit Emission Control System.

(A) If the Executive Officer has not verified a retrofit emission control system, or if one is not commercially available for a particular engine and equipment combination, the Executive Officer may grant a one-year extension in compliance if prior to each compliance deadline specified in subsections (a), (c), and (d), the Executive Officer finds that insufficient numbers of retrofit emission control systems are projected to be available.

(2) Compliance Extensions for GSE.

(A) Compliance Extension based on no Verified or Commercially Available Retrofit Emission Control Systems for GSE. GSE of model year 1990 or newer with an uncontrolled LSI engine for which there is no verified retrofit as of January 1, 2007, or for which such verified retrofits are not commercially available by that date, shall be excluded from the GSE fleet average emission level standards contained in section 2775.1(a) until January 1, 2011. GSE of model year 1990 or newer with an uncontrolled LSI engine for which there is still no verified retrofit as of January 1, 2009, or for which such verified retrofits are not commercially available by that date, shall be excluded from the GSE fleet average emission level standards contained in section 2775.1(a) until January 1, 2013.

(B) Other Compliance Extensions for GSE. Operators may apply to the Executive Officer for an initial compliance extension of up to two years and one or more compliance extension renewals of up to one year in circumstances other than those addressed in subsection 2(A) above. The Executive Officer shall grant such applications if the applicant has made a good faith effort to comply with the fleet average emission level standards contained in section 2775.1(a) in advance of the compliance dates contained in the same section and documents either that it meets one of the following criteria independently, or that, when considering any combination of the criteria, the documentation justifies granting the application:

(i) due to conditions beyond the reasonable control of the applicant, sufficient numbers of tested and reliable emission-controlled GSE are not projected to be available at a commercially reasonable cost;

(ii) due to conditions beyond the reasonable control of the applicant, use of available emission-controlled GSE would result in significant operational or safety issues;

(iii) any other criterion that reasonably relates to whether the application should be granted.

(C) Compliance extensions granted under subsections (e)(2)(A) and (e)(2)(B) shall not extend beyond January 1, 2013. After January 1, 2013, all uncontrolled GSE shall be included in calculations for determining compliance with the GSE fleet average emission level standards contained in section 2775.1(a).

(3) If an extension to the compliance deadline is granted by the Executive Officer, the operator shall be deemed to be in compliance as specified by the Executive Officer's authorization.

(f) *Continuous Compliance.* An operator is required to keep his equipment in compliance with this regulation, once it is in compliance, so long as the operator is operating the equipment in California.

(g) *Severability.* If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

NOTE: Authority cited: Sections 39600, 39601, 43013 and 43018, Health and Safety Code. Reference: Sections 43013, 43017 and 43018, Health and Safety Code.

HISTORY

1. New section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

Article 3. Verification Procedure, Warranty, and In-Use Compliance Requirements for Retrofits to Control Emissions from Off-Road Large Spark-Ignition Engines

§ 2780. Applicability and Purpose.

These procedures apply to LSI retrofit emission control systems, which, through the use of sound principles of science and engineering, control emissions of hydrocarbons (HC) and oxides of nitrogen (NOx) from off-road large spark-ignition (LSI) engines. These systems may include but are not limited to, closed-loop fuel control systems, fuel injection systems, and three-way catalysts. These procedures are not applicable to retrofit strategies that employ or make use of fuel additives.

The use of LSI retrofit emission control systems verified in accordance with this article may be a means of complying with other state board regulations applicable to the use of LSI engines, to the extent provided for in those regulations.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650-39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204-43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New article 3 (sections 2780-2789) and section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2781. Definitions.

(a) The definitions in Section 1900(b), Chapter 1, Title 13 of the California Code of Regulations are incorporated by reference herein. The following definitions shall govern the provisions of this chapter:

(1) "Applicant" means the entity that has applied for or has been granted verification under this Procedure

(2) "Average" means the arithmetic mean.

(3) "Baseline" means: (i) for uncontrolled engines, the emission levels from the engine as tested without the LSI retrofit emission control system implemented using the test cycle specified in this verification procedure; and (ii) for certified engines, the emission standards to which the engine was certified.

(4) "Certified engine" means an engine manufactured in compliance with ARB or EPA emission standards.

(5) "Durability" means the ability of the applicant's LSI retrofit emission control system to maintain a level of emissions at or below its verification emission level and maintain its physical integrity over the durability periods specified in these regulations. The minimum durability demonstration periods contained herein are not necessarily meant to represent the entire useful life of the LSI retrofit emission control system in actual service.

(6) "Emergency Engine Repair" means repair conducted outside of normal scheduled maintenance that is required for the safe operation of the equipment.

(7) "Emission Control Group" means a set of LSI engines and applications determined by parameters that affect the performance of a particular LSI retrofit emission control system. The exact parameters depend on the nature of the LSI retrofit emission control system and may include, but are not limited to, baseline or certification levels of engine emissions, combustion cycle, displacement, aspiration, horsepower rating, duty cycle, exhaust temperature profile, and fuel composition. An applicant could specify an emission control group to be comprised of engines from several different engine families, applications and equipment manufacturers. Verification of an LSI retrofit emission control system and the extension of existing verifications is done on the basis of emission control groups.

(8) "Executive Officer" means the Executive Officer of the Air Resources Board or the Executive Officer's designee.

(9) "Executive Order" means the document signed by the Executive Officer that specifies the verification level or percentage reduction of an LSI retrofit emission control system for an emission control group and includes any enforceable conditions and requirements necessary to support the designated verification.

(10) "Hot Start" means the start of an engine within four hours after the engine is last turned off.

(11) "LSI retrofit emission control system" means any device or system employed with an in-use off-road LSI-engine vehicle or piece of equipment that is intended to reduce emissions. Examples of LSI retrofit emission control systems include, but are not limited to, closed-loop fuel control system, fuel injection system, three-way catalysts, and combinations of the above.

(12) "LSI Retrofit Emission Control Group Name." See Section 2786(c)(2).

(13) "Off-Road Large Spark-Ignition Engine" or "LSI Engine" means any spark ignition engine that produces a gross power of greater than 19 kilowatts (25 horsepower) or is designed (e.g., through fueling, engine calibrations, valve timing, engine speed modifications, etc.) to produce greater than 19 kW (>25 hp), and is used in an off-road vehicle or equipment that is not excluded below. If an engine family has models at or below 19 kW (25 hp) and models above 19 kW (25 hp), only the models above 19 kW (25 hp) would be considered LSI engines. A spark ignition engine's operating characteristics are significantly similar to the theoretical Otto combustion cycle with the engine's primary means of controlling power output being to limit the amount of air and fuel that is throttled into the combustion chamber of the engine. LSI engines are designed for powering equipment applications including, but not limited to, forklift trucks, sweepers, generators, and industrial equipment and other miscellaneous applications. Specifically excluded from this category are: i) engines operated on or in any device used exclusively upon stationary rails or tracks; ii) engines used to propel marine vessels; iii) internal combustion engines attached to a foundation at a location for at least 12 months; iv) off-road recreational vehicles and snowmobiles; and v) stationary or transportable gas turbines for power generation.

(14) "Off-Road Vehicle" or "Off-Road Equipment" means any non-stationary device, powered by an internal combustion engine or motor, used primarily off the highways to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power. Examples include, but are not limited to, marine vessels, construction/farm equipment, industrial equipment, locomotives, small off-road engines, off-road motorcycles, and off-highway recreational vehicles.

(15) "Otto Cycle Engine" means a type of engine with operating characteristics significantly similar to the theoretical Otto combustion cycle. The primary means of controlling power output in an Otto cycle engine is by limiting the amount of air and fuel that can enter the combustion chambers of the engine. As an example, gasoline-fueled and LPG engines are Otto cycle engines.

(16) "Revoke" means to cancel the verification status of an LSI retrofit emission control system. If an LSI retrofit emission control system's verification status is revoked by the Executive Officer, the applicant must immediately cease and desist selling the LSI retrofit emission control system to end-users.

(17) "Verification" means that after the data submitted has been thoroughly evaluated and an engineering judgment has determined that an LSI Retrofit Emission Control System for installation on in-use equipment will meet the requirements of this procedure, an Executive Order is issued. This ensures the emissions reductions achieved by the control strategy are real and durable and production units in the field achieve reductions consistent with the verification procedure.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013,

43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2782. Application Process.

(a) *Overview.* Before submitting a formal application for the verification of an LSI retrofit emission control system for use with an emission control group, the applicant must submit a letter of intent with a proposed verification plan to ARB (pursuant to Section 2782(b)). To obtain verification, the applicant must conduct emissions reduction testing (pursuant to Section 2783), a durability demonstration with testing (pursuant to Section 2784), and a field demonstration (pursuant to Section 2785), and must submit the results along with comments and other information (pursuant to Sections 2786 and 2787) in an application to the Executive Officer, in the format shown in Section 2782(d). If the Executive Officer grants a verification of an LSI retrofit emission control system, he or she will issue an Executive Order to the applicant identifying the verified emission reduction and any conditions that must be met for the LSI retrofit emission control system to function properly. After the Executive Officer grants verification of an LSI retrofit emission control system, the applicant must provide a warranty, conduct in-use compliance testing of the system after having sold or leased a specified number of units, and report the results to the Executive Officer (pursuant to Section 2789). An LSI retrofit emission control system that employs two or more individual sub-systems or components must be tested and submitted for evaluation as one system.

(b) *Proposed Verification Plan.* Before formally submitting an application for the verification of an LSI retrofit emission control system, the applicant must submit a proposed verification plan to ARB. The proposed verification plan should outline the applicant's plans for meeting the testing and other requirements. The Executive Officer shall use the information in the proposed plan to help determine the need for additional analyses and the appropriateness of allowing alternatives to the prescribed requirements and in determining whether the control strategy relies on sound principles of science and engineering. The proposed plan should include the following information:

(1) Identification of the contact persons, phone numbers, names and addresses of the responsible party proposing to submit an application.

(2) Description of the LSI retrofit emission control system and principles of operation. A schematic depicting operation should be included as appropriate. It is the responsibility of the applicant to demonstrate that the product relies on sound principles of science and engineering to achieve emission reductions. The description of the LSI retrofit emission control system must include, at a minimum, the information described in section 2782(d), items 2 and 3.

(A) If, after reviewing the description of the LSI retrofit emission control system, the Executive Officer determines that the applicant has not made a satisfactory demonstration that its product relies on sound principles of science and engineering to achieve emissions reductions, the Executive Officer shall notify the applicant of the determination in writing. The applicant may choose to withdraw from the verification process or submit additional materials and clarifications. The additional submittal must be received by the Executive Officer no later than 60 days from the date of the notification letter or the Executive Officer may suspend reviewing the proposed verification plan.

(B) If, after reviewing the additional submittal, the Executive Officer determines that the applicant has not yet made a satisfactory demonstration that its product relies on sound principles of science and engineering to achieve emission reductions, the review shall be suspended. If the Executive Officer has suspended reviewing the proposed verification plan, it may only be reactivated at the discretion of the Executive Officer.

(C) If at any time, the Executive Officer has reason to doubt the scientific or engineering soundness of a product, the Executive Officer may require the applicant to submit additional supporting materials and clarifications no later than 60 days from the date of the notification letter. If the additional submittal is not received by the Executive Officer by the

deadline established in the notification letter, the review of the proposed verification plan may be suspended. In deciding whether to suspend reviewing the proposed verification plan the Executive Officer will review submittals as provided in subsection (B) above.

(3) Preliminary parameters for defining emission control groups that are appropriate for the LSI retrofit emission control system. The Executive Officer will work with the applicant to determine appropriate emission control group parameters.

(4) The applicant's plan for meeting the requirements of Sections 2783-2786. Existing test data may be submitted for the Executive Officer's consideration. The proposed verification plan must focus on verification of the LSI retrofit emission control system for use with a single emission control group.

(5) A brief statement that the applicant agrees to provide a warranty pursuant to the requirements of Section 2787.

(c) *Executive Officer Review.* After an applicant submits a proposed verification plan, the Executive Officer shall determine whether the applicant has identified an appropriate testing procedure to support an application for verification and notify the applicant in writing that it may submit an application for verification. The Executive Officer may suggest modifications to the proposed verification plan to facilitate verification of the LSI retrofit emission control system. All applications, correspondence, and reports must be submitted to:

AIR RESOURCES BOARD
9528 TELSTAR AVENUE
EL MONTE, CA 91731

(d) *Application Format.* The application for verification of an LSI retrofit emission control system must follow the format shown below. If a section asks for information that is not applicable to the LSI retrofit emission control system, the applicant must indicate "not applicable." If the Executive Officer concurs with the applicant's judgment that a section is not applicable, the Executive Officer may waive the requirement to provide the information requested in that section.

1. Identification

1.1 Identification of applicant, manufacturer, and product

1.2 Identification of contact names for engineering or technical information of product or system

1.3 Identification and description of the emission control group (see 2781(a)(7) and 2783(a))

1.4 Identification of level of verification being sought

1.4.1 Emissions reduction claim

2. LSI Retrofit Emission Control System Information

2.1 General description of the LSI retrofit emission control system

2.1.1 Discussion of principles of operation and system design

2.1.2 Schematics depicting operation (as appropriate)

2.2 Favorable operating conditions

2.3 Unfavorable operating conditions (e.g., inappropriate duty cycle or application, geographical limitations, etc.) and associated reductions in performance

2.4 Fuel and lubrication oil requirements (e.g., fuel specifications) and misfueling considerations (see 2783(d)(2), 2784(c2), 2786(a) and (e).

2.5 Identification of failure modes and associated consequences

2.6 Discussion of potential safety issues (e.g., *lack of proper maintenance, unfavorable operating conditions, etc.*)

2.7 Installation requirements

2.8 Maintenance requirements

3. LSI Retrofit Emission Control System and Emission Control Group Compatibility

3.1 Compatibility with the engine

3.1.1 Discussion on calibrations and design features that may vary from engine to engine

3.1.2 Effect on overall engine performance

3.1.3 Effect on fuel consumption

3.1.4 Engine oil consumption considerations

3.2 Compatibility with the equipment/application

3.2.1 Dependence of calibration and other design features on application characteristics

3.2.2 Comparison of field data with operating conditions of equipment applications suitable for the LSI retrofit emission control group.

4. Testing Information

4.1 Emission testing requirements

4.1.1 Test facility identification

4.1.2 Description of engine and equipment (*make, model year, engine family name, etc.*)

4.1.3 Test procedure description (*–pre-conditioning period, test cycle, etc.*)

4.1.4 Test fuel and lubrication oil (see 2783(d))

4.1.5 Test results and comments electronically submitted in delimited columns in spreadsheet or text files

4.2 Durability Demonstration requirements

4.2.1 Test facility identification

4.2.2 Description of field application (where applicable)

4.2.3 Description of engine and equipment (*make, model year, engine family name, etc.*)

4.2.4 Test procedure description (*field or bench, test cycle, etc.*)

4.2.5 Test fuel and lubrication oil (see 2784(c))

4.2.6 Test results and comments electronically submitted in delimited columns in spreadsheet or text files

4.2.7 Summary of evaluative comments from third-party for in-field durability demonstration (*e.g., driver or fleet operator*)

4.3 Field Demonstration requirements (where applicable)

4.3.1 Field application identification

4.3.2 Description of engine and equipment (*make, model year, engine family name, etc.*)

4.3.3 Summary of evaluative comments on retrofit compatibility of the LSI retrofit emission control system with the equipment from third-party (*e.g., driver or fleet operator*)

4.4 Alternative In-Use Compliance Test Procedure (where applicable)

4.4.1 Description of the proposed alternative in-use test procedure

4.4.2 Description of test equipment, including measurement accuracy and precision

4.4.3 Description of advantages and limitations of the proposed alternative in-use test procedure

4.4.4 Description of the emission correlation of the proposed alternative in-use test procedure with emission results from engine dynamometer test conducted for verification of the LSI retrofit emission control system

4.4.5 Test results and comments

5. References

6. Appendices

6.1 Laboratory test report information (*for all tests*)

6.1.1 Actual laboratory test data

6.1.2 Quality assurance and quality control information

6.2 Third-party letters or questionnaires describing in-field performance

6.3 LSI retrofit emission control system label

6.4 Owner's manual (as described in Section 2786(e))

6.5 Other supporting documentation

(e) Within 30 days of receipt of the application, the Executive Officer shall notify the applicant whether the application is complete.

(f) Within 60 days after an application has been deemed complete, the Executive Officer shall determine whether the LSI retrofit emission control system merits verification and shall classify it as shown in Table 1. The applicant and the Executive Officer may mutually agree to a longer time period for reaching a decision, and the applicant may submit additional supporting documentation before a decision has been reached. The Executive Officer shall notify the applicant of the decision in writing and specify the classification level and the percentage reduction or absolute emissions and identify any terms and conditions that are necessary to support the verification.

Table 1. LSI Engine Retrofit System Verification Levels

Classification	Percentage Reduction (HC+NOx)	Absolute Emissions (HC+NOx)
LSI Level 1 ⁽¹⁾	> 25% ⁽²⁾	Not Applicable
LSI Level 2 ⁽¹⁾	> 75% ⁽³⁾	3.0 g/bhp-hr ⁽³⁾
LSI Level 3a ⁽¹⁾	> 85% ⁽⁴⁾	0.5, 1.0, 1.5, 2.0, 2.5 g/bhp-hr
LSI Level 3b ⁽⁵⁾	Not Applicable	0.5, 1.0, 1.5, 2.0 g/bhp-hr

Notes:

(1) Applicable to uncontrolled engines only

(2) The allowed verified emissions reduction is capped at 25% regardless of actual emission test values

(3) The allowed verified reduction for LSI Level 2 is capped at 75% or 3.0 g/bhp-hr regardless of actual emission test values

(4) Verified in 5% increments, applicable to LSI Level 3a classifications only

(5) Applicable to emission-controlled engines only

(g) Extensions of an Existing Verification. If the applicant has verified an LSI retrofit emission control system with one emission control group and wishes to extend the verification to include additional engines or equipment into the existing emission control group, or it wishes to include additional emission control groups, it may apply to do so using the original test data, additional test data, engineering justification and analysis, and any other information deemed necessary by the Executive Officer to address the differences between the emission control group already verified and the additional emission control group(s). Processing time periods follow sections (e) and (f) above.

(h) *Design Modifications.* If an applicant modifies the design of an LSI retrofit emission control system that has already been verified or is under consideration for verification by the Executive Officer, the modified version must be evaluated under this Procedure. The applicant must provide a detailed description of the design modification along with an explanation of how the modification will change the operation and performance of the LSI retrofit emission control system. To support its claims, the applicant must submit additional test data, engineering justification and analysis, and any other information deemed necessary by the Executive Officer to address the differences between the modified and original designs. An applicant must have written approval from the Executive Officer prior to making any design modifications to an LSI retrofit emission control system that has already been verified or is under consideration for verification by the Executive Officer. Processing time periods follow sections (e) and (f) above.

(i) *Treatment of Confidential Information.* Information submitted to the Executive Officer by an applicant may be claimed as confidential, and such information shall be handled in accordance with the procedures specified in Title 17, California Code of Regulations, Sections 91000–91022. The Executive Officer may consider such confidential information in reaching a decision on a verification application.

(j) The Executive Officer may lower the verification level or revoke the verification status of a verified LSI retrofit emission control system later if there are serious errors, omissions or inaccurate information in the application for verification or supporting information which, if known at the time of verification, would have justified lowering the verification level or denying the application.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2783. Emissions Reduction Testing Requirements.

(a) *Emission Control Group.* The applicant must identify the emission control group and test the LSI retrofit emission control system on representative engines from that emission control group. The applicant must

identify the test engines, and equipment if applicable, by providing the engine family name, if available, make, model, and model year. The applicant must also describe equipment applications on which the LSI retrofit emission control system is intended to be used, by giving examples of in-use equipment, characterizing typical duty cycles, indicating any fuel requirements, and/or providing other application-related information.

(b) *Engine Pre-conditioning.* All testing should be performed with the test engine in a proper state of maintenance. The applicant may tune-up or rebuild the test engine prior to, but not after, baseline testing, unless rebuilding the engine is a part of the requirements for installation of the LSI retrofit emission control system.

(c) *LSI Retrofit System Pre-conditioning.* The engine or equipment installed with an LSI retrofit emission control system must be operated for a break-in period of between 25 and 100 hours before emission testing.

(d) *Test Fuel.*

(1) The test fuel used shall be consistent with the fuel specifications as outlined in the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as incorporated by reference in section 1961(d). If the engine is tested using the U.S. EPA test fuel, as outlined in 40 CFR Part 1065, the manufacturer shall demonstrate that the emission results are consistent with these Test Procedures.

(2) During all engine tests, the engine shall employ lubricating oil consistent with the engine manufacturer's specifications for that particular engine. These specifications shall be recorded and declared in the verification application.

(e) *Test Cycle.*

(1) *Systems verified prior to 2007.* Any LSI retrofit emission control system verified before January 1, 2007 must be tested using the steady-state test procedure (C2) set forth in the, "California Exhaust Emission Standards and Test Procedures for New 2001 through 2006 Off-Road Large Spark-Ignition Engines" as incorporated by reference in section 2433(c), or the U.S. EPA transient test procedure as set forth in 40 CFR Part 1048, Subpart F, as adopted July 13, 2005. For off-road engines used in constant-speed operation, the applicant must use the steady-state test procedure (D2) set forth in the "California Exhaust Emission Standards and Test Procedures for New 2001 through 2006 Off-Road Large Spark-Ignition Engines" as incorporated by reference in section 2433(c), or the U.S. EPA transient test cycle as outlined in 40 CFR Part 1048, Subpart F, as adopted July 13, 2005. The required test cycles are summarized in Table 2, below.

Table 2. Test Cycles for Emissions Reduction Testing

Test Type	LSI Retrofit System Verification Date	Off-Road (including portable engines)	Off-Road (constant-speed operation)
Engine	Pre-2007	Steady-state test cycle (C2) from ARB off-road regulations or U.S. EPA transient test cycle	Steady-state test cycle (D2) from ARB off-road Regulations or U.S. EPA transient test cycle
Engine	2007 and later	U.S. EPA transient test cycle	U.S. EPA transient test cycle

(2) *Systems verified in 2007 or later.* Any LSI retrofit emission control system verified on or after January 1, 2007, must be tested using the U.S. EPA transient test procedure as set forth in 40 CFR Part 1048, Subpart F, as adopted July 13, 2005.

(f) *Alternative Test Cycles and Methods.* The applicant may request the Executive Officer to approve an alternative test cycle or method in place of a required test cycle or method. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the following:

(1) Similarity of characteristics to the specified test cycle or method and in-use duty cycle.

(2) Body of existing test data generated using the alternative test cycle or method.

(3) Technological necessity.

(4) Technical ability to conduct the required test.

(g) *Test runs to Verify HC, NOx, and CO Emissions Reductions.* A minimum of three hot-start tests for the test cycle selected from Table 2, or an Executive Officer-approved alternative test cycle, must be run for baseline and control configurations.

(h) *Results.* For all valid emission tests used to support emissions reduction claims, the applicant must report emissions of total hydrocarbons, oxides of nitrogen, and carbon monoxide in grams/brake horsepower-hour (g/bhp-hr).

(i) *Incomplete and Aborted Tests.* The applicant must identify all incomplete and aborted tests and explain why those tests were incomplete or aborted.

(j) *Additional Analyses.* The Executive Officer may require the applicant to perform additional analyses if there is reason to believe that the use of an LSI retrofit emission control system may result in the increase of toxic air contaminants, or other harmful compounds.

(1) In its determination, the Executive Officer may consider all relevant data, including but not limited to the following:

(A) The addition of any substance to the fuel, intake air, or exhaust stream.

(B) Whether a catalytic reaction is known or reasonably suspected to increase toxic air contaminants or ozone precursors.

(C) Results from scientific literature.

(D) Field experience.

(E) Any additional data.

(2) The Executive Officer will determine appropriate test methods for additional analyses in consultation with the applicant.

(k) *Quality Control of Test Data.* The applicant must provide information on the test facility, test procedure, and equipment used in the emission testing, including evidence establishing that the test equipment used meets the specifications and calibrations given in 40 CFR Part 1065.

(l) *Testing or inspection.* The Executive Officer may, with respect to any verified LSI retrofit emission control system sold, leased, offered for sale, or manufactured for sale in California, order the applicant to make available for testing and/or inspection a reasonable number of LSI retrofit emission control systems, and may direct that they be delivered at the applicant's expense to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any verified LSI retrofit emission control system being sold, leased, offered for sale, or manufactured for sale in California, have an applicant test and/or inspect a reasonable number of units at the applicant or manufacturer's facility or at any test laboratory under the supervision of the Executive Officer.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2784. Durability Demonstration Requirements.

(a) The applicant must demonstrate, to the satisfaction of the Executive Officer, the durability of the applicant's LSI retrofit emission control system through an actual field or laboratory-based demonstration test. If the applicant chooses a laboratory-based durability demonstration, an additional field demonstration will be required to demonstrate in-field compatibility (pursuant to Section 2785). If the applicant has demonstrated the durability of the identical system in a prior verification or OEM certification, or has demonstrated durability through field experience, the applicant may request that the Executive Officer accept the pre-

vious demonstration in fulfillment of this requirement. In evaluating such a request, the Executive Officer may consider all relevant information including, but not limited to, the similarity of baseline emissions and application duty cycles, the relationship between the emission control group or engine family(ies) used in previous testing and the current emission control group, the number of engines tested, evidence of successful operation and user acceptance, and published reports.

(b) *Engine Selection.* Subject to the approval of the Executive Officer, the applicant may choose the engine to be used in the durability demonstration. The engine must be representative of the engines in the emission control group for which verification is sought. The selected engine need not be the same as the engine used for the emission testing (pursuant to Section 2783), but if the applicant does use the same engine, the emission testing results may also be used for the zero-hour durability tests.

(c) *Test Fuel.*

(1) The test fuel used shall be consistent with the fuel specifications as outlined in the "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as incorporated by reference in section 1961(d). If the engine is tested using the U.S. EPA test fuel, as outlined in 40 CFR Part 1065, the manufacturer shall demonstrate that the emission results are consistent with ARB Test Procedures. Manufacturers can use "commercially available fuels" to accumulate service hours but emission testing must be conducted using test fuel as specified in this section.

(2) During all engine tests, the engine shall employ lubricating oil consistent with the engine manufacturer's specifications for that particular engine. These specifications shall be recorded and declared in the verification application.

(d) *Service Accumulation.* The durability demonstration consists of an extended service accumulation period in which the LSI retrofit emission control system is used in the field or in a laboratory, with emissions reduction testing before and after the service accumulation. Service accumulation begins after the first emission test and concludes before the final emission test. The pre-conditioning period required in Section 2783 (c) cannot be used to meet the service accumulation requirements.

(1) *Minimum Durability Demonstration Periods.* The minimum durability demonstration period is 1,000 hours if it can be correlated or demonstrated to be equivalent to 2,500 hours in-use. The applicant must provide to the Executive Officer sufficient written documentation to justify the request for the minimum durability demonstration period. The applicant may propose a sampling scheme that could be used to support an accelerated durability schedule for approval by the Executive Officer. The sampling scheme may include, but is not limited to, logging only significant changes in a parameter, averages, or changes above some threshold value. Data must be submitted electronically in columns as a text file or another format approved by the Executive Officer.

(2) *Fuel for Durability Demonstrations.* The fuel used during durability demonstrations should be equivalent to the test fuel, or a fuel with properties less favorable to the durability of the retrofit emission control system. Durability demonstrations may, at the applicant's option and with the Executive Officer's approval, include intentional use of out-of-specification fuels so that data on the effects of using out-of-specification fuels may be obtained.

(e) *Test Cycle.* Testing requirements are summarized in Table 3. Note that the same cycle(s) must be used for both the initial (zero hour) and final (2,500 hour) tests as defined in Section 2783(e).

Table 3. Emission Tests Required for Durability Demonstrations

Application	LSI Retrofit System Verification Date	Test Type	Zero-Hour Test (prior durability demonstration) 2,500-Hour Test (after completion of 100% of the durability demonstration or the minimum durability demonstration)
Off-Road and portable engines	Pre-2007	Engine	Steady-state test cycle from ARB off-road regulations or U.S. EPA transient test cycle or an alternative cycle

Application	LSI Retrofit System Verification Date	Test Type	Zero-Hour Test (prior durability demonstration) 2,500-Hour Test (after completion of 100% of the durability demonstration or the minimum durability demonstration)
Off-Road and portable engines	2007 and later	Engine	U.S. EPA transient test cycle or an alternative cycle

(f) *Test Run.* The number of tests to be conducted in accordance with the required test cycle shown in Table 3 is described below.

(1) The LSI retrofit emission control system must undergo one set of emission tests: (3 hot starts each for baseline and with the retrofit emission control system) at the beginning (zero hour) and one set of emission tests (3 hot starts for baseline and with the emission control system) after completion of the durability demonstration (2,500 hours) or the minimum durability demonstration period (1,000 hours). If there are substantial test data from previous field studies or field demonstrations, applicants may request that the Executive Officer consider these in place of the initial emission tests.

(2) As an alternative to testing a single unit before and after the service accumulation period, the applicant may request that the Executive Officer consider the testing of two identical units, one that has been pre-conditioned and another that has completed the service accumulation period. In reviewing the request, the Executive Officer may consider all relevant information, including, but not limited to, the following:

(A) The effect of the LSI retrofit emission control system on engine operation over time. Strategies that cause changes in engine operation are likely not to qualify for this testing option.

(B) The quality of the evidence the applicant can provide to support that the two units are identical.

(C) Previous experience with similar or related technologies.

(g) *Maintenance During Durability Demonstration.* Except for emergency engine repair, only scheduled maintenance on the engine and LSI retrofit emission control system may be performed during the durability demonstration. If normal maintenance includes replacement of any component of the engine emission control system, the time (years or hours) between component change must be reported with the results of the demonstration. If emergency repair was conducted on an engine equipped with the LSI retrofit emission control system within the durability demonstration period, the applicant must, within 30 days of the repair, report to the Executive Officer on what repair was performed and what components were involved, and provide an explanation on the possible cause(s) for the engine's and/or LSI retrofit emission control system's malfunction. Based on the information provided by the applicant, the Executive Officer will decide whether to allow that engine to continue to be used in the durability demonstration program, or to start anew the durability demonstration period.

(h) *Performance Requirements.* The LSI retrofit emission control system must meet the following requirements throughout the durability demonstration period:

If the applicant claims a percent emissions reduction, the percent emissions reduction must meet or exceed the minimum percent emissions reduction associated with the LSI Level for which the applicant is seeking verification.

If the applicant claims a reduced emission level, the reduced emission level must not exceed the emission level associated with the LSI Level for which the applicant is seeking verification.

The LSI retrofit emission control system must maintain its physical integrity. Its physical structure and all of its components not specified for regular replacement during the durability demonstration period must remain intact and fully functional.

The LSI retrofit emission control system must not cause any damage to the engine, vehicle, or equipment.

Except for emergency engine repair, no maintenance of the LSI retrofit emission control system beyond that specified in its owner's manual will be allowed without prior Executive Officer approval.

(i) *Failure During the Durability Demonstration Period.* If the LSI retrofit emission control system fails to maintain its initial verified percent emissions reduction or absolute emissions for any reason, the Executive Officer may downgrade the system to the verification level that corresponds to the lowest degraded performance observed in the durability demonstration period. If the LSI retrofit emission control system fails to maintain the emissions reduction performance pursuant to Sections 2784(h)(1) and 2784(h)(2), as demonstrated during the emission test pursuant to Section 2783, during the durability period, the LSI retrofit emission control system will not be verified. If the LSI retrofit emission control system fails in the course of the durability demonstration period, the applicant must submit a report explaining the circumstances of the failure within 90 days of the failure. The Executive Officer may then, as appropriate, determine whether to deny verification or allow the applicant to correct the failed LSI retrofit emission control system and either continue the durability demonstration or begin a new durability demonstration.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2785. Field Demonstration Requirements.

(a) *Compatibility.* The applicant must demonstrate compatibility of its LSI retrofit emission control system in the field with at least one piece of equipment belonging to the emission control group for which it seeks verification. Note that if the durability demonstration selected by the applicant is in-field, it may be used to satisfy the field demonstration requirement for that emission control group. An applicant that elected to demonstrate durability in-field must still comply with the reporting requirements as specified in 2785(c).

(1) Compatibility is determined by the Executive Officer based on the third-party statement (see section 2785(c)) and any other data submitted. An LSI retrofit emission control system is compatible with the chosen application if it:

- (A) Does not cause damage to the engine or engine malfunction;
- (B) Does not hinder or detract from the vehicle or equipment's ability to perform its normal functions; and
- (C) Is physically intact and well mounted with no signs of leakage or other visibly detectable problems.

(2) To determine whether separate field demonstrations are required when applying to extend additional engine or equipment in an existing emission control group or when applying to verify additional emission control groups, the Executive Officer may consider all relevant information, including, but not limited to existing field experience and engineering justification and analysis.

(b) *Test Period.* A piece of equipment must be operated with the LSI retrofit emission control system installed for a minimum period of 200 hours.

(c) *Reporting Requirements.* The applicant must provide a written statement from a third party approved by the Executive Officer, such as the owner or operator of the equipment used in the field demonstration. The written statement must be provided at the end of the test period and must describe the following aspects of the field demonstration: overall performance of the test application and the LSI retrofit emission control system, maintenance performed, problems encountered, and any other relevant information. The results of a visual inspection conducted by the third party at the end of the demonstration period must also be described. The description should comment on whether the LSI retrofit emission control system is physically intact, securely mounted, or leaking any fluids, and should include any other evaluative observations.

(d) *Failure During the Field Demonstration.* The LSI retrofit emission control system will be deemed to fail the field demonstration requirements if it could not comply with the criteria specified in Section 2785(a)(1) during the test period. If the LSI retrofit emission control system fails in the course of the field demonstration, the applicant must notify ARB within 15 days of the failure, and submit a report explaining the circumstances of the failure within 90 days of the failure. The Executive Officer may then determine whether to deny verification or allow the applicant to correct the failed LSI retrofit emission control system and either continue the field demonstration or begin a new field demonstration.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2786. Other Requirements.

(a) *Fuel and Oil Requirements.* The applicant must specify the fuel and lubricating oil requirements necessary for proper functioning of the LSI retrofit emission control system. The applicant must also specify any consequences that will result from failure to comply with these requirements, as well as methods for reversing any negative consequences.

(b) *Maintenance Requirements.* The applicant must identify all normal maintenance requirements for the LSI retrofit emission control system and specify the recommended intervals for cleaning and/or replacing components. Components to be replaced within the defects warranty period must be included with the original LSI retrofit emission control system package or provided free of charge to the customer at the appropriate maintenance intervals. Any normal maintenance items that the applicant does not intend to provide free of charge must be approved by the Executive Officer (the applicant is not required to submit cost information for these.)

(c) System Labeling.

(1) The applicant must either affix legible and durable labels, or provide such labels to the installer along with instructions on how to affix them, on both the retrofit emission control system and the engine on which the retrofit emission control system is installed, except as noted in (3) below. The required labels must identify the name, address, and phone number of the manufacturer, the LSI retrofit emission control group name (defined in (2) below), a unique serial number for the LSI retrofit emission control system and the month and year of manufacture. The month and year of manufacture are not required on the label if this information can be readily obtained from the applicant by reference to the serial number. A scale drawing of a sample label must be submitted with the verification application. Unless an alternative is approved by the Executive Officer, the label information must be in the following format:

Name, Address, and Phone Number of Manufacturer

LSI Retrofit Emission Control Group Name

Product Serial Number

ZZ–ZZ (Month and Year of manufacture, e.g., 11–05)

(2) LSI Retrofit Emission Control Group Name. Each LSI retrofit emission control system shall be assigned a name defined as below:

CA/V/MMM/LL##/NHP## or NHL##/APP/XXXXX

Where:

CA: Designates an LSI retrofit emission control system verified in California

V: Year of verification

MMM: Manufacturer code (assigned by the Executive Officer)

LL##: Verified LSI Level (e.g., LL2 means the retrofit system was verified to the "LSI Level 2", LL3a means the retrofit system was verified to "LSI Level 3a).

NHP##: Verified HC + NOx reduction percent (e.g., NH75 means HC + NOx reduction of 75 percent).

NHL##: Verified HC + NO_x absolute emissions in units of g/kW-hr, (e.g., NH4.0 means verified HC + NO_x emission level of 4.0 g/kW-hr).

APP: Verified application includes a combination of Off-road (OF), or Stationary (ST)

XXXXX: Five alphanumeric character code issued by the Executive Officer

(3) The applicant may request that the Executive Officer approve an alternative label. In reviewing this request, the Executive Officer may consider all relevant information including, but not limited to, the informational content of an alternative label as proposed by the applicant.

(d) *Additional Information.* The Executive Officer may require the applicant to provide additional information about the LSI retrofit emission control system or its implementation when such information is needed to assess environmental impacts associated with its use.

(e) *Owner's Manual.* The applicant must provide a copy of the LSI retrofit emission control system owner's manual, which must clearly specify at least the following information:

Warranty statement including the warranty period over which the applicant is liable for any defects.

Installation procedure and maintenance requirements for the LSI retrofit emission control system.

Fuel consumption improvement or penalty, if any.

Fuel requirements, if any.

Requirements for lubrication oil quality and maximum lubrication oil consumption rate

Contact information for replacement components and cleaning agents.

Maintenance Requirements

(f) *Noise Level Control.* Applicants must ensure that the LSI retrofit emission control system complies with all applicable local government requirements for noise control.

(g) *Limit on CO.* In order for an LSI retrofit emission control system to be verified, it must comply with one of the following two limits on CO:

(1) For an LSI retrofit emission control system designed to be installed in a certified engine, the system must not increase the emissions of CO greater than the CO emission standards for new, emission-certified, off-road LSI engines adopted by the Air Resources Board and in effect for the model year in which the engine certification was issued;

(2) For an LSI retrofit system designed to be installed in an engine that is not emission-certified, the system must not cause the CO emission level to exceed the greater of 37 g/bhp-hr or ten percent above the engine's baseline CO emission level as determined in accordance with sections 2783 and 2784.

(h) *Emission Sampling Ports.* To facilitate in-field and normal maintenance diagnostic emission measurements, the applicant may choose to design the LSI retrofit emission control system to have a minimum of two sampling ports where emissions measurements could be made. Guideline suggestions for the sampling port criteria are presented here:

(1) The sampling ports are to be designed to allow for measurements of uncontrolled, engine-out emissions and controlled, tailpipe emissions;

(2) The sampling ports are to be 1/4 inch NPT half couplings, either welded to the exhaust system, or manufactured into the retrofit emission control device where possible;

(3) The sampling port to be used for measuring uncontrolled, engine-out emissions is to be located in a straight section of the exhaust pipe upstream from the retrofit emission control device, after the turbocharger, if so equipped, with a minimum of one to two pipe diameters from any elbows upstream of the sampling port. It is acceptable to locate the sampling port adjacent to the oxygen sensor threaded port, if so equipped;

(4) The sampling port to be used for measuring controlled, tailpipe emissions is to be placed on the muffler body, after the catalyst, if so equipped, or if in the exhaust pipe, should be located a minimum distance of 10 inches from the tailpipe opening, if feasible, otherwise, it should be located as far as possible from the tailpipe opening;

(5) The locations of the sampling ports are to be designed to be accessible to test personnel without removing major engine or equipment components, such as the forklift counterweight, for example;

(6) The sampling ports are to be equipped with threaded plugs.

(7) If the sampling ports are designed to be installed by the retrofit system installer, the applicant must provide all necessary parts and complete instructions for proper installation;

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650-39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4-12-2007; operative 5-12-2007 (Register 2007, No. 15).

§ 2787. Warranty Requirements.

(a)(1) *Product Warranty.*

(A) The applicant must provide a warranty to all owners, for ownership within the warranty period, and lessees, for lease contract within the warranty period, that its verified LSI retrofit emission control system is free from defects in design, materials, workmanship, or operation of the LSI retrofit emission control system which cause the LSI retrofit emission control system to fail to conform to at least 90 percent of the its verified level for the minimum warranty period of 3 years or 2,500 hours, whichever occurs first, provided the operation of and conditions of use for the equipment, engine, and LSI retrofit emission control system conform with the operation and conditions specified in the ARB's Executive Order and that the engine or equipment belongs to the emission control group as specified in the ARB's Executive Order for that LSI retrofit emission control system.

(B) In the absence of a device to measure hours of use, the LSI retrofit emission control system must be warranted for a period of three years. If a device to measure hours is used, the engine must be warranted for 3 years or 2,500 hours, whichever occurs first. The warranty must cover the full repair or replacement cost of the LSI retrofit emission control system, including parts and labor.

(C) The warranty must also cover the full repair or replacement cost of returning the engine components to the condition they were in prior to the failure, including parts and labor, for damage to the engine proximately caused by the verified LSI retrofit emission control system. Repair or replacement of any warranted part, including the engine, must be performed at no charge to the equipment or engine owner. This includes only those relevant diagnostic expenses if a warranty claim is valid. The applicant may, at its option, instead pay the fair market value of the engine prior to the time the failure occurs.

(D) The repair or replacement of any warranted part, otherwise eligible for warranty coverage, may be excluded from such warranty if the LSI retrofit emission control system or engine has been abused, neglected, or improperly maintained, and such abuse, neglect, or improper maintenance was the direct cause of the need for the repair or replacement of the part.

(E) Failure of the equipment or engine owner to ensure scheduled maintenance or to keep maintenance records for the equipment, engine, or LSI retrofit emission control system may, but shall not per se, be grounds for disallowing a warranty claim.

(2) *Installation Warranty*

(A) A person or company that installs a verified LSI retrofit emission control system must warrant that the installation is free from defects in workmanship or materials which cause the LSI retrofit emission control system to fail to conform to at least 90 percent of its verified level for the minimum warranty period of 3 years or 2,500 hours, whichever occurs first, except as noted in 2787(a)(1)(B), or the other requirements as specified in sections 2786(c) and (e).

(B) The extent of the warranty coverage provided by installers must be the same as the warranty provided by the applicant as established in subsection (a)(1) and the same exclusions must apply.

(b)(1) *Product Warranty Statement.* The applicant must furnish a copy of the following statement in the owner's manual. The applicant may include descriptions of circumstances that may result in a denial of warranty coverage, but these descriptions shall not otherwise limit warranty coverage in any way.

YOUR PRODUCT WARRANTY RIGHTS AND OBLIGATIONS

(Applicant's name) must warrant the LSI retrofit emission control system in the equipment for which it is sold or leased to be free from defects in design, materials, workmanship, or operation of the LSI retrofit emission control system which cause the LSI retrofit emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Chapter 9, Article 8, Sections 2780 to 2786, and 2789, for 3 years or 2,500 hours, whichever occurs first, pursuant to Section 2787(a)(1), provided there has been no abuse, neglect, or improper maintenance of your LSI retrofit emission control system, engine or equipment, as specified in the owner's manuals. Where a warrantable condition exists, this warranty also covers the engine from damage caused by the LSI retrofit emission control system, subject to the same exclusions for abuse, neglect or improper maintenance. Please review your owner's manual for other warranty information. Your LSI retrofit emission control system may include a core part (e.g., three-way catalyst, carburetor, mixer or regulator) as well as hoses, connectors, and other emission-related assemblies. Where a warrantable condition exists, (applicant's name) will repair or replace your LSI retrofit emission control system at no cost to you including diagnosis, parts, and labor.

WARRANTY COVERAGE:

For a (engine size) engine used in a(n) (type of application) application, the warranty period will be 3 years or 2,500 hours of operation, whichever occurs first. If any emission-related part of your LSI retrofit emission control system is defective in design, materials, workmanship, or operation of the LSI retrofit emission control system thus causing the LSI retrofit emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Chapter 9, Article 8, Sections 2780 to 2786, and 2789, within the warranty period, as defined above. (Applicant's name) will repair or replace the LSI retrofit emission control system, including parts and labor.

In addition, (applicant's name) will replace or repair the engine components to the condition they were in prior to the failure, including parts and labor, for damage to the engine proximately caused by the verified LSI retrofit emission control system. This also includes those relevant diagnostic expenses in the case in which a warranty claim is valid. (Applicant's name) may, at its option, instead pay the fair market value of the engine prior to the time the failure occurs.

OWNER'S WARRANTY RESPONSIBILITY

As the (engine, equipment) owner, you are responsible for performing the required maintenance described in your owner's manual. (Applicant's name) recommends that you retain all maintenance records and receipts for maintenance expenses for your engine or equipment, and LSI retrofit emission control system. If you do not keep your receipts or fail to perform all scheduled maintenance, (applicant's name) may have grounds to deny warranty coverage. You are responsible for presenting your equipment or engine, and LSI retrofit emission control system to (applicant's name) or a (applicant's name) dealer as soon as a problem is detected. The warranty repair or replacement should be completed in a reasonable amount of time, not to exceed 30 days. If a replacement is needed, this may be extended to 90 days should a replacement not be available, but must be performed as soon as a replacement becomes available.

If you have questions regarding your warranty rights and responsibilities, you should contact (Insert chosen applicant's contact) at 1-800-xxx-xxxx or the California Air Resources Board at 9528 Telstar

Avenue, El Monte, CA 91731, or (800) 363-7664, or electronic mail: helpline@arb.ca.gov.

(b)(2) *Installation Warranty Statement.* The installer must furnish the owner with a copy of the following statement.

YOUR INSTALLATION WARRANTY RIGHTS AND OBLIGATIONS

(Installer's name) must warrant that the installation of an LSI retrofit emission control system is free from defects in workmanship or materials which cause the LSI retrofit emission control system to fail to conform to the emission control performance level it was verified to, or to the requirements in the California Code of Regulations, Title 13, Sections 2781 to 2786 and 2789. The warranty period and the extent of the warranty coverage provided by (installer's name) must be the same as the warranty provided by the product manufacturer, and the same exclusions must apply.

OWNER'S WARRANTY RESPONSIBILITY

As the engine or equipment owner, you are responsible for presenting your engine or equipment and LSI retrofit emission control system to (installer's name) as soon as a problem with the installation is detected.

If you have questions regarding your warranty rights and responsibilities, you should contact (Insert chosen installer's contact) at 1-800-xxx-xxxx or the California Air Resources Board at 9528 Telstar Avenue, El Monte, CA 91731, or (800) 363-7664, or electronic mail: helpline@arb.ca.gov.

(c)(1) *Annual Warranty Report.* The applicant must submit a warranty report to the Executive Officer by February 1 of each calendar year. The warranty report must include the following information:

(A) Annual and cumulative sales, and annual and cumulative leases of equipment installed with LSI retrofit emission control systems—(California only).

(B) Annual and cumulative production of LSI retrofit emission control systems (California only).

(C) Annual summary of warranty claims (California only). The summary must include:

i. A description of the nature of the claims and of the warranty replacements or repairs. The applicant must categorize warranty claims for each LSI retrofit emission control system group by the component(s) part number(s) replaced or repaired.

ii. The number and percentage of LSI retrofit emission control systems of each model for which a warranty replacement or repair was identified.

iii. A short description of the LSI retrofit emission control system component that was replaced or repaired under warranty and the most likely reason for its failure.

(E)(D) Date the warranty claims were filed and the engine family and application the LSI retrofit emission control systems were used with. The reason(s) for any instances in which warranty service is not provided to end-users that file warranty claims. The applicant may also want to report instances where the applicant chose to honor warranty claims even though the applicant has determined that those warranty claims were invalid or that they were not required per Section 2787 of this regulation.

(c)(2) *Periodic Warranty Reports.*

(A) The applicant must submit a warranty report within 30 calendar days if there are three or more warranty claims for the same component or same part number repaired or replaced; or, if there are four or more total warranty claims, or four percent of the cumulative number of LSI retrofit systems subject to these warranty provisions, whichever is greater. The warranty report must include the following information:

i. A description of the nature of the claims and of the warranty replacements or repairs. The applicant must categorize warranty claims for each LSI retrofit emission control group by the component(s) part number(s) replaced or repaired.

ii. The number and percentage of LSI retrofit emission control systems of each model for which a warranty replacement or repair was identified.

iii. A short description of the LSI retrofit emission control system component that was replaced or repaired under warranty and the most likely reason for its failure.

iv. Date the warranty claims were filed and the engine family and application the LSI retrofit emission control systems were used with.

v. The reason(s) for any instances in which warranty service is not provided to end-users that file warranty claims. The applicant may also want to report instances where the applicant chose to honor warranty claims even though the applicant has determined that those warranty claims were invalid or that they were not required per Section 2787 of this regulation.

(B) The applicant must comply with the requirements specified pursuant to Section 2787(c)(2)(A), above, for warranty claims submitted to the applicant after the reporting dates of the periodic warranty report.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2788. Determination of Emissions Reduction.

(a) *Calculation of Emissions Reduction.* The emissions reduction verified for an LSI retrofit emission control system is based on the average of all valid test results, as specified in Sections 2783(g) and 2784(f), before (baseline) and after (control) implementation of the LSI retrofit emission control system. Test results from both the emission testing and durability testing are to be included. If the applicant chooses to perform either the zero hour or the 2500-hour durability baseline test, but not both, those results must be used to calculate the reductions obtained in both the zero hour and 2500-hour control tests.

(1) *Percentage Reduction.* The percentage reduction for a given pair of baseline and control test sets (where a “set” consists of all test cycle repetitions) is the difference between the average baseline and average control emissions divided by the average baseline emissions, multiplied by 100 percent. The average of all such reductions, as shown in the equation below, is used in the verification of an LSI retrofit emission control system.

$$\text{Percentage Reduction} = 100 \times \frac{\sum (\text{baseline}_{\text{AVG}} - \text{control}_{\text{AVG}}) / \text{baseline}_{\text{AVG}}}{\text{Number of control test sets}}$$

Where:

$$\begin{aligned} \sum &= \text{sum over all control test sets} \\ \text{baseline}_{\text{AVG}} \text{ or } \text{control}_{\text{AVG}} &= \text{average of emissions from all} \\ &\quad \text{baseline or control test repetitions within a given set} \end{aligned}$$

(2) *Absolute Emission Level.* The absolute emission level is the average control emission level, as defined in the following equation:

$$\text{Absolute Emission Level} = \frac{\sum (\text{control}_{\text{AVG}})}{\text{Number of control test sets}}$$

(b) *Categorization of the LSI Retrofit Emission Control System.* The Executive Officer shall categorize an LSI retrofit emission control system to reduce HC and NOx emissions based on its verified emissions reductions. An LSI retrofit emission control system that reduces HC and NOx will be assigned its verified percentage reduction or verified emissions reduction level, pursuant to section 2782(f).

The Executive Officer may lower the verification level or revoke the verification status of a verified LSI retrofit emission control group if the applicant fails to observe the requirements of Sections 2786 or 2787. The Executive Officer must allow the applicant an opportunity to address the possible lowering or revocation of the verification level in a corrective report to the Executive Officer and the Executive Officer may make this determination based on all relevant information.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 39650–39675, 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107 and 43204–43205.5, Health and Safety Code; and Title 17 California Code of Regulations Section 93000.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

§ 2789. In-Use Compliance Requirements.

(a) *Applicability.* These in-use compliance requirements apply to all LSI retrofit emission control systems for off-road applications. It is the responsibility of the applicant to perform in-use compliance testing for each verified LSI retrofit emission control group. Testing is required when 50 units within a given LSI retrofit emission group have been sold or leased in the California market.

(b) *Test Period.* Applicants must obtain access to and test LSI retrofit emission control systems, as described below in (c), (d), and (e), once they have been operated between 1,500 and 2,000 hours or between 22 and 29 months, whichever comes first.

(c) *Selection of LSI Retrofit Emission Control Systems for Testing.* For each LSI retrofit emission control group, the Executive Officer will identify a representative sample of engines or equipment equipped with LSI retrofit emission control systems for in-use compliance testing. The engines or equipment with the selected LSI retrofit emission control systems installed must have good maintenance records and may receive a tune-up or normal maintenance prior to testing. The applicant must obtain information from the end users regarding the accumulated hours of usage, maintenance records (to the extent practicable), operating conditions and a description of any unscheduled maintenance that may affect the emission results. If the specified information is not available for the engine or equipment selected, the Executive Officer may select a different engine or equipment for testing. Upon notification that an engine or equipment has been selected, an applicant would have 6 months to provide an in-use compliance testing proposal for approval by the Executive Officer. Testing would begin when the engines had accumulated sufficient hours of service; testing must be completed within one year of notification.

(d) *Number of LSI Retrofit Emission Control Systems to be Tested.* The number of LSI retrofit emission control systems an applicant must test will be determined as follows:

(1) A minimum of four LSI retrofit emission control systems in each LSI retrofit emission control group must be tested. For every system tested that does not reduce emissions by at least 90 percent of the lower bound of its initial verification level, two more LSI retrofit emission control systems from the same group must be obtained and tested. The total number of systems tested shall not exceed ten per LSI retrofit emission control group.

(2) At the discretion of the Executive Officer, applicants may begin by testing more than the minimum of four LSI retrofit emission control systems. Applicants may concede failure of an emission control system before testing a total of ten LSI retrofit emission control systems.

(e) *In-use Compliance Emission Testing.* Applicant must measure emissions using one of the following test procedures for in-use compliance emission testing:

(1) *Laboratory Testing.* Remove the selected engines or the retrofit emission control systems for testing in a laboratory. Applicants must follow the testing procedure used for initial emissions reduction verification as described in Section 2783. For engines originally verified to a percentage reduction, both baseline and control tests are required; for engines originally verified to an absolute emission, only control tests are required. In addition, applicants must use the same test cycle(s) that they used to verify the LSI retrofit emission control system originally.

(2) *Testing Installed Engines.* Test the selected engines while they remain installed in the equipment. Applicants must follow the U.S. EPA field-testing procedures as specified in 40 CFR part 1065, subpart J, as adopted July 13, 2005. The accuracy and precision of the measurement system used for in-use testing must be at least ± 5 percent or better. For engines originally verified to a percentage reduction, both baseline and control tests are required; for engines originally verified to an emission level, only control tests are required.

(3) *Alternative In-Use Testing.* The Executive Officer may approve an alternative to the in-use testing described above, on a case-by-case basis.

sis. The proposed alternative must use scientifically sound methodology and be designed to accurately determine whether the LSI retrofit emission control system is in compliance with the requirements that are specified in the verification Executive Order. If the applicant wants to use an alternative in-use test procedure, the applicant should submit the proposed alternative in-use test procedure at the same time the applicant submits the proposed verification testing procedure (pursuant to Section 2782(b) for LSI retrofit control system verification. If the applicant proposes an alternative test to determine in-use emissions of the LSI retrofit system, the applicant must provide data to show that the emission test results from the proposed alternative test are consistent with the emission test results derived from engine dynamometer test for the test cycle(s) that was used in the initial verification of the LSI retrofit system.

(f) If an LSI retrofit emission control system fails catastrophically during the in-use compliance testing, the applicant must provide an investigative report detailing the causes of the failure to the Executive Officer within 90 days of the failure.

(g) The Executive Officer may, with respect to any LSI retrofit emission control system sold, leased, offered for sale, or manufactured for sale in California, order the applicant to make available for compliance testing and/or inspection a reasonable number of LSI retrofit emission control systems, and may direct that the retrofit emission control systems be delivered at the applicant's expense to the state board at the Haagen-Smit Laboratory, 9528 Telstar Avenue, El Monte, California or where specified by the Executive Officer. The Executive Officer may also, with respect to any LSI retrofit emission control system being sold, leased, offered for sale, or manufactured for sale in California, have an applicant compliance test and/or inspect a reasonable number of units at the applicant or manufacturer's facility or at any test laboratory under the supervision of the ARB Executive Officer.

(h) *In-Use Compliance Report.* The applicant must submit an in-use compliance report to the Executive Officer within three months of completing testing. The following information must be reported for each of the minimum of four LSI retrofit emission control systems tested:

- (1) Parties involved in conducting the in-use compliance tests.
- (2) Quality control and quality assurance information for the test equipment.
- (3) LSI retrofit emission control group name and manufacture date.
- (4) Equipment and type of engine (engine family name, make, model year, model, displacement, etc.) the LSI retrofit emission control system was applied to.
- (5) Estimated hours the LSI retrofit emission control system was in use.

(6) Results of all emission testing.

(7) Summary of all maintenance, adjustments, modifications, and repairs performed on the LSI retrofit emission control system.

(i) The Executive Officer may request the applicant to perform additional in-use testing if the warranty claims exceed the thresholds specified in section 2787(c)(2)(A) or based on other relevant information. As noted in section 2787(c)(2)(A), if warranty claims exceed the specified thresholds, the applicant must notify the Executive Officer and submit a warranty report within 30 calendar days of that time.

(j) *Conditions for Passing In-Use Compliance Testing.* For an LSI retrofit emission control system to pass in-use compliance testing, emission test results must indicate that the retrofit system reduced emissions by at least 90 percent of the lower bound of the emissions reduction level to which the Executive Officer originally verified it to. If the first four LSI retrofit emission control systems tested within an LSI retrofit emission

control group meet this standard, the LSI retrofit emission control group passes in-use compliance testing. If any of the first four LSI retrofit emission control systems tested within an LSI retrofit emission control group fail to reduce emissions by at least 90 percent of the lower bound of the emissions reduction level to which the Executive Officer originally verified it to, and if more than four units are tested, at least 70 percent of all units tested must pass the 90 percent standard for the LSI retrofit emission control group to pass in-use compliance testing. For each failed test, for which the cause of failure can be attributed to the product and not to maintenance or other engine-related problems, two additional units must be tested, up to a total of ten units per LSI retrofit emission control group.

(k) *Failure of In-use Compliance Testing — Remedial Action.* If the LSI retrofit system from an emission control group does not meet the minimum requirements for in-use compliance testing, the applicant must submit a remedial report within 90 days after the in-use compliance report is submitted. The remedial report must include:

- (1) Summary of the in-use compliance report.
- (2) Detailed analysis of the failed LSI retrofit emission control systems and possible reasons for failure.
- (3) Remedial measures to correct or replace failed LSI retrofit emission control systems as well as the rest of the in-use LSI retrofit emission control systems.

(l) The Executive Officer may evaluate the remedial report, annual warranty report, and all other relevant information to determine if the LSI retrofit emission control group passes in-use compliance testing. The Executive Officer may request more information from the applicant. Based on this review, the Executive Officer may lower the verification level or revoke the verification status of a verified LSI retrofit emission control group. The Executive Officer may also lower the verification level or revoke the verification status of a verified LSI retrofit emission control group, if the applicant does not conduct in-use compliance testing in accordance with this section, or if the Executive Officer conducts in-use compliance testing in accordance with this section (including alternative testing) and the LSI retrofit emission control group does not pass the standards in this section. The Executive Officer must allow the applicant an opportunity to address the possible lowering or revocation of the verification level in a remedial report to the Executive Officer prior to taking action lowering or revoking the verification level, and shall consider all relevant information.

NOTE: Authority cited: Sections 39002, 39003, 39500, 39600, 39601, 39650–39675, 40000, 43000, 43000.5, 43011, 43013, 43018, 43105, 43600 and 43700, Health and Safety Code. Reference: Sections 43000, 43009.5, 43013, 43018, 43101, 43104, 43105, 43106, 43107, 43204, 43205 and 43205.5, Health and Safety Code.

HISTORY

1. New section filed 4–12–2007; operative 5–12–2007 (Register 2007, No. 15).

Division 4. Traffic Adjudication Board

NOTE: Authority cited: Section 40666, Vehicle Code. Reference: Section 40650, Vehicle Code.

HISTORY

1. New chapter 4 (articles 1–7, sections 3000–3172 and Appendices 2–1, 3–1, 3–2 and 3–3) filed 8–29–80; effective thirtieth day thereafter (Register 80, No. 35).
2. Repealer of chapter 4 (articles 1–7, sections 3000–3172 and Appendices 2–1, 3–1, 3–2 and 3–3) filed 6–21–85; designated effective 1–1–86 (Register 85, No. 25).
3. Chapter 4 text deleted pursuant to 6–21–85 order (Register 85, No. 48). For prior history, see Registers 83, No. 48; 82, No. 26 and 81, No. 30.
4. Editorial correction of printing error restoring positioning (Register 92, No. 33).

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Barclays Official
**CALIFORNIA
CODE OF
REGULATIONS**

SUBJECT INDEX

Title 13
Motor Vehicles

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